

August 25, 2017

To the Honorable Members of
The Illinois House of Representatives,
100th General Assembly:

Today, I return House Bill 302 with specific recommendations for change to provide a clear, constitutional threshold to help Illinois families receive insurance benefits and to stop the inappropriate payment of contingency fees to private auditing firms.

Few things are more traumatic than the death of a loved one. Life insurance provides an important resource for financial assistance after such a loss. As public servants, we have a duty to protect beneficiaries and ensure they receive the benefits they are owed. That is why I signed legislation (Public Act 99-0893) creating the Unclaimed Life Insurance Benefits Act, which took effect January 1, 2017. The Unclaimed Life Insurance Benefits Act requires life insurance companies to continually cross check in-force policies with the Social Security Administration's Death Master File to determine potential beneficiary eligibility. If a potential match is identified and a beneficiary has not yet come forward, insurers are required to make a good faith effort to locate the beneficiary or beneficiaries and provide claim assistance.

While the current law is forward-looking for all policies in force as of January 1, 2017, HB 302 retroactively would require insurers to cross check policies that have lapsed or terminated. For those insurers with electronically searchable records, records must be searched back to 2000. However, if an insurer does not have electronically searchable records, the search must be conducted back to only 2012.

While I support the intent of this legislation, HB 302 is inequitable and potentially unconstitutional. Illinois' administrative rules only require insurance companies to keep lapsed or terminated policy records for the current year, plus the five prior years. *See* Title 50, Section 901.20. Creating a two-tiered enforcement timeline creates an arbitrary and discriminatory requirement that does not uniformly impact the life insurance industry. An

insurer's obligation to comply with HB 302 should not depend on differences in its record retention policies. Such differential enforcement violates due process. *See Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 588-89 (1998) (due process protects against "arbitrary and discriminatory enforcement" of legal standards). To avoid this inequitable and constitutional flaw, I support a clear and logical threshold that mirrors the current five-year administrative recordkeeping requirements so that all insurers — regardless of their record-retention policies and capabilities — are required to retroactively search for policies in force at any time on or after January 1, 2012.

Additionally, this legislation does nothing to stop the continuing overreach of private auditing firms that currently contract with the Illinois State Treasurer's Office, and they are reaping great rewards that would otherwise benefit taxpayers. Throughout the country, including Illinois, states have retained private auditors with contingency fee arrangements for the identification of unclaimed property, including life insurance policies. The expansion of these private auditors, however, incentivizes behavior that rewards private companies at the expense of state taxpayers. One such company has made more than \$20 million in finder's fees in Illinois since 2011. That money could have (and would have under current state law) gone to pay down our state's desperately underfunded pension liability. We should stop this practice and pursue more responsible financial arrangements. This will ensure that we are conducting searches of unclaimed property in a fiscally appropriate manner and in a way that best serves our state's taxpayers.

Therefore, pursuant to Article IV, section 9(e) of the Illinois Constitution of 1970, I hereby return House Bill 302, entitled, "AN ACT concerning regulation," with the following specific recommendations for change:

On page 4, by replacing line 8, with "full Death Master File."; and

On page 4, by deleting lines 9 through 15; and

On page 4, by replacing line 16 with "Thereafter, an insurer shall perform a comparison on at"; and

On page 8, by replacing lines 9 through 12 with the following:

"Sec. 30 Administrative rules. ~~(a)~~ The Department shall adopt rules to administer and implement this Act."; and

On page 8, by replacing line 22 with "(a) Except as provided in subsections (b) and (c),"; and

On page 9, by deleting lines 9 through 14; and

On page 9, line 15 by replacing "(d)" with "(c)"; and

On page 10, by replacing lines 7 and 8 with the following:

“Section 15. The Uniform Disposition of Unclaimed Property Act is amended by changing Sections 20 and 24.5 as follows:”

On page 13, immediately below line 10, by inserting the following:

(765 ILCS 1025/24.5)

Sec. 24.5 Contingency fees prohibited. The State may not enter into a contract with a person to conduct an examination of a holder ~~located within the State of Illinois~~ under which the State agrees to pay such person a fee based upon a percentage of the property recovered for the State of Illinois. ~~Nothing in this Section prohibits the Office of the State Treasurer from entering into contracts with persons to examine holders located outside the State of Illinois under which the Office of the State Treasurer agrees to pay such persons based upon a percentage of the property recovered for the State of Illinois.~~

(Source: P.A. 91-16, eff. 7-1-99.)”

With these changes, House Bill 302 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner
GOVERNOR