



Legislative Update

April 2008

AB 2940 (DeLeon): Retirement: Financial Advantage Account Program

AB 2940 by Assemblyman Kevin DeLeon (D-Los Angeles) would create the California Financial Advantage Account Program (CFAAP), under the administration of the California Public Employees' Retirement System (CalPERS). CFAAP would provide retirement savings opportunities to California's private sector employees and it would require CalPERS to allow employers without retirement plans to contribute and to match employee contributions.

The bill passed out of the policy committee on a 4-1 vote and is currently pending hearing in the Assembly Appropriations Committee. The proposal, which would open California's retirement system to private sector workers, has prompted questions about government competing with private investment firms and the ability of the system to handle the program. Republicans in the policy committee voted against it or abstained; however, Governor Schwarzenegger has indicated his positive interest in the bill. The retirement system has not yet taken a position on the bill and is not likely to until its next meeting in May.

Supporters said the idea has been percolating for years, both on the federal level and in statehouses. It's being pushed by think tanks as a way to get low- and middle-income Americans to start saving for retirement to supplement Social Security payouts. Supporters say the California Employee Savings Plan would allow workers to use payroll deductions to sock away money for retirement, at no cost to taxpayers.

Under the bill, the Employment Development Department, using its existing system for collecting payroll taxes, would provide workers the opportunity to have contributions deducted from their paychecks.

NAIFA-California is closely following AB 2940 and is working to with the author's office to see if we can address our concerns with the bill.

SB 1224 (Machado): Insurance: Viatical and Life Settlement Contracts

NAIFA-California is supportive of life settlements. However, NAIFA-California is opposed to stranger originated life insurance policies (STOLI), a type of life settlement, as they are considered contrived arrangements that hurt the purpose for which life insurance is based – financial protection for families and businesses. Under STOLI schemes, investors entice seniors to purchase life insurance but agree to an arrangement where the investors, after the expiration of a two-year contestability period, stand to profit from the insured's death. Seniors usually receive an upfront payment and the investors agree to finance the premiums. The investors typically profit by collecting the death benefits after the seniors die – and the sooner they die, the greater the profit.

In effect, STOLI promotes wagering on human life and threatens to expose consumers to unexpected taxes, loss of privacy, and inability to obtain life insurance in the future.

In response to growing concerns over STOLI products, Senator Mike Machado introduced SB 1224. The bill would provide for a regulatory framework for life settlement transactions in California and require individuals negotiating life settlements to be licensed by the California Department of Insurance. These provisions would go a long way towards addressing the abusive practice of stranger owned life insurance (STOLI) transactions.

NAIFA-California is supporting SB 1224 because, by properly defining and prohibiting STOLI and creating a regulatory framework for legitimate life settlements, SB 1224 protects seniors and helps to address the threat of an industry creating a lottery of the life insurance business.

SB 1224 (Machado) passed out of the Senate Banking, Finance & Insurance Committee with NAIFA-California's own Mark Chandik testifying on the bill. It is now pending hearing on April 28th in the Senate Appropriations Committee.

State Regulators Weigh in on Cancelled Policies

State regulators have set the stage for reinstatement of thousands of Californians who may have been wrongfully dropped from health care plans over the past four years. In an extraordinary move, the California Department of Managed Health Care's (DMHC) Director, Cindy Ehnes, ordered immediate reinstatement of more than two dozen patients whose insurance coverage was rescinded. Under the order from DMHC, health plans will be required to pay all of the patients' medical claims incurred while without coverage.

In addition to ordering the reinstatement of a number of patients, an independent review of thousands of other "rescissions" made by the state's five largest health plans – Kaiser Permanente, Anthem Blue Cross, Blue Shield, PacifiCare and Health Net – since 2004 was also ordered. Initial review has suggested that many of the rescissions were not aligned with state requirements for such action.

In addition to DMHC's efforts in this area, Attorney General Jerry Brown indicated that his office would also be moving forward with investigations of health plans and insurers who wrongfully rescinded policies. Governor Schwarzenegger also registered objections to rescissions citing his interest in working with the Legislature to stop the practice entirely.

Insurance representatives have said health plans have been working for the past year – both on their own and with government officials – to develop clear, fair and standardized underwriting and rescission rules. Furthermore industry is cautioning lawmakers to avoid regulatory changes that could have unintended detrimental consequences for Californians.

If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh, Legislative Advocate for NAIFA-California, at 916/440-0850. Thank you!