



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

October 22, 2014

Via Electronic Mail: Katie.robinson@uniformlaws.org

Rex Blackburn, Co-Chair
Michael Houghton, Co-Chair
Charles A. Trost, Reporter & Draftsman
Drafting Committee to Revise the *Uniform Unclaimed Property Act*
c/o Katie Robinson
Uniform Law Commissioners
111 N. Wabash Avenue, Suite 1010
Chicago, IL 60602

RE: *Uniform Unclaimed Property Act* Revision

Dear Messrs. Blackburn, Houghton, and Trost:

I submit this letter on behalf of the Illinois Department of Insurance (the "Department") in order to provide the Department's input on issues related to proposed revisions to the Uniform Unclaimed Property Act (the "UUPA") concerning unclaimed death benefits.

The Department believes that the insurance laws and the unclaimed property laws optimally should work together to further the purpose of protecting insureds and their beneficiaries. Bearing this goal in mind, the Department does not believe changing the start of the dormancy period to the date of death would harm beneficiaries. The Department recognizes that the unclaimed property laws are designed to protect property belonging to individuals who have forgotten or are unaware of their entitlement to the property, and, in order to do so, "it would be beyond a reasonable requirement to compel the state to comply with conditions that may be quite proper as between the contracting parties." *Connecticut Mutual Life Ins. Co. v. Moore*, 333 U.S. 541, 547 (1948). As a result, the unclaimed property laws appropriately may set standards requiring death benefits to be remitted to the state even though conditions that a beneficiary would otherwise be required to satisfy in order to be paid have not been met. The Department does not believe that differing standards between when proceeds must be escheated to the state and when they must be paid to a beneficiary upset established insurance laws or subject insurance companies to conflicting regulatory requirements.

Consistent with the foregoing, the current version of the UUPA provides that "[p]roperty is payable or distributable for the purpose of this [Act] notwithstanding the owner's failure to make demand or

present an instrument or document otherwise required to obtain payment.” UUPA Section 2(e). The comments to this provision state that it is “intended to make clear that property is reportable notwithstanding that the owner, who has lost or otherwise forgotten his or her entitlement to property, fails to present to the holder evidence of ownership or to make a demand for payment.” The comments go on to make clear that this section applies to unclaimed death benefits, stating that “[s]ince the holder is indemnified against any loss resulting from the delivery of the property to the administrator, no possible harm can result in requiring that holders turn over the property, even though the owner has not presented proof of death or surrendered the insurance policy”

Accordingly, in the context of insurance death benefits, it is the fact of the insured’s death at a time that his or her policy was in force that potentially subjects the proceeds to being escheated, regardless of whether the beneficiary makes a claim for payment under the policy, submits the contractually-required documentation for payment, or even knows he or she is entitled to the property. Recognizing the foregoing, over the past several years the Department has entered into a number of regulatory settlement agreements with some of the largest insurance companies in the industry, which include provisions requiring that death benefits be escheated if they cannot be paid within three or five years after the death of the insured (depending on the length of the dormancy period in the applicable state). Under these agreements, the companies are required to perform comparisons of their policy records against the United States Social Security Administration’s Death Master File (the “DMF”) in order to identify unclaimed death benefits. Once a DMF match has been made, the companies are required to conduct a thorough search to try and locate and pay the beneficiary. In the event that the beneficiaries are not able to be located, the agreements require the proceeds to be escheated to the appropriate state at the expiration of dormancy period calculated using the date of death of the insured as the starting point. These agreements have helped to rectify a significant problem in the life insurance industry involving unclaimed death benefits and have provided important safeguards for hundreds of thousands of beneficiaries.¹

The Department, therefore, is not of the opinion that calculating the dormancy period based on the insured’s date of death will, in any way, be harmful to beneficiaries. To the contrary, for life insurance policies that promise to pay a death benefit if the insured dies while the policy is in force, the logical starting point for the dormancy period to begin is the date the insured dies; the point at which the beneficiary becomes legally entitled to claim the proceeds. If the benefits remain unpaid three or five years after the insured has died, it is reasonable to presume that the proceeds are unclaimed, either because the beneficiary is unaware of, or has forgotten about the policy. Thus, calculating the dormancy period based on the insureds’ date of death protects beneficiaries by giving them ample time to claim the money they are due, while ensuring that companies turn benefit proceeds over to the state if the beneficiaries do not come forward, where they will be held in perpetuity until the rightful owners can be found and paid.

¹ These regulatory settlement agreements were reached in conjunction with agreements between insurance companies and state unclaimed property administrators, which also calculate the dormancy period based on the date of death of the insureds.

For the foregoing reasons, the Department supports proposals that have been made to clarify that the dormancy period for death benefits under the UUPA begins to run upon the death of the insured. Under these proposals, insurance companies will still be entitled to demand that a beneficiary file a claim, provide a death certificate, and satisfy any other appropriate and reasonable claim requirements before being paid. If, however, the beneficiary does not come forward within three or five years after the insured has died the benefits should be presumed to be unclaimed and subject to remittance to the appropriate state. Alternative constructions of the dormancy period either create unreasonable obstacles to the states' ability to protect the owners of unclaimed property, provide insurance companies with incentives to avoid becoming aware of insureds' deaths, prevent unclaimed insurance benefits from being escheated at a time when the beneficiaries may still be located, and/or preclude unclaimed benefits from ever being escheated at all.

Respectfully,

A handwritten signature in black ink, appearing to read "Andrew Boron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew Boron
Director
Illinois Department of Insurance