



Legislative Update

June 2007

SB 722 (Correa): Decedents' Estates: Judgments of Conviction **SPONSOR/SUPPORT**

NAIFA-California is pleased to inform our members that our sponsored bill, SB 722 (Correa), passed unanimously out of the Senate on a bipartisan vote of 36-0 and is now pending hearing in the Assembly Judiciary Committee.

SB 722 seeks to provide clarification in the Probate Code for disbursement of proceeds of life insurance. Under current law, a named beneficiary of a bond, life insurance policy or other contractual agreement who feloniously and intentionally kills the person upon whose life the policy is issued is not entitled to benefit from any of the foregoing and it becomes payable as though the killer had predeceased the decedent.

In recent cases, however, despite a conviction of murder, some attorneys have argued that a 'final judgment of conviction,' as necessitated under Probate Code 254, is not final until the defendant has exhausted all appeals in the penal case. Furthermore, Probate Code 254(a) and 254(b) refer to the 'final judgment of conviction,' but they do not define 'final judgment of conviction.' Without clarification in this area, in some cases, victims and their families have been subjected to a lengthy appeals process despite a conviction that ended with a guilty verdict.

In order to correct this injustice on behalf of its members' clients, NAIFA-California is sponsoring SB 722 by Senator Correa (D-Anaheim). By clarifying the Probate Code, SB 722 will help ensure that victims' families are able to secure the life insurance benefits of their murdered loved one rather than forcing them to endure further pain due to the lengthy appeals process.

LIFE INSURANCE UPDATE

AB 720 (DeLeon): Life Agent Only License

SUPPORT if Amended

For the past few years, several life insurance companies through their association, the Association of Life and Health Insurance Companies (ACLHIC), have been meeting with NAIFA-California representatives to discuss the need to increase the number of career life agents in California and to reach out to those communities that may be underserved or underinsured.

This year, ACLHIC sponsored AB 720 by Assemblyman Kevin DeLeon (D-Los Angeles) to create a life agent only license. After numerous meetings with the proponents, NAIFA-California decided that if the bill was amended to more closely mirror the National Association of Insurance Commissioners' Producer Licensing Model Act (PLMA) then NAIFA-California could support the legislation, which has been adopted by 46 states. In addition, NAIFA-California would like to see the bill amended to clarify that there are continuing education requirements for the licenses outlined in the PLMA.

NAIFA-California recognizes that life insurance agents are on the front lines of helping Californians face growing challenges to financial protection and retirement security. If fewer agents are available to

deliver these services, then fewer Californians will receive the guidance necessary to meet the financial security needs for themselves and their families.

While NAIFA-California supports the intent of AB 720, as currently drafted, it moves California further away from uniformity with other states and could have a negative impact on agents attempting to do business on a multi-state basis. With this being said, NAIFA-California is continuing to work with the sponsors and author urging them to consider amending the bill to address our concerns.

NAIFA-California is committed to helping to address the issue of the underserved communities. However, it is also imperative that the existing consumer protections remain intact and that we use this as an opportunity to achieve more uniformity with other states. We are hopeful that AB 720 will result in more agents being trained and licensed to sell life insurance, which should help to address the issue of the considerable unmet demand for life insurance.

The author and the sponsor have indicated their commitment to working with NAIFA-California to address our concerns and we are continuing to work with them as the Senate Banking, Finance and Insurance Committee prepares to hear the bill.

SB 573 (Scott): Annuities: Suitability

OPPOSE

Over the last several years the Legislature has considered a series of bills seeking to address the sale of annuity products to senior citizens. Last year, the industry, including NAIFA-California, was successful in defeating SB 192 (Scott), a proposal sponsored by the Department of Insurance.

This year, two bills addressing the issue were introduced. Senator Scott is the author of SB 573, which as currently drafted is much more acceptable to the life and annuity industry representatives than last year's bill SB 192. However, the bill is a work in progress and NAIFA-California and ACLHIC are concerned about amendments that have been suggested by other interested parties. In an effort to allow all of the interested parties to continue working with Senator Scott, the Senate Insurance Committee passed the bill and the negotiations are on-going.

In addition to SB 573, in an effort to be proactive on the issue and to have a counter-measure to Senator Scott's bill, ACLHIC sponsored and NAIFA-California supported AB 267 by Assemblyman Calderon, which would have enacted the National Association of Insurance Commissioner's (NAIC) Senior Protection in Annuity Transactions Model Act. Unfortunately, the bill faced intense opposition and the author agreed to make it a two-year bill.

Despite NAIFA-California and ACLHIC's efforts to work with Senator Scott to address our concerns, they have not been addressed to date. SB 573 passed out of the Senate and is now pending hearing in the Assembly Insurance Committee. In an effort to place increased pressure on the Senator to address our concerns, NAIFA-California and ACLHIC will be implementing a vigorous grassroots campaign in the coming weeks targeting members of the Assembly.

Stay tuned and watch for upcoming grassroots alerts urging you to contact your legislators regarding this detrimental piece of legislation.

HEALTHCARE UPDATE

Democratic Proposals Move Forward

The first half of the 2007 Legislative Session came to a close on Thursday with the Senate and Assembly sending forth their respective plans for overhauling the healthcare system in California.

