

U.S. Blue-Red Divide Creates State-Level Headaches for Insurers

State bills aim to penalize companies that do, or don't do, business with fossil fuel and firearms companies. The result could be a bifurcated market.

By Warren S. Hersch | May 16, 2022

Life insurers are among the major corporations finding it harder than ever to remain neutral on hot-button issues that states are taking aggressive positions on.

Carriers must contend with conflicting state bills that force them to take a stand or risk losing business. For example, bills impose penalties on corporations that boycott — or fail to boycott — gun manufacturers and fossil fuel companies. Other legislation addresses rules related to Covid-19 vaccination status for their workforces.



Patrick Reeder, a deputy general counsel at the American Council of Life Insurers

The rise of the state legislation is worrisome to industry trade groups that are trying to keep their members out of the political crossfire between “red states” and “blue states.” It creates “some significant challenges,” **Patrick Reeder**, a deputy general counsel at the **American Council of Life Insurers**, said at an insurance public policy forum in Washington, D.C.

“The reasoning isn’t rational,” he said at the May 11 event, which was presented in part by the **Faegre Drinker** law firm.

Melissa Bova, a VP of state affairs at **Finseca**, an advocacy and professional development organization for advisors that promotes financial security, warned of the potentially negative effect. When a law is passed that puts ordinary people at a disadvantage, and they’re not able to access products they once could, “that’s a big

concern for us,” she said.

Jason Berkowitz, a chief legal and regulatory affairs officer at the **Insured Retirement Institute**, questioned how companies can comply with state laws that conflict with each other.

“That puts companies in a difficult position,” he said.

What’s Happening in the States

Last week, Oklahoma Republican Governor **Kevin Stitt** signed into a law a bill mirroring legislation earlier enacted in Texas and West Virginia: It bars the state from doing business with companies that boycott firearms or fossil fuel companies. For instance, the state would divest from contracts with companies that don’t do business with oil, coal and gas producers.

A sponsor of the Energy Discrimination Elimination Act of 2022, Republican State Senator **Mark Allen**, earlier told the news site *The Center Square* that the legislation aims to “bolster support for the employees and jobs created by oil and gas and safeguard the interests of Oklahoma's citizens and economy.”

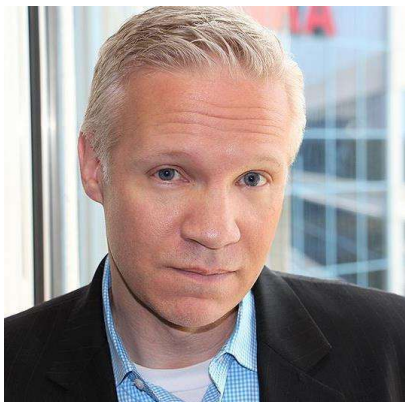


Oklahoma State Senator Julia Kirt

Democratic lawmakers in the Sooner State were opposed to the bill, among them Oklahoma City’s **Julia Kirt**, who in a Facebook post asked why the companies should be prohibited from doing business with the government based on their policy stances. “I don’t think that’s fair or appropriate with public money,” she said.

Meanwhile, other states have moved in the opposite direction. Maine mandates that state retirement and pension funds not invest in companies that supply so-called dirty energy; New York and Virginia have proposed similar laws, according to a May 5 article appearing in the *National Law Review*.

And last month, Arizona’s state house passed a bill that prohibits the granting of contracts to companies that refuse to pledge that they won’t boycott gun manufacturers. The bill, modeled after an earlier Arizona law that a state court ruled was unconstitutional, awaits action in the state’s senate.



Lars Dalseide, a spokesman for the National Rifle Association

The **National Rifle Association**, which supports legislation that discourages discrimination against the firearms industry by financial institutions, said through a spokesman that allowing financial organizations to deny basic services to any industry based on a political philosophy establishes a dangerous precedent.

“Not only does it make it difficult and expensive for law-abiding Americans to exercise their fundamental Second Amendment rights, but it allows financial service institutions to circumvent the electoral, legislative and regulatory processes so they are free to unilaterally create their own set of regulations,” **Lars Dalseide**, the group’s spokesman, said in an email.

Stephen Parsley, an attorney at **Bradley Arant Boult Cummings**, fears that an irreconcilable patchwork of laws might effectively force insurers and other financial institutions to write off certain states and prospective customers for their services, including asset management.

“We could see a bifurcated market, where there’s a block of states that are going to only use one group of investment managers and another block of states where they can’t operate,” Parsley said.

Related Content

April 22, 2022

These Life Insurers Have the Biggest Investments in Dirty Energy

June 21, 2021

New York Takes Aim at Insurers' Climate-Unfriendly Investments

October 5, 2020

Why Oil and Gas Woes Could Be a Problem for Life Insurers



*Stephen Parsley, an attorney at
Bradley Arant Boult Cummings*



*Diane Boyle, senior VP of
government relations at the
National Association of Insurance
and Financial Advisors*

He added that the state laws could, paradoxically, rebound to the benefit of privately held companies, such as mutual insurers. Bills that have been signed into law, including those of Oklahoma, Texas and West Virginia, call for government entities to only divest from publicly held companies deemed to be boycotting fossil fuel businesses.

Texas, which has served as a model for other states seeking to protect their coal, oil and natural gas industries since passage of the Lone Star state's law last year, is pressing ahead. It has sent letters to at least 120 financial institutions asking for proof that they're not boycotting fossil fuel companies, according to Parsley.

Not a Partisan Issue

Diane Boyle, senior VP of government relations at the **National Association of Insurance and Financial Advisors**, said attendees to an upcoming Congressional conference will urge policymakers to take action to ensure businesses can remain above the political fray.

"Financial protection and retirement security are not partisan," she said. "Building a strong grassroots network lets meaningful relationships be developed on both sides of the aisle, which is critical amid the growing political polarization in the United States, she added.

At the Wednesday forum, Reeder of the American Council of Life Insurers also highlighted challenges in divesting from investments in countries that have fallen out of favor with policymakers, such as Russia, which invaded Ukraine.

He noted policymakers often fail to account for the downside in having to sell, for example, a 20-year bond that has 10 years left before maturing. That means the insurer must find another 10-year bond that provides a comparable yield, which isn't always easy.

Companies may nonetheless have to find a way.

In March, California Insurance Commissioner **Ricardo Lara** called on carriers doing business in the state to dump their Russian assets, including stocks and bonds valued at more than \$1 billion. Should insurers fail to divest voluntarily then he would "explore all options to compel them to follow through," he warned in a notice.

Life Annuity Specialist is a copyrighted publication. Life Annuity Specialist has agreed to make available its content for the sole use of the employees of the subscriber company. Accordingly, it is a violation of the copyright law for anyone to duplicate the content of Life Annuity Specialist for the use of any person, other than the employees of the

subscriber company.

An Information Service of Money-Media, a Financial Times Company