

DALE W. SCHULTZ
Wisconsin State Senator



Date: March 3, 2004

To: Senate Committee on Agriculture, Financial Institutions and Insurance

From: Senator Dale Schultz

Subject: Senate Bill 504

I am pleased to be able to testify today in support of SB 504. This legislation increases the protection available to individuals should they suffer a catastrophic financial loss and preserves their ability to purchase life insurance.

Under current Wisconsin law, life insurance cash values of up to \$4,000 are protected from claims made by creditors. Wisconsin law is silent on how annuities are treated in creditor claims. This bill would protect the entire cash value of life insurance and annuity contracts from creditor claims provided the contracts are purchased more than 24 months prior to the claims being made.

If the contracts were purchased less than 24 months from the time the claims are made, then the \$4,000 limit would apply. This provision was included in order to make sure that one could not plan for bankruptcy by purchasing life insurance or annuity contracts with high cash values.

More than ever, citizens are using life insurance and annuities to save for their children's education, save for retirement and protect their families at their deaths. This bill would modernize Wisconsin law pertaining to both of these financial products.

Thirty-two states currently provide an unlimited exemption for life insurance contracts from creditor claims and sixteen states provide the same for life annuity contracts. Many others provide limited exemptions similar to the one being proposed in SB 504.

I ask for your support of this important legislation.

Testimony of Jordan Lamb
Before The Senate Committee on Agriculture, Financial Institutions and Insurance
On Behalf of NAIFA Wisconsin, IIA of Wisconsin and PIA of Wisconsin

MARCH 3, 2004

IN FAVOR OF SB-504

Good morning Chairman Schultz and members of the Senate Committee on Agriculture, Financial Institutions and Insurance. My name is Jordan Lamb and I am testifying today in support of Senate Bill 504 on behalf of nearly 10,000 Wisconsin professionals represented by the National Association of Insurance and Financial Advisors, the Professional Insurance Agents Association and the Independent Insurance Agents Association. SB 504 is needed to modernize and clarify Wisconsin's treatment of life insurance and annuities in certain creditor situations.

The current Wisconsin law protection of only \$4,000 of accumulated value of a life insurance policy is insufficient to protect the dependents in the case of death. In addition, in order to access any part of the cash value of the policy, the policy must be surrendered, leaving the dependents with no protection in the case of death. The protection frequently cannot be replaced as the insured is older or perhaps even uninsurable due to changes in health status.

These situations come up more frequently than one might expect. They arise in cases where teens are involved in fatal automobile accidents, or where small business owners or professionals are on the receiving end of liability litigation with astronomical judgments that outstrip the capacity of their insurance.

We concede that the creditor should be paid to the full extent of the debtor's ability, but life insurance is not purchased for the benefit of the debtor. It is purchased to protect the family home, the college education and the ability of the surviving spouse to be a full time parent.

In addition, language in the bill including annuities in this protection is a great improvement to Wisconsin law. The increased consumer access to market sensitive products such as annuities

has made them a staple in the retirement, elder care and college planning arena. It is appropriate that Wisconsin's statutes be clear about their treatment under creditor claims. It is also appropriate that they not be mixed with current or liquid assets of citizens faced with extraordinary creditor situations. Again, these are assets set aside to protect the future of the owner or their family: to pay for children's education, to pay for elder care or nursing home expense, to keep our older citizens in their homes.

SB 504 also includes language that guarantee these provisions will not be used to "plan for bankruptcy," as investments or contracts purchased within two years of a creditor action will revert back to current law. This is an ample safe harbor for bona fide creditor concerns. We seek only to assure that the products we put in place for Wisconsin consumers to protect their dependents, remain in place to serve that purpose.

Thank you for allowing me to testify this morning. I would be happy to answer any questions.



March 2, 2004

Steven M. Radke
Director - State Relations

720 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4797
414 665 2072

State Senator Dale Schultz
Chair, Committee on Agriculture,
Financial Institutions and Insurance
State Capitol - Room 18 South
Madison, WI 53707-7882

Dear Senator Schultz:

I am writing to share the comments of Northwestern Mutual on S.B. 504, relating to life insurance and annuity contract exemptions from creditor claims.

As you are aware, Northwestern Mutual is the largest writer of individual life insurance in the United States. We sell approximately 17.5% of the individual life insurance sold in Wisconsin, with annual premiums from Wisconsin policyholders approaching \$300 million.

S.B. 504 would remove the existing \$4,000 limit on the creditor exemption for life insurance, and would add annuity values to the exemption. This is a positive change that would bring Wisconsin law more in line with the prevailing creditor exemptions for life insurance and annuities in many other states. The purpose for the creditor exemption afforded life insurance and annuity values is to allow the planning for the survivors and beneficiaries to not be damaged or destroyed by creditor attachments on the debtor. Wisconsin's current \$4,000 limit is not only low in comparison to many other states, but taken by itself does not protect a meaningful amount of life insurance or annuities under any modern concepts of "human life value." If nonexempt surrender or loan values of a policy or annuity are claimed by creditors, that reduces the death benefits for beneficiaries.

The proposal as drafted does, however, contain a limitation that considerably diminishes the usefulness of this needed liberalization in amount of exemption. Under Section 3 of the bill, the applicability section, the removal of the \$4,000 limit would first apply to policies issued on or after the effective date of the subsection. We see no reason for this limitation, assuming eliminating the limit on the exemption is deemed sound public policy.

No life insurance was purchased in Wisconsin counting on any exemption higher than \$4,000 so the current in-force policies were not purchased with a creditor exemption as a motivating factor. Presumably they were bought for reasons that were exemption-neutral. They are exactly the policies that should qualify for a liberalization in the exemption amount. We cannot think of a reason why the change in exemption should not apply to all life insurance policies and annuities whenever issued.

We can, however, think of some unintended consequences if the initial applicability language remains as drafted. The practical effect of having the new exemption language apply only to newly issued policies and contracts is that it would provide a motivation for replacement of existing life insurance and annuities issued prior to the effective date of the change solely to obtain the new exemption, with no genuine planning or insurance reason for the replacement. Such a surrender and new purchase of a policy would typically have a negative economic effect on the policyowner. Making the older policies a suddenly

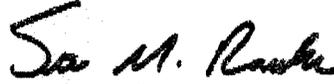
Senator Dale Schultz
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disfavored class in the eyes of Wisconsin law, for no sound public policy reason, would be contrary to Wisconsin insurance regulation, which generally discourages unnecessary replacement and churning of life insurance and annuities. Accordingly we urge the deletion of Section 3 of the bill.

We are also somewhat troubled by the 24 month requirement. We understand the motivation behind this language - to discourage the misuse of an exempt asset. However, 24 months is quite a long time to forestall a bankruptcy if insurance is being purchased with the creditor exemption as the sole motivation. It is also a long time for a person's planning to be put at risk due to subsequent inability to repay debt. If some time based test is deemed essential, perhaps a six month test would be more fair and workable.

Thank you for considering the views of Northwestern Mutual on this proposal, and please feel free to contact me if you have any additional questions.

Sincerely,



Steven M. Radke

Vote Record

Committee on Agriculture, Financial Institutions and Insurance

Date: 03-03-04 Type EXEC

Bill Number: SB 504

Moved by: Schultz Seconded by: Kedzie

Motion: PASSAGE of overall

<u>Committee Member</u>		<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	XX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	XX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	XX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	XX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	XX	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Schultz moves STRIKE Sec 3 15, 16, 17

Kedzie Sec 4 - Simple Amendment

ADOPT Amend

Schultz - Kedzie

Motion Carried

Motion Failed