While the Governor has insisted on a bipartisan approach to the issue, the Assembly and Senate plans passed out of their respective houses without a single Republican vote.

Democratic leaders have indicated their willingness to continue negotiations with the Governor and various stakeholders – including hospital, doctor, nurse, business, insurance, consumer, labor union and low-income advocacy groups – on healthcare reforms; however, there are a number of hurdles to be overcome if the approach is to be truly bipartisan.

First and foremost, Republicans have rejected the concept of universal healthcare that each of the Democratic and the Governor's plans embrace. They have suggested that such an approach would ultimately backfire, resulting in significantly higher insurance rates and handicapping businesses with the respective employer mandates. Additionally, Republicans have said that the measures do nothing to address the cost drivers in the system, many of which have made healthcare unaffordable today. Although Senate and Assembly Republicans have introduced counter-proposals, they rely on market forces and incremental reforms that have not been embraced by the Democratic majority.

AB 8 (Nunez) & SB 48 (Perata) – Pass from Houses of Origin

CONCERNS

Under the provisions of the Democratic leader's plans, insurance would be provided to approximately 3.4 million people, or 69% of those who currently lack coverage. The major component of both plans is the mandate on employers to spend the equivalent of at least 7.5% of their payroll on healthcare, otherwise pay into a state fund that would be used to help subsidize the uninsured. The bills would also create a state-run insurance pool, mandate that insurance companies cover anyone who applies, and force insurers to spend a larger share of premiums on medical care.

Without Republican support for either measure, Nunez and Perata have been strategizing on the best manner in which to move forward with reforms. While they've indicated their willingness to continue to work with the Governor, stakeholders and Republicans, they have laid out a strategy akin to that which enabled the passage of AB 32 (Nunez) last year that would not require any Republican votes. As you may recall, the global warming act passed last year was the result of negotiations between Schwarzenegger and the Democrats despite significant objections and no support from Republicans.

Although Democratic approaches face fewer obstacles in the Legislature than Schwarzenegger's, they may each have legal problems related to federal law that limits what states can do to compel firms to offer health insurance. Republicans relied heavily on the federal preemption argument during the debate on the bills, suggesting that an employer mandate would never pass muster in court.

Healthcare reform components that Republicans would be willing to support include a guarantee issue mandate and expansion of state coverage for people who cannot find private insurance because of existing health problems, presuming there were sufficient state revenues to cover the costs.

While AB 8 and SB 48 are quite similar, they do differ on a few components.

- Business Exemptions –

- AB 8 – Núñez's Plan – Exempts businesses that have been operating for three years or less, employ fewer than two people, or have an annual payroll of less than \$100,000
- SB 48 – Perata's Plan – No Exemptions

- Individual Responsibility – Workers served by the state pool would pay some of the insurance premium

- SB 48 – Perata's Plan
 - Limits costs to 5 percent of income

- Incomes above 400 percent of the federal poverty level – about \$62,000 for a family of three – would be required to have a minimum health coverage policy
- AB 8 – Núñez's Plan
 - No specified income cap
 - No mandate on families to obtain health insurance
 - Incomes below 300 percent of the federal poverty level – about \$50,000 for a family of three – would be eligible for subsidized coverage

The Assembly Democrats' plan – AB 8 (Nunez) – passed on a party-line vote of 47-32, with one member absent. The Senate plan – SB 48 (Perata) – passed 23-16, with one abstention; one Democrat, Lou Correa of Santa Ana, joined the Republicans in opposition.

SB 840 (Kuehl): Single Payer Healthcare Coverage

OPPOSE

SB 840 (Kuehl) also passed out of the Senate this week on a 23 – 15 partisan vote. SB 840 would replace private medical insurance with a state-run system to guarantee care for every resident.

Although the Governor has indicated all reform ideas are “on the table,” he has vetoed Senator Kuehl’s single-payer system each time it has come before him in the past few years.

Despite the significant opposition by Republicans and various stakeholders to the components of each of the plans, the Governor and Democratic leaders hope to have reform proposal flushed out by the end of session on September 14th. In order to meet that goal and with the reference to passing a reform proposal in a manner similar to the passage of AB 32 last year, it is likely that much of the discussion and the ultimate outcome may be decided behind closed doors between the leaders and the Governor.

AB 1554 (Jones): Health Care Coverage: Rate Approval

OPPOSE

AB 1554 would require approval by the Department of Managed Health Care (DMHC) or the Department of Insurance (DOI) of an increase in the amount of the premium, copayment, coinsurance obligation, deductible, and other changes under a health care service plan or health insurance policy.

NAIFA-California has argued that developing an entirely new regulatory scheme at the DMHC and the DOI as proposed by AB 1554 would do little to address the issue of increasing health care premiums in California. Factors such as rising hospital and provider costs, higher priced technologies and an aging population and increased utilization and claims expenses are the key cost drivers.

Additionally, AB 1554 would include copayments and deductibles under “rate increases.” Such inclusion would significantly limit the ability for an individual or business to choose their coverage based on what product would best address their needs.

AB 1554, despite significant industry opposition, is continuing to move forward and is now pending in the Senate after having passed out of the Assembly on a partisan vote of 42-33.

If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh or Dawn Sanders Koepke at 916/440-0850. Thank you!