

SB208

Measure Title: RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS.

Report Title: Life Insurance; Unclaimed Life Insurance Benefits; Unclaimed Life Insurance Benefits Act

Description: Adopts the National Conference of Insurance Legislators' Model Unclaimed Life Insurance Benefits Act, which requires life insurers to conduct database searches using the federal Social Security Administration's death master file or similar database to determine whether an insured has died. Requires life insurers to use good faith efforts to locate any beneficiaries to a policy, contract, or retained asset account. Effective January 1, 2018.

Companion:

Package: None

Current Referral: CPH, WAM

Introducer(s): KIDANI, BAKER, ENGLISH, ESPERO, INOUYE, KEITH-AGARAN, S. Chang, Dela Cruz, Galuteria, Riviere

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH

ON SENATE BILL NO. 208

February 14, 2017

9:00 a.m.

Room 229

RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS

Senate Bill No. 208 proposes that life insurers conduct periodic database searches of its insureds using the federal Social Security Administration death master file or similar database to identify potential matches. After confirming death of the insured, life insurers are required to use good faith efforts to locate any beneficiaries.

The Department of Budget and Finance supports enhanced efforts to locate beneficiaries before such property is reported to the State. This bill will allow benefits from a policy, contract, or retained asset account to be paid timely to the designated beneficiaries.

Thank you for your consideration of our comments.



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

February 14, 2017
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 208 – RELATING TO UNCLAIMED LIFE
INSURANCE BENEFITS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department supports the intent of this bill and provides the
following comments.

This bill would amend chapter 431, Hawaii Revised Statutes, by adding a new
part to article 10D called the “Unclaimed Life Insurance Benefits Act” to require
recognition of the unclaimed property statutes of Hawaii and the disclosure and
accountability relating to payment for life insurance death benefits regulated by the
Commissioner.

According to Consumer Reports, an estimated \$1 billion in life insurance benefits
are unclaimed. The Hawaii Insurance Division (“Division”) alone receives about 40
requests for help in finding a possible life insurance policy each year.

To address this problem, on November 29, 2016, the Division launched on its
website a national life insurance policy locator tool to help consumers find lost life

Senate Bill No. 208
DCCA Testimony of Gordon Ito
Page 2

insurance policies and annuities. The tool, developed by the National Association of Insurance Commissioners and based in part on policy locator programs developed independently by a number of states, empowers the public with search capabilities to help locate a deceased person's lost life insurance policies and annuities.

Unlike the proposed bill, whose reach is limited to the state, the accessible new tool opens a national database to simplify and streamline the process for Hawaii consumers and insurers.

We thank the Committee for the opportunity to present testimony on this matter.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS IN SUPPORT OF
S. B. 208 RELATING TO UNCLAIMED LIFE INSURANCE BENEFITS

February 14, 2017

Via e mail: cphtestimony@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Committee on Consumer Protection and Health
State Senate
Hawaii State Capitol, Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Baker and Committee Members:

Thank you for the opportunity to testify in support of SB 208, 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 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, 2017, twenty-three (23) 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.

Accordingly, ACLI is in strong support of SB 208.

However, ACLI suggests that SB 208 be revised to include a few sensible enhancements that will enable small insurance companies to comply with the Model Act's requirements. The suggested amendments appear below:

1. Subsection (a) of Section 431:10D-D, beginning on page 4, at line 20, be amended by adding two new paragraphs (5) and (6) as follows:

431:10D-D Insurer Conduct. (a) An insurer shall perform a comparison of its insured' in force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

- (1) The insurer shall, within ninety days of a death master file match:
 - (A) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information;

...

- (4) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer with locating the beneficiary or a person otherwise entitled to payment of the claim proceeds.

- (5) The insurer comparison of in-force policies, contracts and retained asset accounts shall be conducted first to the extent that such records are available electronically and then using the most easily accessible insurer records for records that are not available electronically.¹

¹ This proviso safeguards against a situation where an insurer is digitizing its written records to facilitate death master file ("DMF") matching but then is pressed by an auditor or examiner to run both the written records and the digitized records against the DMF in a duplicative manner. This does not relieve an insurer from comparing non-electronic records to the DMF but safeguards an insurer from redundant comparisons of records kept in multiple formats including electronic format. The reason it makes sense today is that over the past 5 years many insurers have digitalized their various libraries of records in different formats in order to comply with audits and examinations. This proposed change makes clear that, if an insurer has so transferred its records into electronic format, all that will be required is a check of the DMF against such electronic records – and not a redundant search of the records from which the electronic records were made. This may sound silly but the fact is that some auditors and some examiners have held insurers to absurd requirements, the better to pressure the insurer into capitulating into a settlement. This is to guard against unreasonable audits and exams while satisfying the goal of good faith comparisons of the DMF to company records.

