



April 2007

The Latest: Viatical Settlement Model Act Making Headway

Status of Amendments. In December 2006, the Life Insurance and Annuities Committee of the National Association of Insurance Commissioners (“NAIC”) unanimously adopted certain amendments to its Viatical Settlements Model Act (“Model Act”) that imposed a series of restrictions that would severely impact investor initiated life insurance (“ILI”).

The NAIC’s executive committee and plenary (which represents all voting NAIC members), was scheduled to consider and vote on the proposed amendments during its spring meeting in March 2007. That vote, however, was postponed until the June 2007 national meeting, in order to give regulators time to make additional revisions to the Model Act that will ensure compliance with the National Bank Act and the Gramm-Leach-Bliley Financial Services Modernization Act. These revisions will mirror changes currently being made to a bill in the North Dakota legislature (see below).

State Action. Notable activity regarding the review and regulation of the life settlement industry and ILI transactions has occurred in the following states:

Insurance Department Releases

- *Idaho:* On April 2, 2007, the Idaho Department of Insurance issued Bulletin No. 07-03, stating that ILI transactions may violate the insurable interest requirements of Idaho’s insurance laws, and that the Department will review such transactions in their entirety to determine whether “the arrangement is designed to circumvent the insurable interest requirement.”

Legislative Activity

- *Illinois:* Legislators have drafted legislation based on the amended Model Act and expect to introduce the bill in the near future to the Illinois General Assembly. The Illinois Department of Insurance had indicated that it will support the bill.
- *Indiana:* Competing legislation has been recently introduced in the House and Senate of the Indiana Legislature. House bill H. 1248, which the Insurance Committee unanimously passed on Feb. 19, 2007, would prohibit the sale of a life insurance policy financed with the intent to be sold to investors who have no insurable interest in the



insured. Senate bill S. 144, also addresses regulation of the life settlement industry, but does not include the SOLI language or prohibitions found in the amended Model Act.

- *New York:* The New York State Insurance Department has drafted proposed legislation, incorporating some of the revisions to the Model Act for consideration by both the State Assembly and the Senate. The proposed legislation does not specifically prohibit or limit IILI transactions, but rather establishes a comprehensive regulatory framework to provide oversight of the life settlement industry generally. Similar legislation was considered last year by both the Assembly (A.8785-C) and the Senate (S.8463).
- *North Dakota:* In early February, the North Dakota Senate unanimously adopted Senate bill 2268, which mirrors the amended NAIC model act. The bill is currently before the House for consideration.
- *Florida:* Bills pending in both the Florida House and Senate would require viatical settlement providers to submit with their license renewal applications (1) annual audited financial statements and (2) a list of all life expectancy providers who provided life expectancies to the viatical settlement provider in connection with a viatical settlement transaction. See House Bill (H0837) and Senate Bill (S2198).

Legislative action in connection with IILI regulation is anticipated in other states as well. At this time, however, no bills specifically addressing premium financing or IILI transaction have been introduced in Florida, Minnesota, California or Georgia.

We will continue to provide updates regarding these regulatory and legislative developments, as well as information regarding the activities of the NAIC's executive committee and plenary at their June 2007 meetings.



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