



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 344
[2009 Senate Bill 513]

**Regulation of Life Settlement
Agreements**

Wisconsin Act 344 expands the state's regulation of life insurance transactions known as "life settlements" and prohibits a type of life settlement transaction known as "stranger-originated life insurance." In simplified terms, a "life settlement" is an agreement under which a person sells his or her life insurance policy for an amount less than the expected death benefit but greater than the cash surrender value or accelerated death benefit under the policy. Investors purchase bundles of these policies, continue to make the premium payments, and collect the death benefits when the policyholders die. In effect, life settlement transactions create an investment vehicle with a financial interest in the death of the policyholder. The sooner a policy holder dies, the greater the return on the investment.

Background

Since the mid-1990s, Wisconsin has regulated one version of life settlements, known as viatical settlements. These are a type of life settlement in which a life insurance policyholder who has a catastrophic or life-threatening illness may sell the policy for an amount that is less than the stated death benefit under the policy but greater than the cash surrender value of the policy. At the time they were conceived, viatical settlements generally benefitted persons such as HIV/AIDS patients and others incurring very high medical costs associated with their illnesses.

Over time, concern has grown nationally about the proliferation of a particular type of life settlement agreement called "stranger-originated life insurance" (STOLI) agreements, in which senior citizens, in particular, are induced to take out life insurance policies on themselves, based on an understanding that they will sell the death benefits to investors after a two-year contestability period has expired. As the name suggests, these investors are strangers to, and have no insurable interest in, the policyholders. The investors or a third-party broker typically arrange for a non-recourse loan to a policyholder to pay the premiums during the first two years. Once the policy is transferred, the investors pay the premiums and receive the death benefits after the policyholder dies. STOLI agreements have

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
<http://www.legis.state.wi.us/lc>

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been found to have adverse impacts on senior citizen policyholders, in such areas as credit, taxation, and the ability to obtain life insurance in the future.

In 2008, the Wisconsin Commissioner of Insurance (commissioner) convened a subgroup of OCI's Life Insurance Advisory Council to make recommendations for legislative changes to address the changing life settlements market and, in particular, concerns about STOLI transactions. A majority of the subgroup recommended the legislation that became Act 344, to regulate life settlements (rather than just viatical settlements) and prohibit STOLI transactions.

Provisions of Wisconsin Act 344

Wisconsin Act 344 changes the statutory term "viatical settlement" to "life settlement" and provides that any person, rather than just one with a catastrophic or life-threatening illness, may enter into a life settlement transaction. To regulate life settlements, the Act incorporates and expands upon requirements formerly applicable to viatical settlements. The Act treats STOLI transactions and certain practices that are characteristic of STOLI transactions as fraudulent life settlement acts prohibited under the new law.

The requirements governing life settlements contained in Act 344 are numerous and complex. For a complete understanding of the requirements, the language of the Act itself should be reviewed. Briefly, the Act does the following:

1. Defines terms including "life settlement," "stranger-originated life insurance," "broker," "provider," and "fraudulent life settlement act."
2. Requires that life settlement providers and brokers be licensed by the commissioner and meet specified qualifications, including completion of initial training and continuing education.
3. Authorizes the commissioner to examine the business of licensees and applicants for licenses and to revoke, suspend, or refuse to renew a provider's or broker's license in specified circumstances.
4. Requires specified disclosures to policyholders about life settlements.
5. Requires providers to obtain a statement from the policyholder's physician that the person is under no constraint or undue influence to enter into a life settlement contract.
6. Provides that, with certain hardship exceptions, a policyholder must wait five years from the date a policy is issued to enter into a life settlement agreement.
7. Requires licensees to keep specified records regarding life settlements and file annual statements with the commissioner regarding any policies settled within five years of issuance.

Effective date: November 1, 2010.

Prepared by: Pam Shannon, Senior Staff Attorney

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