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NCOIL TO CONGRESS: TRANSPARENCY & ACCOUNTABILITY KEY IN LIFE SETTLEMENTS

Washington, DC, April 28, 2009 — The National Conference of Insurance Legislators (NCOIL) today shared vital information with influential U.S. Senators on needed consumer protections gleaned during its extensive review of life settlements and stranger-originated life insurance (STOLI). In a letter to U.S. Senate Special Committee on Aging Chairman Herb Kohl (D-WI) and Ranking Member Mel Martinez (R-FL), NCOIL President Senator James Seward (NY) wrote that a fine balance is necessary to safeguard seniors and properly oversee the industry, and that “transparency, disclosure, and accountability are key components in regulating the market.”

Citing lessons learned in development of an NCOIL *Life Settlements Model*, the NCOIL President stated that, “In amending our model to address STOLI, NCOIL legislators—with input from all interested parties—devoted more than 35 hours of debate and deliberation for over 18 months. The result was legislation that strikes a delicate balance between regulating life settlements and protecting policyowners.”

The President continued:

By clearly defining STOLI and making these transactions illegal, our model isolates bad actors without impacting legitimate settlement transactions. To enhance accountability, we coupled the definition with stronger penalties and increased insurance department authority. We believe extensive disclosure to state regulators—including information on the total number and aggregate face amounts of policies settled annually—arms them with data to police the market.

Sen. Seward then underscored an individual’s right to settle a policy after a reasonable amount of time, saying:

Our model also protects a policyowner’s right to settle after the standard two-year contestability period, regardless of whether the individual uses liquid assets or premium-financing to pay premiums. Particularly in today’s economy, it is important to note that certain individuals—who may have significant assets to protect—may not have the liquid assets to purchase a policy without assistance. Our model protects their interests on an equal basis with those who purchase a policy outright.

Sen. Seward also described the importance of providing disclosures to policyowners considering a life settlement. He wrote that “. . . our model requires written disclosure prior to settlement of the tax consequences of a settlement, and that proceeds could be subject to claims of creditors. It also requires a life settlement provider to inform the policyowner that he/she should seek professional tax advice.”

The letter—sent prior to the Committee’s first life settlements hearing—said that, “The NCOIL model also requires disclosure that a settlement may negatively affect future access to public assistance and insurance. Specifically, our bill requires policyowner notice that receipt of the settlement proceeds could adversely affect his/her eligibility for public aid, government programs, and entitlements.” It also spoke to a required “disclosure that—because there is a limit to how much coverage insurers will issue on one life—participation in a settlement could limit the insured’s ability to purchase future life insurance.”

Sen. Seward wrote that “In order to increase transparency in settlement transactions, our model requires life settlement brokers to disclose, among other things, any compensation received in connection to the life settlement contract.”

The NCOIL letter, a copy of which was delivered to Members of the Committee, said that “NCOIL is committed to working with the Committee should Members decide to further investigate the regulation of life settlements.”

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at www.ncoil.org.

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