

State of Idaho
DEPARTMENT OF INSURANCE

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BULLETIN NO. 09-06

DATE: May 14, 2009

TO: Persons Interested in the Business of Life/Viatical Settlements

FROM: William W. Deal, Director

SUBJECT: House Bill 75: Idaho Life Settlements Act

The 2009 Idaho Legislature enacted House Bill 75 creating new requirements for persons engaged in the business of life settlements. The Idaho Life Settlement Act takes effect July 1, 2009, and will affect any person involved in selling the rights to benefits or ownership interests in life insurance policies where the policy owner is a resident of Idaho. The Life Settlement Act is set forth at Sections 41-1950 through 41-1965 of the Idaho Code. Persons involved in the business of life insurance, life settlements or viatical settlements should carefully review these new code sections. The full text of House Bill 75 is available at the Idaho Legislature website at:
<http://www.legislature.idaho.gov/legislation/2009/H0075.htm>.

Generally speaking, a life or viatical settlement is a transaction involving the sale of an interest in a life insurance policy by the owner of the policy to an investor. The Life Settlement Act contains a detailed explanation of what types of contracts will be considered life settlement contracts for regulatory purposes. If the owner of the life insurance policy is an Idaho resident, the Act requires that any person acting as a life settlement broker or a life settlement provider be licensed as a life insurance producer in Idaho and meet a number of other requirements. A life settlement broker is a person who works on behalf of the owner of a life insurance policy to negotiate a life settlement contract with a life settlement provider. A life settlement provider is a person who enters into or effectuates a life settlement contract with a policy owner who resides in Idaho.

After July 1, 2009, it will be illegal for any person to act as a life settlement broker or provider with respect to a life insurance policy owned by an Idaho resident unless the broker or provider has complied with the licensing requirements of the new law.

The Department is in the process of developing a registration process for persons who intend to act as a life settlement provider or broker.

A key part of the Idaho Life Settlement Act makes it illegal to engage in stranger originated life insurance (STOLI) transactions. A STOLI transaction is defined as an act, plan, practice, or arrangement to initiate a life insurance policy for the benefit of a third party investor who, at the time of policy origination, has no insurable interest in the insured. For example, it is illegal for an investor with no insurable interest in a person to solicit the person to purchase a life insurance policy for the purpose of selling the policy to the investor. In addition, it is a violation of the Life Settlement Act to enter into a life

settlement contract within two years of the date a policy was issued unless special circumstances as defined by the Act exist.

Other requirements under the Life Settlement Act include:

- All life settlement contract forms and disclosure statements must be filed with the Department of Insurance before being used in Idaho;
- Life settlement providers are required to file with the Department an annual statement on or before March 1 each year on a form prescribed by Department rule;
- Life settlement providers and brokers will be subject to examination by the Department and must retain life settlement records for at least five years;
- Life settlement providers or brokers must provide specific disclosures to the policy owner at or before the time a life settlement contract is signed by the owner;
- Life settlement providers must inform the insured in writing of any changes in ownership or beneficiary no more than twenty days after the change;
- If the policy owner is the insured, a life settlement provider is required to obtain a written statement from a licensed attending physician that the owner is competent to enter into a life settlement contract and a document in which the insured consents to the release of medical records;
- The Act sets forth standards for notice by the life settlement provider to the insurer that issued the policy being settled and requirements for insurers to respond to requests for verification of coverage;
- The Act provides the policy owner with an absolute right to rescind a settlement contract within twenty days of the date it was executed;
- The Act identifies prohibited practices relating to life settlement transactions.

This is only a partial listing of the new requirements governing life settlement transactions. **Any person who intends to engage in a life settlement transaction should carefully review the new law in its entirety along with any rules promulgated by the Department.** The Department is currently in the process of developing procedures and rules to implement the requirements of the new law. Additional information will be made available on the Department's website at: www.doi.idaho.gov.

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