(6) Nothing in this subsection shall limit the insurer from requesting a valid death certificate as part of any claims validation process.²

2. Subsection (d) of Section 431:10D-D, beginning on page 8, at line 1, be amended by adding a new paragraph (3) as follows:

(d) An insurer shall notify the director of finance upon the expiration of the statutory time period for escheat that:

- (1) A Policy or Contract beneficiary or Retained Asset Account holder has not submitted a claim with the insurer; ~~and~~
- (2) The insurer has complied with subsection (a) and has been unable . . .; and
- (3) The commissioner may adopt such rules and regulations as may be reasonably necessary to implement the provisions of this section.

3. Subsection (e) of Section 431:10D-D, at page 8, beginning at line 13, be amended as follows:

~~(e) Upon providing notice pursuant to subsection (d), an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the director of finance.³ The commissioner may, in the commissioner's reasonable discretion, make an order:~~

(1) Limiting an insurer's Death Master File comparisons required under subsection (a) to the insurer's electronic searchable files or approving a plan and timeline for conversion of the insurer's files to electronic searchable files;

(2) Exempting an insurer from the Death Master File comparisons required under subsection (a) or permitting an insurer to perform such comparisons less frequently than semi-annually upon a demonstration of hardship by the insurer; or

(3) Phasing-in compliance with this section according to a plan and timeline approved by the commissioner.⁴

² This amendment preserves the fundamental importance of a death certificate for validating both a claim as well as contract liability in the absence of a claim. Further, it establishes the insurance company's eligibility under federal laws governing access to the Death Master File for fraud prevention purposes.

³ Provisions governing payment of the unclaimed life insurance benefit is governed by Hawaii's Unclaimed Property law set forth in HRS Chapter 523-A. Accordingly, this provision should be deleted from the bill.

⁴ This amendment improves the NCOIL Model by providing the insurance commissioner reasonable discretion to order limitations, exemptions or phase-in accommodations for meeting the new operational duties prescribed by the legislation. This is because insurance companies responsible for issuance of more than 60% of premium nationally have agreed in private, multi-state settlements with unclaimed property and insurance officials to undertake the duties contemplated by the NCOIL Model. These companies are among the largest insurance companies in the nation. As such, they have used the relevant technologies in their operations and enjoy economies

Again, thank you for the opportunity to testify in support of SB 208.

LAW OFFICES OF
OREN T. CHIKAMOTO
A Limited Liability Law Company

Oren T. Chikamoto
1001 Bishop Street, Suite 1750
Honolulu, Hawaii 96813
Telephone: (808) 531-1500
E mail: otc@chikamotolaw.com

of scale enabling efficient accomplishment of the new duties anticipated by the NCOIL Model. Many smaller companies, however, have no familiarity or experience using the relevant technologies and they are not staffed to effectuate quickly the substantial new duties. The resources necessary to comply with the legislation are significant, especially for insurers that never historically used the DMF. The insurance commissioner should be given the discretion to limit or phase-in compliance with the law, on a company-specific basis, if the circumstances are warranted and upon a demonstration of hardship. The proposed ACLI enhancement providing insurance commissioner discretion enables the possibility of practical relief to permit smaller insurance companies to adopt the new technologies and comply with the new duties in due course with express regulatory permission.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:19 PM
To: CPH Testimony
Cc: barbarapolk@hawaiiantel.net
Subject: Submitted testimony for SB208 on Feb 14, 2017 09:00AM

SB208

Submitted on: 2/6/2017

Testimony for CPH on Feb 14, 2017 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments: Unfortunately, I just learned that SB208 will be heard tomorrow and do not have time to list all the reasons for my strong support. SB 208 would implement the LEAD program in Honolulu on a pilot basis. This bill as major way of decreasing the number of people held in OCCC, as well as an effective way of helping people get treatment, without the stigma of a criminal record. I understand that community providers have been meeting for several months to prepare for the introduction of this program, so it is possible to implement it immediately. Doing so is the humane thing to do, as well as holding the promise of saving the state millions of dollars in the costs of incarceration, as well as the future cost of building a large jail I strongly urge your support for this bill!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov