

State of Idaho
DEPARTMENT OF INSURANCE

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BULLETIN NO. 07-03

DATE: April 2, 2007

TO: All Life Insurance Companies and Life Insurance Producers

FROM: W.W. Deal, Director

SUBJECT: Stranger or Investor Owned Life Insurance Arrangements

The purpose of this bulletin is to alert licensees and others that life insurance arrangements entered into with the intent of assigning policy benefits to investors may be illegal under Idaho law.

The Idaho Department of Insurance has received reports that Idahoans are being solicited and offered financial compensation to purchase life insurance policies for the purpose of assigning the policies to investors. Sometimes referred to as "stranger owned" or "investor initiated" life insurance arrangements, a typical program involves a loan to the insured for the policy premium and requires or allows the policyholder/insured to assign the policy to a third party investor after a certain period of time. In consideration of the assignment, the premium loan will be forgiven or premium payments reimbursed and the insured may also receive additional compensation. Variations of these types of arrangements may include formation of a partnership or other joint endeavor for the sole purpose of establishing an apparent insurable interest in order to permit a third party to become the beneficiary to insurance on the life of another.

The Department believes these types of arrangements may violate Idaho laws that require an insurable interest in the life of an insured and that prohibit rebates or other inducements to purchase insurance unless the inducement is set forth in the policy.

Idaho's insurable interest requirement for personal insurance is set forth at Idaho Code § 41-1804. It provides in part, "no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured." For persons who are not related closely by blood or law, an insurable interest means, "a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured." Idaho Code § 41-1804(3)(b). The

provision permitting what has been referred to as “key-man” insurance appears at Idaho Code § 41-1804(3)(c) and should be limited to legitimate business relationships, rather than artificial relationships established merely to create the appearance of an insurable interest. (A separate provision, Idaho Code § 41-1805, permits life insurance where the irrevocable beneficiary is a charitable, benevolent, educational, or religious institution.)

In reviewing stranger owned or investor initiated life insurance arrangements, the Department will review the arrangement in its entirety to determine the underlying intent of the parties and whether the arrangement is designed to circumvent the insurable interest requirement. Factors the Department might consider in determining whether an arrangement violates Idaho’s insurable interest law include: solicitation materials; who initiates the transaction and how it progresses; the terms of all written agreements and related documents; the time elapsed between inception and assignment; all consideration associated with the transaction, including incentives for assignment and promises of future compensation; and who ultimately pays the premium.

Idaho law also prohibits providing an actual or prospective policyholder rebates or inducements with a value greater than \$50 if they are not a part of the policy terms. Idaho Code § 41-1314. This law prohibits offering anything of value to induce the purchase of an insurance policy except as specified in the policy. Offering to pay premiums, forgive premium loans or promising future cash payments to induce a person to purchase an insurance policy may violate this law if the incentive is not included in the terms of the policy filed with the Department of Insurance.

Any determination of whether a particular arrangement violates Idaho’s insurable interest or rebate/illegal inducement laws will depend on the specific facts of the arrangement. Any person considering offering, purchasing or investing in a stranger owned or investor initiated life insurance arrangement is strongly encouraged to contact the Department of Insurance to discuss whether the arrangement is legal under Idaho law. Additionally, persons should also contact the Idaho Department of Finance to determine whether the arrangement complies with state securities and financing laws.