




Life Settlement Panel: Regulatory Forces
Life Settlement Awareness Month
June 2008

Webinar Instructions

- If you haven't already, dial in to 1-800-839-9416 and enter the access code 8334152 to join the audio portion. Phones will be muted.
- If you have questions during the presentation, please use the "chat"  function located at the top of your web classroom screen.
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- Please close other programs on your computer to enable the Webinar to run efficiently.

Please stand by, the webinar will begin at 10:30 a.m. PST



Life Settlements Regulatory Forces Panelists

- Steven Walker, 21st Services
- Brian Casey, Esq., Locke, Lord, Bissell & Liddell
- Scott Cipinko, Esq., Life Insurance Finance Association





Current Issues for Life Expectancy Providers

Presented by
Steven Walker

Chief Operating Officer, 21st Services



2008 VBT Released Feb. 2008

- Our actuarial consultants started studying valuations in Dec. 2007
- We will combine with actual 21st Services experience (all early-duration experience)
- Currently using 2001 VBT, modified (3 times in 2 years) to reflect our experience and expert consultant opinion



2008 VBT Advantages

- Uses more current data - 2004
- Includes more senior insureds and overall death data points

2008 VBT shortcomings

- Insureds with as little as \$25,000 coverage are included
- Only 9% of the study population exceeded age 69



Transparency in Data Analysis and Reporting

- Mortality experience in the industry is immature.
- In the absence of long-term mortality data, we work to make clients comfortable with our underwriting methodology
- We post our experience data publicly – and have since 2002
- Customer Advisory Board serves as sounding board, provides insights
- For select clients, considering licensing our tables and offering semi-annual data analysis

Annual Performance Review - 21st Services - Windows Internet Explorer

http://www.21stservices.com/review.htm

Favorites Tools Help

Annual Performance Review - 21st Services

This chart corresponds to the mortality curve that is provided to clients with each Senior Mortality Expectancy estimate. For the purposes of this chart, the 5th percentile is the point by which 1,000 like insureds were expected to have died. Similarly, the 30th percentile is the point by which 300 of 1,000 like insureds were expected to have died.

Percentile	5 th	10 th	15 th	20 th	25 th	30 th
No. of cases that have reached this stage	10,495	5,347	3,225	2,091	1,461	1,043
No. deaths predicted by this stage	524.8	534.7	483.8	418.2	365.3	312.9
A-to-E Ratio	80.6%	81.3%	87.4%	91.7%	92.9%	93.3%

Based on Review as of May 31, 2007



Mortality improvements

- Significant topic of discussion
- Insurers, some LE evaluators address this with flat extras
- 21st approach more sophisticated: erosion of debits and credits through model's algorithm
- 21st Medical Advisory Board (MAB) is setting our course
 - Most medical advances being studied or in trials will benefit middle-aged population
 - MAB focus: cardiovascular disease, cancer
- In near future, evaluate debits and credits



Two States

Require Life Expectancy Provider Registration

1. Texas
2. Florida

Texas

- Annual reporting function
- Approval of marketing materials for use in Texas, including website
- Texas also requires the fingerprinting of executives



Florida

- Since July 2006
- Triennial audit of life expectancies
- Disclosure of corporate structure, ownership
- Retention of life expectancy work product
- Biographical affidavit of all executives and staff with LE signing authority
- Plan of operations, training program, fraud prevention program
- Disclosure of mortality table
- Disclosure of civil and criminal actions, past and present, for company and key employees

Florida

- Legislation is workable
- 21st was the first LE provider registered and the only one to make the deadline



Ohio is Considering Licensing LE Providers

- Problematic: no parameters in place to accomplish this
- Six LE providers have written to the state, requested careful consideration and stating their opposition to the legislation (March 2008)
- 21st and Fasano are requesting *registration* rather than *licensing*, modeled on Florida
- If current bill passes, could stop LEs for Ohio residents
 - This would slow LE process overall because hard to ascertain where insured resides

“NAIC v. NCOIL Model Act and an Update on Life Settlements Legislation”

Brian T. Casey, Esq.

Partner, Insurance/Corporate, M&A Regulatory Group



NAIC Viatical Settlements Model Act Update

- Amended Viatical Settlements Model Act in June 2007
- NAIC's post-adoption investigation of conflicts of interest
- Principal updates:
 - Revised Definition of Viatical Settlement Broker
 - New required broker disclosures of all offers and counteroffers, gross settlement price and method and amount of broker compensation
 - Certain Premium Finance Loans Regulated as Life Settlements
 - Five Year Prohibition on Viatical Settlements for Non-Fully Recourse Premium Financed Life Insurance Policies
 - Viatical Settlement Provider excludes exempt premium finance lender taking policy assignment only as collateral



NAIC Viatical Settlements Model Act Update

- Principal updates continued:
 - Eliminated charity, non-natural person, closely-held business sale and employment termination and income loss hardship exceptions to 2 year prohibition on selling policy
 - Prohibition on Marketing Free Insurance
 - Fraudulent Viatical Settlements now include:
 - Change of State of Residency of Viator to unregulated state to evade viatical settlement law
 - Employ a “financial structure” to defraud related to viaticated policy
 - Residency in case of Multiple Viators- state of largest owner or agreed upon state if equal owners
 - Eliminated Accredited Investor exception as Viator

