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TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, April 3, 2018
10:30 a.m.

TESTIMONY ON SENATE BILL NO. 208, S.D. 2, H.D. 1, RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS.

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify in support of S.B. 208, S.D. 2, H.D. 1, Relating to Unclaimed Life Insurance Benefits. My name is Gordon Ito, and I am the Insurance Commissioner (“Commissioner”) for the Department’s Insurance Division (“Division”).

This bill amends Hawaii Revised Statutes (“HRS”) chapter 431 by adding a new part to article 10D called the “Unclaimed Life Insurance Benefits Act” to require recognition of the unclaimed property statutes of Hawai`i, and the disclosure and accountability relating to payment for life insurance death benefits regulated by the Commissioner. H.D. 1 amended previous drafts of this bill by classifying violations of this bill’s mandates as unfair or deceptive acts or practices and subject to HRS chapter 431, article 13.

In 2013, Consumer Reports found an estimated \$1 billion in life insurance benefits were unclaimed. Each year, the Division, alone, receives approximately 40 requests for assistance in finding a possible life insurance policy.

To address this problem, on November 29, 2016, the Division launched on its website a national life insurance policy locator service to help consumers find lost life insurance policies and annuities. This service, developed by the National Association of Insurance Commissioners (“NAIC”) and based in part on policy locator programs developed independently by a number of states, empowers a consumer with search capabilities in locating a deceased’s lost life insurance policy or annuity.

The initial year’s use of this service by the public is impressive. Nationally, during the period from November 4, 2016, to November 4, 2017, 40,201 inquiries were made and 8,210 beneficiaries were matched with lost or misplaced life insurance policies or annuities for a total of \$92.5 million being returned. For Hawai`i during this same time period, 241 inquiries were made, resulting in 54 beneficiaries receiving \$66,418. By December 2017, recovery amounts totaled approximately \$92,500.

This bill requires good faith efforts by insurers to locate any beneficiaries and would benefit Hawai`i's consumers. Insurers' efforts, in conjunction with the current national database service developed by NAIC, would simplify and streamline the process for Hawai`i consumers and insurers in matching beneficiaries and life insurance policies and annuities.

Thank you for the opportunity to testify in support of this measure.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
IN OPPOSITION, IN PART, TO SB 208, SD 2, HD1, RELATING
TO UNCLAIMED LIFE INSURANCE BENEFITS

April 3, 2018

Honorable Representative Sylvia Luke, Chair
Committee on Finance
State House of Representatives
Hawaii State Capitol, Conference Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:

Thank you for the opportunity to testify in opposition, in part, to SB 208, SD 2, HD 1, relating to Unclaimed Life Insurance Benefits.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C. – based trade association with approximately 290 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing 94 percent of industry assets, 93 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Two hundred twenty-two (222) ACLI member companies currently do business in the State of Hawaii; and they represent 96% of the life insurance premiums and 99% of the annuity considerations in this State.

SB 208, SD 2, HD 1, adopts the National Conference of Insurance Legislators (“NCOIL”) Model Unclaimed Life Insurance Act (the “Model Act”) by adding a new Part to be included in Article 10D of Hawaii’s Insurance Code.

As of January, 2018, twenty-six (26) states have enacted laws based upon the Model Act, clearly establishing its requirements as a national standard of consumer protections and enabling expeditious, practical compliance by all life insurance companies for all consumers in all states.

The NCOIL Model Act provides a foundation for insurers to use the Social Security Death Master File to obtain notice of death of an insured in the absence of a claim and search for beneficiaries within 90 days.

The NCOIL Model will apply to both future and existing policies, no matter how long policies have been in force. ACLI respects the NCOIL wisdom that retroactive application of legislation to terminated policies should be avoided because it raises constitutional concerns and is

unnecessary given government success in resolving concerns about fairness by means of company audits and examinations.

Further, SB 208, as amended, includes provisions that will enable small insurance companies to comply with the Model Act's requirements thereby increasing the number of insurers who will be able to search for beneficiaries.

Accordingly, ACLI is in strong support of SB 208, SD 2, HD 1.

However, the prior Committee amended SB 208, SD 2, by replacing the provisions set forth in §431:10D-D,(g), with the following:

(g) Violation of any requirement of this section by an insurer is an unfair or deceptive act or practice under article 13. [Lines 15 and 16, page 9, SB 208, SD 2, HD 1].

Prior to its amendment §431:10D-D,(g) as set forth in SB 208, SD 2, generally mirrored the provisions of the NCOIL Model Act which read:

(g) Failure to meet any requirement of this section *with such frequency as to constitute a general business practice* shall be a violation of section 480-2. (Emphasis added).

Thus, as currently worded §431:10D-D,(g), as amended by the last committee, would make a single violation of the new law an unfair or deceptive act or practice.

ACLI respectfully requests that the provisions of §431:10D-D,(g) be amended to reflect the bill's original provisions. ACLI notes, however, that the bill's original provisions incorrectly references Hawaii's unfair and deceptive acts or practices law as HRS Section 480-2. The correct reference should be to Article 13 of Hawaii's Insurance Code, (HRS Section 431:13) entitled the "Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance."

Accordingly, ACLI respectfully requests that the provisions of §431:10D-D,(g) be amended not only to reflect the bill's original provisions but also Hawaii's correct unfair and deceptive acts or practices law, Article 13 of Hawaii's Insurance Code, and NOT HRS Section 480-2, all as set forth below:

(g) Failure to meet any requirement of this section with such frequency as to constitute a general business practice shall be a violation of Section 431:13, Hawaii Revised Statutes. (Emphasis added).

Again, thank you for the opportunity to testify in opposition, in part, to SB 208, SD 2, HD 1.

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