



Legislative Update

July 2008

The Legislature's Summer Recess has been put on hold as temperatures rise, fires rage, and the State Budget remains out of balance and in limbo. Most Capitol insiders feel that the Budget debates will carry into August and that there will be an effort to adjourn during the third week in August to allow Democratic members to attend their national convention.

SB 1224 (Machado): Life Settlements

****DEFEATED****

SUPPORT

SB 1224 (Machado) 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. While NAIFA-California is supportive of life settlements, we are 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. In response to growing concerns over STOLI products, Senator Mike Machado introduced SB 1224

Despite strong bipartisan support for SB 1224, the bill fell victim to politics and was defeated in the Assembly Banking Committee on April 23rd. More specifically, Assembly Democrats retaliated against Senator Machado and killed all of his bills (including SB 1224) before the Committee because he had refused to pass key Assembly mortgage reform bills out of his Senate Banking and Insurance Committee the week before.

NAIFA-California's conversation with members prior to and after the hearing clearly indicated that the bill's defeat was political. Prior to the hearing NAIFA-California had obtained the commitment of virtually all members of the Committee to support the bill. As such, there is certainly support for the policy and NAIFA-California will continue to work with other stakeholders on moving the policy forward in another manner – whether this year or next.

AB 2940 (De Leon): California Employee Savings Program

OPPOSE

AB 2940 (DeLeon) 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 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.

Despite members' concerns in the policy committee, the bill moved forward – largely with the author's commitment to address some of the concerns. Essentially the author agreed to take amendments stating that any study contemplated by CalPERS regarding the proposal's structure,

design and funding come back before the Legislature for its consideration before any implementation could go forward. NAIFA-California feels this is a positive development, thereby making the bill a comprehensive study bill needing legislative approval next year before the program could become effective.

CalPERS remains neutral on the measure. The bill will continue to have an uphill battle in the Senate Appropriations Committee where it will be referred to the suspense file (due to costs) and will be considered in late August.

AB 2464 (Duvall): Annuity Sales: Disclosure

Sponsored by the Association of California Life & Health Insurance Companies (ACLHIC), AB 2464 (Duvall) passed the Senate Banking, Finance and Insurance Committee on June 18th. ACLHIC has struggled to retain the language of the NAIC Model due to some opposition, but in order to ensure passage of the bill in the Senate, they were pushed to incorporate a series of technical (and in some areas, somewhat substantive) amendments.

AB 2464 was subsequently referred to Senate Judiciary where ACLHIC was forced to accept additional amendments that remove important exemptions from the Model (SEC/FINRA, ERISA, etc.); extend the free look when no buyer's guide is provided from 15 to 30 days; and require solicitations to include information on how to obtain a buyers' guide. ACLHIC is working hard, meeting with key members of the Senate to explain the reason for the exemptions in an effort to get them all reinstated. If ACLHIC is unable to reinstate the provisions of the NAIC Model, it is likely they will let the bill die.

NAIFA-California is working with ACLHIC and the author to address our concerns with the language/amendments provided by the Committee.

Department of Insurance Senior Annuity Regulations

NAIFA-California and other industry stakeholders recently met with DOI representatives in Sacramento to discuss legislative efforts in regard to the NAIC Model disclosure bill (AB 2464 – Duvall), agent designation bill (AB 2150 – Berg), and the need to remove the sunset from the legislation which charges a \$1 per policy fee to fund senior sales protection activates.

Ultimately, however, the meeting was an effort to continue the dialogue with regards to the long lingering DOI senior annuity regulations. Department staff indicated they are considering the possibility of establishing an objective set of factors that may be used to require insurers to establish a “filtering” system to identify possible unsuitable sales situations which would call for further review. It was also indicated that the regulations would initially apply to all annuities and not be the subject of a further workshop before they are formally filed.

In addition to directly conversing with the Department on this issue, NAIFA-California and other industry stakeholders are continuing to work through a number of third party messengers to dissuade Commissioner Poizner from going forward with the regulations.

Health Update

In keeping with his promise to continue his efforts to address the healthcare needs of the state, the Governor's Office will purportedly present a healthcare proposal to Legislative leadership in the coming weeks. It is believed that the Administration will ultimately place the burden of determining how the proposal will be put forth – either as one reform measure or as separate

measures with various authors – with the Legislature. The Governor's proposal is expected to address issues such as establishing an 85% medical cost ratio standard, rescission prohibitions, and product "tiers" for the individual market.

It remains to be seen, however, how the Governor's proposal compares with bills that are currently moving through the Legislature on the same subject matters, including SB 1440 (Kuehl) Medical Cost Ratio, AB 1945 (De La Torre) and AB 2549 (Hayashi) Rescission, and SB 1522 (Steinberg) Five Tiers for the Individual Market.

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!