

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS

Before The
Senate Industry, Business and Labor Committee

January 6, 2021

Senate Bill 2048 – An Act Relating to the Uniform Unclaimed Property Law

Chairman Klein and members of the Senate Industry, Business and Labor Committee, the American Council of Life Insurers (ACLI) appreciates the opportunity to offer the following statement on Senate Bill 2048, which would update North Dakota law to incorporate, in substantial part, the most recent version of the Uniform Law Commission's Revised Uniform Unclaimed Property Act (RUUPA).

ACLI members are the leading writers of life insurance, annuities, disability income insurance, long-term care insurance and supplemental benefit insurance here in North Dakota and across the country. Life insurers are also among the many holders of unclaimed property that would be governed and impacted by this legislation.

Our Position

While ACLI supports Senate Bill 2048 and the RUUPA Act on which it is based, for the reasons set forth below we seek amendments to make it consistent and compatible with existing North Dakota insurance law governing unclaimed life insurance benefits in Chapter 26.1-55, and to revise provisions in the bill not found in RUUPA.

Background

Originally promulgated by the Uniform Law Commission in 1954, the Uniform Unclaimed Property Act is a comprehensive law governing property that is presumed abandoned or unclaimed and must be remitted to the state. The state unclaimed property administrator acts essentially as a custodian of the property until the rightful owner or, in the case of a life insurance policy, a beneficiary claims it after the policyowner is presumed dead. Various versions of this Uniform Law had been enacted in North Dakota over the years.

Meanwhile, the North Dakota legislature enacted a law in 2013 governing the use by life insurers of the U.S. Social Security Administration's death master file (DMF) for identifying owners of life insurance, annuities or retained asset accounts who may have died (Chapter 26.1-55). Among other things, this law requires life insurers to periodically check its policyholder records against the DMF to determine any potential matches. For each potential match, an insurer is required to complete a good faith effort to confirm the death, determine if benefits are owed the insured or the insured's beneficiaries and assist them with filing claims for the benefits. If the insurer is unsuccessful in contacting the insured or the insured's known beneficiaries, the property is presumed abandoned and reported to the state pursuant to the state's unclaimed property law

in Chapter 47. This legislation was based on a Model Law adopted by the National Conference of Insurance Legislators (NCOIL), which ACLI supports. We appreciate the leadership of Senator Klein and Representative Keiser as they worked to fashion a Model Law at NCOIL that has become widely adopted by the states.

Three years later, the Uniform Law Commission completed a multi-year effort in 2016 to update its Uniform Unclaimed Property Act. ACLI actively participated in this effort and worked with the Uniform Law Commissioners to make the Revised Act compatible with the NCOIL Unclaimed Life Insurance Benefits Model Act, given the interplay between the operative provisions of both uniform laws regarding life insurer unclaimed property practices. To date, RUUPA has been enacted in some form in five states (Colorado, Kentucky, Tennessee, Utah and Vermont).

We appreciate the efforts by the drafters of Senate Bill 2048 to conform to the letter and spirit of the Uniform Law Commission's RUUPA in most substantive respects. Our comments relate only to those provisions of the Revised Act applicable to life insurance, annuities and retained asset accounts. While there are several deviations from the Revised Act, we focus our comments and suggested amendments in two areas.

DMF Searches and Matches

Beginning on page 23, line 23, Senate Bill 2048 includes provisions governing when a DMF match constitutes knowledge of death, and appropriately recognizes Chapter 26.1-55 of the insurance code as the proper controlling authority for what satisfies a DMF match. However, Senate Bill 2048 also includes non-RUUPA language (page 24, lines 5-9) regarding presumption of death that creates confusion about which law applies. Accordingly, we recommend deleting this language and substituting RUUPA language that references the obligations of life insurers to validate the death of an insured or annuitant as required under Chapter 26.1-55 of the insurance code. A new subparagraph d. would be inserted to read as follows: "The company shall make a good faith effort using available records and information to document the death of the insured or annuitant in accordance with the timeframe specified in Chapter 26.1-55.02."

Our second comment relates to the DMF search requirements in Section 2, paragraphs b, c and d on page 23, lines 3-16. Paragraphs b and c are appropriately consistent with the DMF search and validation of death requirements of insurers in Chapter 26.1-55.02 of the insurance code. Paragraph d, however, authorizes the state unclaimed property administrator or its agents to conduct its own DMF searches for the purpose of finding matches. Given the DMF search duties already required of insurers under the insurance code, under the watchful eye of the insurance commissioner, this duplicative requirement is neither necessary nor appropriate.

If the state unclaimed property administrator has reason to believe an insurer is not appropriately conducting DMF searches or escheating unclaimed property to the state, the administrator can always request the insurance commissioner to compel the insurer to explain, justify or correct its DMF search and unclaimed property reporting practices. Subjecting insurers to duplicative regulatory jurisdiction when a coordinated approach can easily address any regulatory compliance issues is good public policy. Accordingly, we respectfully ask that paragraph Section 2, paragraph d (page 23, lines 10-16) be deleted.

For the Committee's convenience, I have attached an amendment that addresses the issues we have raised in this testimony.

Chairman Klein and members of the Committee, I appreciate the opportunity you have given us to provide our comments on Senate Bill 2048 and stand ready to answer any questions you may have.

Respectfully submitted,

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PROPOSED AMENDMENT TO SENATE BILL NO. 2048

By the American Council of Life Insurers

Page 23, remove lines 10 through 16

Page 24, remove lines 5 through 9

Page 24, after line 9 insert:

d. The company shall make a good faith effort using available records and information to document the death of the insured or annuitant in accordance with the timeframe specified in Chapter 26.1-55.02.

Renumber accordingly