



RESOLUTION

*SUPPORTING THE IMPORTANCE OF ENSURING THAT
UNCLAIMED PROPERTY LAWS CONCERNING
UNCLAIMED DEATH BENEFITS DUE UNDER LIFE
INSURANCE POLICIES ADEQUATELY
PROTECT CONSUMERS*

WHEREAS, the National Association of Unclaimed Property Administrators (NAUPA) is the foremost authority on unclaimed property that represents every unclaimed property program in the United States and facilitates collaboration among unclaimed property administrators in their efforts to reunite unclaimed property with the rightful owner, and

WHEREAS, over the past several years, unclaimed property administrators of numerous states have identified the existence of unclaimed death benefits due under life insurance policies as a serious problem, and a number of states have enacted, or considered enacting, changes to their insurance laws and/or unclaimed property laws addressing unclaimed death benefits, and

WHEREAS, in May 2014, NAUPA made recommendations to the Uniform Law Commission (ULC) Drafting Committee to Revise the Uniform Unclaimed Property Act, which sought to clarify NAUPA's understanding of the 1995 Uniform Unclaimed Property Act, and to ensure the protection of owners of unclaimed death benefits due under life insurance policies, and

WHEREAS, NAUPA's recommendations to the ULC regarding unclaimed death benefits included, among other things: (i) clarifying that the dormancy period for death benefits begins to run on the date of death of the insured; (ii) clarifying that the "limiting age" should only be used to calculate the dormancy period when the insurer does not know if the insured is deceased; (iii) clarifying that presentation of a death certificate is not required for death benefits to be considered unclaimed; and (iv) requiring insurers to perform periodic comparisons of their records against the United States Social Security Administration's Death Master File or other database or service that is at least as comprehensive (DMF) to identify unclaimed death benefits due under life insurance policies, and

WHEREAS, the Revised Uniform Unclaimed Property Act (RUUPA) adopted by the ULC in 2016 did not include NAUPA's specific recommendations but did include several provisions that were consistent with NAUPA's efforts to protect the rights of owners of unclaimed death benefits due under life insurance policies, and

WHEREAS, the State of Illinois has adopted RUUPA with revisions to the provisions regarding unclaimed life insurance benefits that are consistent with the foregoing NAUPA recommendations to the ULC, and

WHEREAS, the State of Florida has enacted amendments to its unclaimed property laws regarding unclaimed life insurance benefits that are also consistent with the foregoing NAUPA recommendations to the ULC, and

WHEREAS, on April 20, 2018, a Florida Circuit Court enjoined the retroactive application of Florida's recently enacted law regarding unclaimed life insurance benefits, and that decision is currently being appealed, and

WHEREAS, over the past several years NAUPA has also submitted comments to the National Conference of Insurance Legislators regarding its Model Unclaimed Life Insurance Benefits Act (Model Act), as well as the National Association of Insurance Commissioners regarding its draft unclaimed benefits model act that: (i) opposed the position advanced by certain insurance industry groups that any required comparisons of insurance company records against the DMF should be limited to newly-issued policies only; and (ii) supported requiring insurance companies to perform DMF comparisons of all their in-force policies as well as policies that had lapsed or terminated within the past 15 years; and

WHEREAS, NAUPA believes that it is important that unclaimed property laws concerning unclaimed life insurance benefits are written and interpreted in a manner that adequately protects consumers, and

WHEREAS, NAUPA continues to believe that the proposals it previously made to the ULC regarding unclaimed death benefits due under life insurance policies are consistent with the consumer protection purposes of the unclaimed property laws, will add clarity to the circumstances under which death benefits should be considered unclaimed, and will maximize the likelihood that any unclaimed benefits are paid to beneficiaries directly by insurance companies without needing to be turned over to the care and custody of the state.

NOW, THEREFORE, BE IT RESOLVED that the National Association of Unclaimed Property Administrators (NAUPA), an affiliated network of the National Association of State Treasurers, supports the amendment or enactment of unclaimed property laws regarding unclaimed death benefits due under life insurance policies that are consistent with NAUPA’s recommendations to the ULC, including that any such laws:

(1) clarify that the dormancy period for benefits that mature upon death begins to run on the date of death of the insured;

(2) clarify that the “limiting age” should only be used to calculate the dormancy period for death benefits as a fallback option when the insurer does not know if the insured is deceased (i.e., when it is necessary to *presume* that an insured is deceased);

(3) clarify that a death certificate is not required to have been presented to the holder by the owner in order for property to be considered payable under the act;

(4) require insurers to perform periodic comparisons of their records against the DMF, including a one-time DMF search by insurers of all of their in-force policies as well as policies that have lapsed within the past 15 years, followed by semi-annual DMF searches of in-force policies, to identify unclaimed life insurance benefits; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the National Association of Unclaimed Property Administrators, an affiliated network of the National Association of State Treasurers, does not support the enactment of any state law based on RUUPA, unless it includes provisions regarding unclaimed life insurance benefits that are at least as protective of the rights of owners of unclaimed death benefits as the following provisions contained in RUUPA as adopted by the ULC in 2016:

(1) a provision stating that a life insurance policy not matured by “proof of death” is considered matured if “the insurance company has knowledge of death of the insured”;

(2) a provision setting forth the circumstances when an insurance company shall be deemed to have “knowledge of death” of an insured, which shall include, among other things:

(i) when a comparison of the insurance company's records against the DMF conducted by the company for any purpose identifies a validated death of an insured;

(ii) when a comparison of the insurance company's records against the DMF conducted by a state unclaimed property administrator (or its agent) during an examination identifies a validated death of an insured; and

(iii) when the insurance company receives notice of the death of an insured, which the company validates; and

(3) a provision requiring insurance companies to make a good faith effort to validate the death of an insured, and document its efforts, within a time period prescribed by state insurance laws, or if no such prescribed time exists, within 90 days after the company has notice of the death.

***This resolution shall remain in effect until amended or rescinded.**