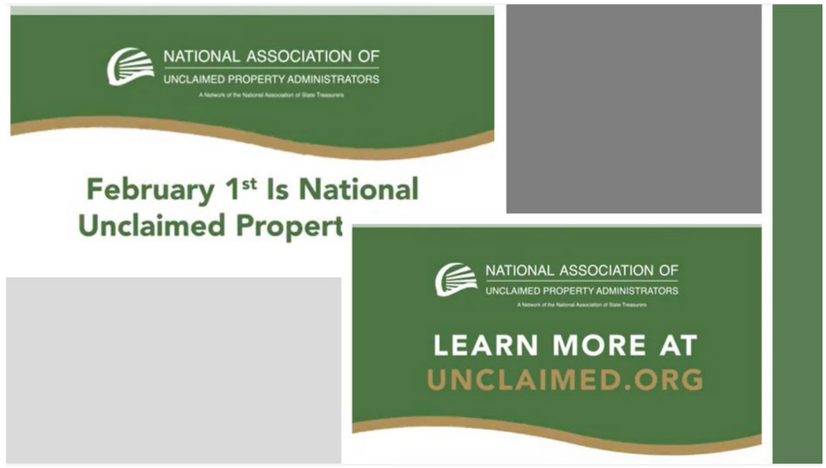
VERMONT
DEPARTMENT OF FINANCIAL REGULATION

89 Main Street • Montpelier, VT • 05620 - 3101
802-828-3301 | dfr.vermont.gov

The Role of Life Insurance Benefits in Unclaimed Property
February 1 is National Unclaimed Property Day

By: Victoria Hudson



February's upcoming Unclaimed Property Day presents an ideal opportunity to discuss Vermont's long and storied history with life insurance companies, the payment of life insurance benefits and the reporting of such as unclaimed property. It's also a good time to mention Unclaimed Property in the World of Life Insurance, the Sovos web seminar scheduled for Thursday this week.

More than a decade ago, on May 22, 2013, then-Governor Peter Shumlin signed the Consumer Protection Law for Unclaimed Life Insurance Benefits which established requirements for life insurance companies around the use of certain databases, good-faith efforts to locate any beneficiaries and, the reporting of monies to the State Treasurer unclaimed property fund when and if a beneficiary cannot be found. The law followed a multi-state initiative that required life insurance companies to pay out on old, sometimes forgotten, policies resulting in more than $1 billion immediately being returned nationally to beneficiaries as insurance companies worked to reach agreement with the states. Another $820 million went to state unclaimed property programs for reuniting with rightful owners, and $4.98 million in unclaimed property went to the Vermont Treasurer's Office. All of this spurred the insurance industry along with trade and other-related groups to draft a national model to standardize the process for handling unclaimed life insurance policies, help reduce the number of outstanding claims and promote best practices.

Unclaimed property encompasses both intangible, the most common (e.g., uncashed paychecks, stocks), or tangible (i.e., safe deposit box contents) property. Among the common forms of unclaimed property are checking or savings accounts. Property types vary from inactive bank accounts, uncashed paychecks, contents of a safe deposit box, or never-issued insurance payments. Approximately $70 billion held collectively by states in unclaimed property belong to about 33 million Americans – one in seven of us, according to the National Association of Unclaimed Property Administrators (NAUPA), which encourages citizens to search for property in any state where they lived. Consumer protection is the main purpose of the Uniform Unclaimed Property Act, first promulgated in 1954 and last updated in 1995. The Act addresses the problem of "lucrative silence," i.e., the financial incentive for holders in possession of property to remain silent and not seek to reunite owners with that property.

The Revised Uniform Unclaimed Property Act (RUUPA), approved in 2016 by the Uniform Law Commission, is the Act's latest revision. By law, unclaimed property must be reported upon reaching a requisite dormancy period. However, primarily due to an insider tip received in 2006 by Jeff Drubne, state regulators learned that life insurance benefits were being withheld from beneficiaries and being used by insurance companies to pad their bottom lines. This "insurance industry practice" came to light when Drubne and Jim Hartley who run a technology and auditing company called Verus Financial began combing through insurance company data. Using techniques learned while an FBI agent, Drubne found that insurers were routinely using the Social Security Death Master File – a regularly updated listing of people who have died in the United States; this meant they knew when policy holders had died yet routinely and deliberately disregarded the evidence. Further discoveries revealed “that most insurance companies used the Death Master File only when it was to their advantage: to cut off annuity or retirement payments once the policyholder died. But they didn't then notify the life insurance side of the company.” Subsequent nationwide audits of leading insurance companies by a national task force revealed “a systematic, industry-wide practice of not paying significant numbers of beneficiaries, even when companies had actual knowledge in their files that people had died.” Also found in the audits were issues “related to ‘whole life’ insurance” policies, according to "Not Paid", a CBS 60 Minutes episode which aired on April 17, 2016. What followed were a series of quiet settlements by 25 of the nation's biggest life insurance companies to pay more than $7.5 billion in back-death benefits.

Today, knowing that every year tens of millions of dollars in life insurance benefits still go unclaimed, industry leaders, stakeholders, watchdog groups and others continue to work toward lowering the number of outstanding claims and promoting standardized policies and best practices to ensure prompt payment to beneficiaries. Originally adopted by the Executive Committee in November 2011, the Model Unclaimed Life Insurance Benefits Act, aka the National Council of Insurance Legislators (NCOIL) Model Act, was most recently readopted by the NCOIL Life Insurance and Financial Planning Committee in March 2019. The Act reflects NCOIL efforts to develop model legislation for states. Although NAUPA worked closely with NCOIL and the American Council of Life Insurers to develop the model, the National Association of Insurance Commissioners “feels a need to create its own,” according to a report to the NCOIL Life Insurance and Financial Planning Committee on NAIC developments regarding its unclaimed benefits activity. The Vermont law is modeled after it; when it was signed, the American Council of Life Insurers voiced having "some issues" with the bill and its willingness to work with the treasurer and the Department of Financial Regulation in resolving them. The NAIC report to NCOIL concluded by emphasizing the NAIC commitment to “exploring different avenues in an open and transparent manner” and noting that “fuzzy matches” and retrospective requirements are the most contentious issues. The NAIC has the responsibility to set standards, the report concluded, and its September 2023 Consumer Insight – “What to Know About Life Insurance Beneficiaries” – indicates that “better communication between policyholders and beneficiaries” will help lower the number of benefits reported as unclaimed property. Most important, it will mean consumers are best prepared when and if the times come to claim death benefits.

Note: The American Bar Association chose not to endorse the 2016 Revised Uniform Unclaimed Property Act due to provisions it deems likely unconstitutional; it states that it does “little to reverse the 30-year trend in state unclaimed property laws that have been expanded to generate revenue for states at the expense of both owners and putative holders of unclaimed property. In March 2017, the ABA completed its own draft Unclaimed Property Model Act after failing to resolve concerns with the Uniform Law Commission’s Revised Uniform Unclaimed Property Act