



Legislative Update

July 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 out of the Assembly Judiciary Committee on a bipartisan vote. The bill is now pending approval by the entire Assembly. NAIFA-California will be working with the author over the next few weeks on some amendments to the bill prior to it being taken up on the Assembly Floor.

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

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 wanted to see the bill amended to clarify that there are continuing education requirements for the licenses outlined in the PLMA.

Thanks to NAIFA-California's Government Affairs Committee and their efforts, AB 720 was amended to address our concerns.

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. NAIFA-California is committed to helping to address the issue of the underserved communities. 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.

AB 720 passed out of the Senate Banking, Finance & Insurance Committee on a bipartisan vote with Senator Dave Cox (R-Fair Oaks) as the only no vote. The bill is now pending hearing in the Senate Appropriations Committee.

SB 573 (Scott): Annuities: Suitability

OPPOSE – DEFEATED

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's proposal, SB 573, is more acceptable to the life and annuity industry representatives than last year's bill SB 192. However, NAIFA-California and ACLHIC remained concerned and continued to urge the Senator to amend the bill to reflect the National Association of Insurance Commissioner's (NAIC) Senior Protection in Annuity Transactions Model Act. Despite NAIFA-California and ACLHIC's efforts to work with Senator Scott to address our concerns, they were not addressed.

In an effort to place increased pressure on the Senator to address our concerns, NAIFA-California implemented an effective and vigorous grassroots campaign targeting the members of the Assembly Insurance Committee. The grassroots action was instrumental in the ultimate defeat of SB 573 when it came before the Committee for hearing. The Committee members agreed that the issue needed to be debated further and recommended that there be an interim study on the best manner to address the concerns of all stakeholders.

HEALTHCARE UPDATE

AB 8 (Nunez) & SB 48 (Perata) – Democratic Healthcare Plans Merged

OPPOSE

Senate Pro Tem Don Perata and Assembly Speaker Fabian Nunez, authors of SB 48 and AB 8 respectively, have combined their healthcare reform proposals that would place a 7.5% payroll mandate on employers. One of the most noteworthy components of their combined efforts was the decision to reject the individual mandate portion of the Governor's proposal that would require everyone in California to obtain insurance. The Democratic leaders opted to use AB 8 (Nunez) as their vehicle, which passed out of the Senate Health Committee on a partisan vote on July 11th.

As amended, AB 8 (Nunez & Perata) now provides for the following:

- ◆ Requires all employers to pay at least 7.5% of payroll toward the health care for their workers
- ◆ A 5% income cap on premiums for workers earning less than 300% of poverty for those in the statewide purchasing pool
- ◆ Allows MRMIB to adjust employer fees on health care coverage
- ◆ Makes Section 125 plans available to all workers, to get a state and federal tax break on health premiums
- ◆ Extends small group insurance rules to mid-size employers from 51-120 employees
- ◆ Provides guaranteed issue for everyone in the individual market *without* serious medical conditions; those with specified medical conditions would go into a high-risk pool, funded by an assessment on health plans and insurers.

Although many of these components have been widely discussed as they relate to health care reform, as amended, AB 8 (Nunez & Perata) removes a couple of provisions that were a part of the members' original plans. Specifically, the incorporation of the two bills removes

- ◆ An individual mandate on consumers to buy coverage in the individual market
- ◆ Exemptions for some businesses (under prior version of AB 8 [Nunez])
 - Less than two Employees
 - Payroll of \$100,000 or less
 - In business for three years or less

Schwarzenegger applauded the Legislative leaders for their efforts to advance the healthcare reform discussion this year. He is continuing to dismiss an opinion by the non-partisan Legislative Counsel that the portion of his plan that would raise taxes on employers and health care providers would require a 2/3 vote of the Legislature – a feat that is not easily overcome given the opposition of Republican members to these provisions.

Schwarzenegger and legislative leaders have insisted that the levies proposed to be placed upon employers or health care providers are "fees" and therefore exempt from the 2/3 vote mandate. Despite their insistence, stakeholders are increasingly concerned that neither plan will pass any legal challenges.

For more information on the specific compromises made to combine the bills, please visit <http://dist09.casen.govoffice.com/vertical/Sites/{71ED3C80-976A-453B-8DBB-F906891DD063}/uploads/{479DED26-622F-442A-B7F5-2BDD3290B548}.DOC>.

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!