

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
SPECIAL MEETING ON LIFE SETTLEMENTS
SEATTLE, WASHINGTON
JULY 19, 2007
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met for a special session on life settlements at the Sheraton Seattle Hotel & Towers in Seattle, Washington, on Thursday, July 19, 2007, at 3:10 p.m.

Rep. Michael Ripley of Indiana, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Rep. Fulton Sheen, MI
Rep. Donald Brown, FL	Rep. George Keiser, ND
Rep. Pat Patterson, FL	Assem. Nancy Calhoun, NY
Sen. Ralph Hudgens, GA	Sen. James Seward, NY
Sen. Vi Simpson, IN	Sen. Steve Stivers, OH
Sen. Ruth Teichman, KS	Rep. Robert Godshall, PA
Rep. Ron Crimm, KY	Rep. Larry Taylor, TX
Rep. Robert Damron, KY	Rep. Virginia Milkey, VT
Rep. Dennis Keene, KY	

Other legislators present were:

Rep. Tommy Thompson, KY	Sen. William J. Larkin, Jr., NY
Sen. Delores Kelley, MD	Rep. William Batchelder, OH
Sen. Pete Pirsch, NE	Rep. Brian Kennedy, RI
Rep. Donald Flanders, NH	Sen. Dale Schultz, WI

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of Legislative Affairs & Education,
Life, Health, and Workers' Compensation Insurance Committees

MINUTES

The Committee voted unanimously to approve the minutes of its March 2, 2007, special life settlements meeting in Savannah, Georgia.

ADJOURNMENT TO SPECIAL SUBCOMMITTEE ON LIFE SETTLEMENTS
MEETING

Rep. Ripley recommended that members adjourn the Life Insurance & Financial Planning Committee meeting and commence a special meeting of the NCOIL Subcommittee on Life Settlements.

NCOIL SUBCOMMITTEE ON LIFE SETTLEMENTS

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

Other members of the Subcommittee present were:

Rep. Michael Ripley, IN	Rep. Fulton Sheen, MI
Rep. Donald Brown, FL	Sen. James Seward, NY
Sen. Ralph Hudgens, GA	Rep. Robert Godshall, PA
Rep. Robert Damron, KY	Rep. Larry Taylor, TX
Rep. Ronald Crimm, KY	Rep. Virginia Milkey, VT

Rep. Keiser said the Subcommittee would attempt to complete consideration of proposed amendments to an NCOIL *Life Settlements Model Act*.

SEN. SEWARD PROPOSED AMENDMENTS

Sen. Seward offered amendments to the NCOIL model act that were based on proposed legislation in New York. He said the draft New York legislation was consistent, in part, with a National Association of Insurance Commissioners (NAIC) *Viatical Settlement Model Act*, and he added that New York had inserted provisions regarding consumer protections and disclosures.

Following discussion, Subcommittee members approved several amendments proposed by Sen. Seward, including:

- adding prohibitions against advertising the purchase of a life insurance policy for the sole purpose of settling the policy (*NCOIL Model: Section 8. Advertising*)
- expanding language to clarify that a person may not effectuate a life settlement before, or at the time of, completion of an application for a life insurance policy. The amendment further stated that, with certain exceptions, a person may not settle a life insurance policy before two (2) years after issuance of the policy. The Subcommittee rejected related proposals to expand the so-called incontestability period from two (2) to five (5) years. (*NCOIL Model: Section 11. General Rules*);

Sen. Seward also proposed adding penalties for individuals, or companies, that engage in Stranger-Originated Life Insurance (STOLI) schemes. Subcommittee members

unanimously agreed to include penalty language for STOLI that was consistent with state laws related to insurance fraud.

INTERESTED-PARTY AMENDMENT PROPOSALS

Subcommittee members then continued their review of proposed amendments to the NCOIL model that were submitted by interested parties prior to the NCOIL 2007 Spring Meeting. Among the amendment proposals approved by the Subcommittee were provisions that would:

- permit life insurance producers that have been duly licensed as resident insurance producers for at least one year to operate as brokers (*NCOIL Model: Section 3. Licensing Requirements*)
- require prior approval by an insurance commissioner for forms related to verification of coverage requests (*NCOIL Model: Section 5. Contract Requirements*)
- provide additional information to policyowners regarding affiliations or contractual arrangements between providers and brokers and of all offers, counter-offers, acceptances and rejections related to the settlement (*NCOIL Model: Section 9. Disclosures to Owners*)
- add a new section to the model that addresses disclosures that must be made to an insurance company, including information pertaining to premium finance arrangements (*NCOIL Model: Section 10. Disclosures to Insurer*)
- make it illegal for a provider or broker to knowingly effectuate a settlement with an entity that is controlled by common ownership (*NCOIL Model: Section 13. Prohibited Practices*)

In a six (6) to four (4) vote, members approved a provision to protect an individual's financial and health records when life settlement data is provided to a state insurance department, and rejected a related proposal that would have required life settlement business data to be filed with the insurance department (*NCOIL Model: Section 6. Reporting Requirements and Privacy*). Legislators who voted against the motion were Rep. Ripley, Sen. Hudgens, Sen. Seward, and Rep. Milkey.

Doug Head of the Life Insurance Settlements Association (LISA) urged members to review the model act and delete references to the purchase of a life settlement, investment agents, and purchasers. He said that the purchase of a life settlement by an institutional investor was governed by securities regulators, not insurance commissioners, and should not be regulated by the NCOIL model act. John Gerni of the American Council of Life Insurers (ACLI) said that securities and insurance regulators share jurisdiction over the purchase of a life settlement in many states, and he advised members to retain such references in the model.

FUTURE NCOIL ACTION

Following a review of proposed amendments to the model act, Rep. Keiser announced that NCOIL would convene an open conference call with securities and insurance regulators, as well as industry representatives, to discuss whether the purchase of a life settlement should be regulated by a *Life Settlements Model Act*. He said the conference call would be scheduled in August or September.

Rep. Keiser informed industry representatives that an updated draft of the NCOIL model would be available following the Summer Meeting, and he encouraged interested parties, including representatives of the life insurance, life settlement, premium finance, and institutional market industries, to submit mark-up comments on the new draft in accordance with the NCOIL 30-day deadline rule for meeting materials.

Rep. Keiser noted that the Subcommittee would schedule a special session on Wednesday, November 14, in conjunction with the NCOIL Annual Meeting, to complete its review of the model act and to recommend a draft to the Life Insurance & Financial Planning and Executive Committees.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:40 p.m.