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VIA E-MAIL

February 1, 2012

Representative Sam Johnson, Chair
U.S. House Committee on Ways & Means
Subcommittee on Social Security
1211 Longworth House Office Building
Washington, DC 20515

Dear Chairman Johnson:

As leaders of the National Conference of Insurance Legislators (NCOIL), we would like to update you regarding state insurance legislators' activity related to the Social Security Administration's Death Master File (DMF). We recently became aware of your February 2 hearing on the accuracy and uses of the DMF and thought that the Subcommittee should be cognizant of the NCOIL *Model Unclaimed Life Insurance Benefits Act* that relies on the DMF to help ensure that life insurance beneficiaries receive their promised benefits.

NCOIL Past President Rep. Robert Damron (KY) developed the model act in 2011 in response to insurance regulator, state treasurer, and media accounts that life insurance companies would commonly use tools such as the DMF to identify deceased owners of annuity contracts and cease annuity payments, but would not always use those same tools to find deceased life insurance policyholders, for which life insurance death benefits were owed. Rep. Damron believed that stronger company standards were needed to:

- compel routine identification of deceased policyholders
- establish steps for beneficiary notification
- promote timely payment of claims to beneficiaries

NCOIL believes that the model act—which is attached for your convenience—represents an important consumer protection as it serves to ensure the proper payment of policy benefits due to our constituents. NCOIL overwhelmingly adopted the model act following hours of research and debate from legislators across the country and with input from key interested parties.

The NCOIL model, as adopted, requires insurers to quarterly compare the DMF with holders of in-force life insurance policies and retained asset accounts. It calls for timely insurer efforts to confirm an insured or account holder's death, locate any beneficiaries, and provide them with claims forms and instructions. In the event that benefits go unclaimed, the model provides clear procedures for life insurers to notify state treasury departments and to escheat the funds, per unclaimed property laws. Several of the model's provisions, in fact, reflect the terms and business practices of a John Hancock Financial agreement with state treasurers regarding unclaimed life insurance benefits.

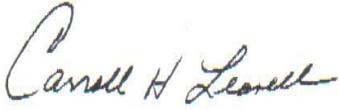
NCOIL takes seriously the statements in your hearing announcement regarding incorrect DMF death reports and a potential for identity theft. We agree that correcting false reports and protecting against ID fraud are critical policy goals. Also vitally important is making sure that companies follow through on their promises of payment—particularly to individuals who may have recently lost a loved one.

We appreciate the opportunity to bring our *Model Unclaimed Life Insurance Benefits Act* to your attention as you review DMF-related issues. NCOIL would welcome an opportunity to work with you to ensure that insurance companies continue to have access to important data in the DMF—while protecting against fraud and identity theft, the goal of H.R. 3475, the *Keeping IDs Safe Act of 2011*.

NCOIL is an organization of state legislators whose main area of public policy concern is insurance legislation and regulation. Many legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country.

For more information, please feel free to contact the NCOIL National Office at 518-687-0178 or our Washington, DC Office at 202-220-3014.

Sincerely,



Sen. Carroll Leavell, NM
NCOIL President



Rep. George Keiser, ND
NCOIL President (2010-2011)



Rep. Robert Damron, KY
NCOIL President (2009-2010)

Enclosures

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Model Unclaimed Life Insurance Benefits Act

Adopted by the NCOIL Executive Committee on November 20, 2011, and by the Life Insurance & Financial Planning Committee on November 17, 2011.

Sponsored by Rep. Robert Damron (KY)

Section 1. Short Title

This Act shall be known as the *Unclaimed Life Insurance Benefits Act*.

Section 2. Purpose

This Act shall require recognition of the escheat or unclaimed property statutes of the adopting state and require the complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the state's insurance department.

Section 3. Definitions

- A. "Death Master File" means the United States Social Security Administration's Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died.
- B. "Death Master File Match" means a search of the Death Master File that results in a match of the social security number or the name and date of birth of an insured, annuity owner, or retained asset account holder.
- C. "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "Policy" shall not include any policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to The Employee Retirement Income Security Act of 1974 [29 USC 1002], as periodically amended, or under any Federal employee benefit program.
- D. "Contract" means an annuity contract. The term "Contract" shall not include an annuity used to fund an employment-based retirement plan or program where the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

Drafting Note: All other terms used in this Act shall be interpreted in a manner consistent with the definitions used in [Insert State Insurance Code].

Section 4. Insurer Conduct

- A. An insurer shall perform a comparison of its insureds' in-force life insurance policies and retained asset accounts against a Death Master File, on at least a quarterly basis, using criteria reasonably designed to identify potential matches of its insureds. For those potential matches identified as a result of a Death Master File Match, the insurer shall:
 - 1. within ninety (90) 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; and

- b. determine whether benefits are due in accordance with the applicable policy or contract; and if benefits are due in accordance with the applicable policy or contract:
 - i. use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and
 - ii. provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.
 2. With respect to group life insurance, insurers are required only to confirm the possible death of an insured when the insurers provide full record-keeping services to the group policy holder.
 3. 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 locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.
- B. An insurer shall not charge insureds, account holders, or beneficiaries for any fees or costs associated with a search or verification conducted pursuant to this section.
- C. The benefits from a life insurance policy or a retained asset account, plus any applicable accrued interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall escheat to the state as unclaimed property pursuant to *[Cite state statute for escheat or unclaimed life insurance benefits]*.

Drafting note: Some states' insurance commissioners may want to develop an informational notice that apprises beneficiaries of their rights to the payment of interest on the benefits or proceeds of a life insurance policy or retained asset account. The written notice should be provided by a life insurer to a beneficiary prior to or concurrent with the payment of any life insurance proceeds or the settlement of any life insurance claim, where applicable.

- D. An insurer shall notify the *[Insert the state agency for unclaimed property]* upon the expiration of the statutory time period for escheat that:
1. a life insurance policy beneficiary or retained asset account holder has not submitted a claim with the insurer; and
 2. the insurer has complied with subsection A of this Section and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary or beneficiaries.
- E. Upon such notice, an insurer shall immediately submit the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the *[Insert the state agency for unclaimed property]*.

Section 5. Unfair Trade Practices

Failure to meet any requirement of this Act is a violation of *[Insert State Unfair Trade Practices Statute]*.

Drafting note: Some states' Unfair Trade Practices statutes specify that an act must be shown to be a "pattern" or "general business practice" in order to constitute a violation of that statute. In those instances, care should be taken in the adoption of this model to ensure consistency across those two statutes.

Section 6. Effective Date

This Act shall take effect on or after *[insert appropriate date]*.

Drafting note: To address other concerns with transparency and accountability in life insurer procedures relating to treatment of retained asset accounts, please refer to the NCOIL Beneficiaries' Bill of Rights, which requires extensive written disclosures to consumers and insurer reporting.