



CLIENT BULLETIN

Illinois House Passes Unclaimed Life Insurance Benefits Bill

Michael B. Galibois / mgalibois@cmn-law.com

Matthew H. Bunn / mbunn@cmn-law.com

On April 13, 2016, the Illinois House of Representatives voted 75-34 in favor of House Bill 4633 titled “Unclaimed Life Insurance Benefits Act.” Illinois Treasurer Michael Frerichs pushed this legislation forward. “If you look at public regulatory findings, there are life insurance companies that intentionally avoid paying benefits to increase their profit margins,” Frerichs recently expressed. “We need this legislation to make sure that everyone in Illinois receives the benefits to which they are legally entitled.” Treasurer Frerichs found ample support in the House of Representatives. “These life insurance policies are intended to help take care of survivors when their loved ones pass. Thanks to the leadership of Treasurer Frerichs and other advocates who worked with me on this issue, we are an important step closer to following through on that promise to Illinois citizens,” opined Representative Robert Martwick, D-Norridge, who is the chief sponsor of HB 4633.

The stated purpose of HB 4633 is to “require all authorized insurers regulated by the Department of Insurance to undertake good faith efforts, as specified in this Act, to locate and pay beneficiaries’ proceeds under unclaimed life insurance policies, annuity contracts, and retained asset accounts issued in this State.” H.B. 4633, 99th Gen. Assemb. (Ill. 2016). HB 4633 will apply to all insurance policies in force on the effective date of the Act and any policies created or entered into on and after the effective date. HB 4633 requires insurers to compare insureds against the United States Social Security Administration’s Death Master File (or a comparable service or database) annually and compare against any updates to the DMF at least quarterly thereafter. Although insurers would bear no responsibility for errors or omissions in the DMF, HB 4633 requires insurers to “implement reasonable procedures to account for common variations in data that would otherwise

preclude an exact match” against the DMF, which may include common nicknames, compound last names, or incomplete social security numbers. If a match is found and no beneficiary contacts the insurer within 120 days of such date, then the insurer “shall promptly commence a thorough search” for the beneficiary. HB 4633 contains a provision defining “thorough search” as “good faith efforts to identify a beneficiary, determine a current address for the beneficiary, and contact the beneficiary.” More specifically, a “thorough search” requires insurers to diligently consult online databases, locator tools, and other helpful sources “without limitation” and to communicate with beneficiaries by mail, email, and telephone.

If an insurer locates the beneficiary, the insurer must provide the beneficiary with the appropriate instructions and forms to claim the proceeds under the policy. Importantly, however, HB 4633 still allows insurers to implement and enforce policy provisions that require from the beneficiary satisfactory confirmation of death, including an official death certificate, before proceeds are payable. If an insurer fails to locate the beneficiary and no one claims the proceeds within the statutory five year period under the Uniform Disposition of Unclaimed Property Act, the insurer must turn over the proceeds to the State so the Treasurer may continue attempting to locate the beneficiary. Lastly, HB 4633 amends Section 424 of the Illinois Insurance Code, 215 ILCS 5/424. Section 424 lists conduct by an insurer that is statutorily “defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance.” The amendment would add to that list any insurer “[f]ailing to meet any requirement of the Unclaimed Life Insurance Benefits Act with such frequency as to constitute a general business practice.”

On April 14, 2016, HB 4633 was referred to the Assignments Committee in the Illinois Senate. Industry



groups have expressed strong opposition to the bill or at least to the version of the bill passed by the House of Representatives. Industry groups have some support in the Senate, as the Chairman of the Senate Insurance Committee, William R. Haine, has also voiced opposition to the bill and earlier filed a “watered-down” version, Senate Bill 1783, on February 20, 2015. Senate Bill 1783 is currently sitting in the Senate Insurance Committee and stands against Senate Bill 2396, which is identical to House Bill 4633. Senator’s Haine’s version of the Unclaimed Life Insurance Benefits Act is very similar to but less stringent than HB 4633. The stated purpose of SB 1783 is not in the form of a strict mandate to simply pay life insurance proceeds to beneficiaries if possible. Rather, the purpose of SB 1783 is to “require the complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance, annuity, or retained asset agreement death benefits.” S.B. 1783, 99th Gen. Assemb. (Ill. 2015). Most importantly, if an insurer finds a DMF match and determines benefits are due, SB 1783 only requires an insurer to “use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries,” rather than a “thorough search.” Unlike HB 4633’s extended and detailed definition of “thorough search,” SB 1783 does not define “good faith efforts” in searching for beneficiaries. This greater latitude afforded to insurers makes SB 1783 a more desirable option for insurers.

As the bill makes its way through the Senate, the question is whether the final bill will resemble the more stringent HB 4633 or the less stringent SB 1783. Regardless of the pending debate in the Senate, given the political capital behind Treasurer Frerichs’ support for the bill, it appears more likely than not that some version of the bill will ultimately be passed. Therefore, insurance companies operating in Illinois should expect in the near future some form of affirmative duty to consult the DMF for unclaimed policy proceeds. The extent of that duty, including the logistical burdens and costs of compliance for insurance companies, is still to be determined.

If you have any questions about this Client Bulletin, please feel free to contact any of the attorneys listed or the CMN attorney with whom you regularly work.

Chittenden, Murday & Novotny LLC
303 W. Madison St. Suite 1400
Chicago, Illinois 60606
312.281.3600