

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SUBCOMMITTEE ON LIFE SETTLEMENTS
LAS VEGAS, NEVADA
NOVEMBER 14 AND 15, 2007
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Subcommittee on Life Settlements met at the Rio All-Suites Hotel and Casino in Las Vegas, Nevada, on Wednesday, November 14, 2007, from 2:00 p.m. to 6:30 p.m., as well as on Thursday, November 15, from 12:00 p.m. to 1:10 p.m.

Rep. George Keiser of North Dakota, chair of the Subcommittee, presided.

Other members of the Subcommittee present were:

- Rep. Michael Ripley, IN (*Thursday only*)
- Sen. Ralph Hudgens, GA
- Rep. Ronald Crimm, KY
- Rep. Robert Damron, KY
- Rep. Fulton Sheen, MI
- Sen. James Seward, NY
- Rep. Robert Godshall, PA
- Rep. Larry Taylor, TX (*Thursday only*)
- Rep. Gini Milkey, VT (*Thursday only*)

Other legislators present were:

- Rep. Pat Patterson, FL (*Thursday only*)
- Sen. Alan Sanborn, MI (*Thursday only*)
- Rep. Brian Kennedy, RI (*Wednesday only*)

Also in attendance were:

- Susan Nolan, Nolan Associates, NCOIL Executive Director
- Candace Thorson, NCOIL Deputy Executive Director
- Mike Humphreys, NCOIL Director of State-Federal Relations
- Jordan Estey, NCOIL Director of Legislative Affairs & Education

MINUTES

The Subcommittee voted unanimously to approve the minutes of its special meeting on July 19, 2007, in Seattle, Washington.

OPENING REMARKS

Rep. Keiser announced that the Subcommittee intended to work through all remaining proposed amendments to an NCOIL *Life Settlements Model Act* and to prepare a draft for full Life Insurance & Financial Planning Committee consideration on Thursday, November 15.

Sen. Seward said that he hoped the amended model act would specifically prohibit stranger-originated life insurance (STOLI) without inhibiting legitimate premium-financed transactions. He said that enhanced disclosures to owners, strong reporting requirements, and a new penalty section targeting those who participate in STOLI schemes would benefit consumers.

LEGISLATOR-PROPOSED AMENDMENTS

Rep. Damron proposed inserting a drafting note, co-sponsored by Rep. Keiser, in the Introduction section of the model act that would provide that protecting consumers against STOLI is an essential public policy objective. The drafting note would recommend that states review their insurable interest laws to codify a decision in U.S. Supreme Court case *Grigsby v. Russell* (222 U.S. 149 (1911)) that, Rep. Damron said, prohibits the abuse of insurable interest as a “cloak” for a wager life insurance policy.

After discussion regarding the use of drafting notes in model legislation and whether to include a definition of STOLI in the text of the model act, members voted four (4) to two (2) to approve the drafting note amendment.

Reps. Damron and Keiser also proposed an amendment that would expand the *Section 2* definition of a fraudulent life settlement act to include acts or omissions made by a person seeking to evade state insurable interest laws in soliciting or effectuating a life settlement contract. Rep. Keiser sponsored a second amendment to that original definition, which would declare it to be a fraudulent act for a prospective insured to not disclose to an insurer, if the insurer requests it, that he/she had undergone a life expectancy evaluation. The Subcommittee unanimously approved the amendments.

Following that vote, the Subcommittee defeated a separate proposal by Rep. Keiser, which would have added a definition of STOLI to the model act. The next day, Thursday, Sen. Hudgens amended and reintroduced the proposal. He said his revised STOLI definition would target an intention to initiate a life insurance policy at the time of policy inception. He noted that his definition would replace a definition of STOLI included in the drafting note adopted by the Subcommittee on Wednesday. Members unanimously approved Sen. Hudgens’ definition of STOLI, choosing to insert it in the *Section 2 Definitions* section of the model law and to have it replace the definition of STOLI contained in the drafting note at the beginning of the model act.

INTERESTED PARTY–AMENDMENT PROPOSALS

Following consideration of legislator-submitted amendments, the Subcommittee reviewed proposed amendments submitted by interested parties—including representatives of the institutional markets, life insurance, life settlement, and premium finance industries. By the close of the Thursday Subcommittee meeting, the Subcommittee had approved the following key amendments, among others, which would:

- clarify the definition of a life settlement contract to include certain premium finance loans that were made on or before the date of policy issuance (*Section 2. Definitions*)
- require prior insurance commissioner approval of all contract and disclosure statement forms (*Section 5. Contract Requirements*)
- require—for any policy settled within five (5) years of policy issuance—that a provider file annually with an insurance commissioner information regarding the total number and aggregate face amounts of policies settled (*Section 6. Reporting Requirements*)
- provide additional information to policyowners regarding broker compensation for settled policies (*Section 9. Disclosures to Owners*)

- expand a life insurance company's ability to pose questions to a policyowner regarding the financing of a policy (*Section 10. Disclosures to Insurer*)
- expand upon life conditions that would permit an owner to settle a policy during the two-year incontestability period to include the death or divorce of a spouse and retirement from full-time employment, among other reasons (*Section 11. General Rules*)

Following consideration of all interested-party amendments to the model act, legislators voted unanimously to approve the draft, as amended, and to recommend its adoption to the full Life Insurance & Financial Planning Committee.

ADJOURNMENT

There being no further business, the meeting adjourned on Thursday, November 15, at 1:10 p.m.