

Center for Insurance Research

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Unclaimed Benefits Model Drafting Subgroup
NAIC Central Office
1100 Walnut Street, Suite 1500
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RE: Comments on Exposure Draft of Model Act (6/3/2016)

Dear Members of the Subgroup:

I am writing to offer my comments on the Exposure Draft of the Unclaimed Life Insurance and Annuities Model Act (dated 6/3/16).¹ I am one of the members of the NAIC consumer funded liaison program and the Director of the Center for Insurance Research.² The Center for Insurance Research (CIR) is a nonprofit, public policy and advocacy organization founded in 1991 that represents consumers on insurance matters nationally. I have been involved with the subject of Unclaimed Life insurance for several years, have made presentations at the NAIC and NCOIL on the subject, have followed the results of the examinations and settlement agreements conducted by regulators, and have participated in the Subgroup's conference calls.

Section 3. Definitions

Subsection H(2)(c) - CIR continues to oppose the exclusion of "credit life or mortgage life or accidental death insurance" policies from the Act. Industry representatives provided no empirical data to support the need for an exemption and in CIR's view anecdotal accounts cannot justify exclusion. As a consumer advocate, I find the prospect of relying on banks and other lenders to watch out for the interests of consumers a deeply troubling prospect, even under the assumption it would be in the self-interest of the lender. Relying on banks to protect their interests has turned out poorly for too many consumers.

Moreover, it was assumed for many decades that the traditional methods of life insurance claim processing were adequate and not in need of updating. The result? Billions of dollars of line insurance benefits went unclaimed by families. Many of the unclaimed benefits were on small policies owned by consumers with limited financial resources.

¹ I also submitted a detailed comment letter to the Subgroup on the initial draft of the Model Act on December 14, 2015, which I hereby incorporate by reference.

² I also serve on the consumer advisory panel of the IIPRC and was a consumer advisor on the NCOIL Task Force on Unclaimed Life Insurance Benefits.

Exempting credit life, mortgage life and accidental death policies will result in more small face value policies going unclaimed by low-income consumers (see my letter of 12/14/15 for further discussion).

Subsection N - CIR supports the Drafting Note. I believe it is important to include context and guidance for regulators to evaluate whether a “Thorough search” has been performed. A cursory, half-hearted attempt to locate a beneficiary should not be deemed sufficient but a reasonable effort should fulfill an insurer’s obligations (see my letter of 12/14/15 for further discussion).

Section 4. Applicability and Scope

Subsection A – CIR supports the retroactive application of the Model Act (for the reasons given in my letter of 12/14/15) and believes it is essential to ensure unclaimed benefits do not linger forever within the accounts of insurers or state unclaimed property funds.

Subsection B – CIR supports this provision for the reasons given in my letter of 12/14/15. I believe it is imperative the Model provide that regulators have authority over their domiciliary insurers and the ability to protect and assist current residents of their jurisdiction.

Section 5. Insurer Conduct

Subsection A(4) – CIR supports the “fuzzy matching” requirements of this section. The designated search modifications are reasonable in scope and will protect consumers from losing a life insurance benefit to data entry errors that are not due to any fault on their part.

Subsection B(1) – CIR does not object to the provision of an exemption for financial hardship, but believes such an exemption should be limited in duration and subject to periodic renewal, rather than left open-ended. I cannot support the second exemption category – “not cost effective” – because it is ill-defined and potentially sets an inappropriately low threshold for exemption. (Furthermore, it should state “is not cost effective” instead of “not cost effective”).

Some of the factors listed in bullet (b) are particularly problematic. First, “the costs of conducting a retroactive search in relation to the collected premiums” is not an appropriate review standard. Many policies with unclaimed life benefits are small face value policies which agents sold policies and collected premiums door to door. Most of these policies were declared paid-up decades ago. Thus, there are no premiums being collected to balance against the cost of a search. A zero cannot be divided. If it is intended the balancing test is intended to use total historic premiums, the Model does not clearly indicate this. Moreover, even if historic premiums were used in the balancing test the results would still not provide a reliable metric absent an adjustment for inflation (which the Model also does not specify). The impacted policies may have been issued

more than 60 or 70 years ago and the value of a premium payment would be considerably higher in today's dollars. Second, whether "the policy information is stored electronically" should be irrelevant. The Model and regulators should not encourage insurers to avoid modernizing and updating their records. CIR believes no responsible insurer should be leaving policy records to mold in a musty basement where the financial investments of consumers are left at risk of fire, water or insect damage. All insurers should be keeping adequate records and appropriately backing up their data. Based on my experience during the demutualizations of life insurers in early 2000's, insurers failing to maintain modern records for in-force policies was nothing short of disastrous for policyholders. Billions of unclaimed demutualization proceeds went undistributed because insurers chose not to engage in adequate record-keeping on active policies until they decided to pursue a major transaction. There should be no exemption that encourages insurers to neglect policy files.

Subsection C – CIR supports this section. I have personally encountered numerous situations in which there were multiple policies issued by a single company on the life of an insured but benefits were paid only on some of the policies, rather than all of them. This resulted in escheatment of unclaimed benefits to state abandoned property funds even though the insurer had knowledge of the insured's death. This provision will help prevent such problems from recurring in the future.

Subsection H – CIR strongly supports the Drafting Note following this subsection. As Ms. Pearce noted during drafting process, individual state treasurers do not have the data necessary to monitor the performance of insurers and they cannot readily provide the appropriate statistics to regulators and the public. CIR can verify this. Several years ago we distributed a FOIA and data request to abandoned property administrators in all 50 states and found that none had ready access to data about abandoned property held by insurers.

I cannot comprehend why industry representatives would object to the disclosure of very basic data. Insurers already have this information (as demonstrated by the testimony of individual companies about their search results) and state abandoned property officials do not (contrary to the assertions of the industry).

The unclaimed life insurance benefits issue festered and grew into a multi-billion dollar problem over the course of many decades because there were inadequate tools for regulators and consumers to evaluate the scope of the problem. Rectifying this involved extensive market conduct examinations that impacted a broad swath of the life insurance industry. Developing a data collection procedure, as the Drafting Note calls for, would permit regulators to focus only on outliers in the future, using targeted exams rather than expensive and time-consuming exams that target every life insurer. It is unclear why the life insurance industry would oppose a tool to monitor DMF search performance in order to protect a few potentially bad actors at the reputational expense of responsible companies. CIR therefore believes that providing a mechanism to evaluate compliance

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with the Model law is therefore imperative (see my letter of 12/14/15 for further discussion).

Subsection I – CIR supports this section. Insurers should take steps to remind policyholders they can (and should) update their contact information. This practice will help reduce the amount of benefits that go unclaimed.

Finally, I want to thank the Subgroup, regulators and other interested parties for all of the efforts to date and participating in the multitude of conference calls over the last several months. Thank you for the consideration of these comments on this critical matter of consumer protection.

Sincerely,

/s/

Brendan Bridgeland
Director