NAIC Viatical Settlements Model Act Update

- Principal updates continued:
 - Increased Financial Security requirements for life settlement provider and brokers- \$250,000
 - Longer Rescission Period for Viators- earlier of 60 days after contract signed or 30 days after payment to viator
 - Disclosure to Insurers of Plan to Viaticate Policies
 - Insurers must process VOC requests within 30 days and cannot unreasonably delay change of policy ownership or interfere with viatical settlement contract



NAIC Viatical Settlements Model Act 2007 Amendment- 5 Year Rule

No viatical settlement contract before application or policy issuance or within a 5-year period after policy issue date **unless viator certifies to viatical settlement provider that within 5-year period:**

(3) viator enters into a viatical settlement contract more than 2 years after policy issue date and at all times before 2 year anniversary of policy issuance, the following conditions are met:

(a) Policy premiums have been funded exclusively with unencumbered assets, including an interest in the life insurance policy being financed only to extent of its net cash surrender value, provided by, or fully recourse liability incurred by, insured or a person with insurable interest;

(b) No agreement with any other person to guarantee any such liability or to purchase, or stand ready to purchase, the policy, including through assumption or forgiveness of loan; and

(c) Neither insured nor policy has been evaluated for settlement.

NCOIL

Life Settlements Model Act Update

- Amended Life Settlements Model Act adopted in November 2007
- Principal updates:
 - Incorporates many of the consumer protections adopted in NAIC model act
 - Includes a new drafting note to recommend revising insurable interest statutes to clarify that policies taken out primarily for the benefit of investors are illegal
 - Adds new definition of “stranger originated life insurance,” or “STOLI,” and makes involvement with STOLI a fraudulent life settlement act, subject to criminal and civil sanctions
 - Closes a loophole in the NAIC model act to prohibit trust transfers that evade the life settlement act
 - Specifically prohibits transferring a policy during the first two years of a policy, with certain limited exceptions



NCOIL

Life Settlements Model Act Update

- Principal updates:
 - Expands annual reporting requirements
 - Expands privacy protections for insureds
 - Expands disclosures by brokers (e.g., description of offers, counter-offers, acceptances and rejections; identity of brokers and compensation amount to be paid to each broker; and reconciliation between bid and net amount to be paid to the owner)
 - Grants insurers authority to ask applicants whether they intend to use premium financing, to reject applications where loan amounts exceed the premiums due and the costs of the loan, to make certain specified disclosures, and to receive certifications from applicants
 - Eliminates inappropriate securities law provisions, which were properly the domain of the state securities administrators
 - Expands civil and criminal remedies and penalties for violations of the act

Status of Legislative Activities

- Legislation has been introduced in 24 states since January 2008
- Most states that have taken up legislation this year have rejected the NAIC MODEL and adopted the NCOIL Model or NCOIL provisions. In each case of the NCOIL Model or NCOIL model provisions being adopted, there have been modifications to the model or the model's provisions proposed by the secondary market to address errors and strengthen overall the laws.
- Most states that are still considering legislation for this year or next are considering the NCOIL Model.

Status of Legislative Activities

States That Have Adopted NCOIL in 2008

Arizona – Introduced NAIC provisions, passed NCOIL anti-STOLI provisions

Connecticut – Introduced NAIC Model, but passed NCOIL model

Hawaii – Introduced NAIC, but passed NCOIL Model

Indiana – Introduced NAIC Model, but passed NCOIL anti-STOLI provisions

Kansas – Introduced NAIC Model, but passed NCOIL anti-STOLI provisions

Kentucky – Introduced and adopted NCOIL Model

Maine – Introduced NAIC provisions, but passed NCOIL anti-STOLI provisions

Oklahoma – Introduced NAIC Model, but passed NCOIL Model



Status of Legislative Activities

States That Have Adopted NAIC in 2008

Iowa, Nebraska, and West Virginia – Introduced and passed NAIC Model

Other 2008 Action to Date

Georgia – Introduced NCOIL, did not pass

Ohio – Introduced NAIC and passed by the legislature - no 5-year ban

Massachusetts – NAIC introduced and study bill introduced both sent to study until 2009

Minnesota – Both NCOIL and NAIC introduced; both held until 2009

Washington – Introduced NCOIL, did not pass



Status of Legislative Activities

States in Which Legislation is Pending

California – Introduced NCOIL Model; no NAIC

Illinois – Both NAIC and NCOIL introduced. Both pending action

New York – Commissioner introduced a unique bill; no 5 year ban

North Carolina – Introduced NAIC in 2007, died in committee;
coming back this year

Rhode Island – Introduced NCOIL Model in both chambers; no
NAIC

Washington, DC – Commissioner introduced NAIC Model, without
the 5 year ban or anti-premium finance provisions



Questions? Answers!

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New Trends in Premium Finance

Life Settlement Awareness Month

June 10, 2008

Scott J. Cipinko, J.D., AIRC,

Executive Director,

Life Insurance Finance Association



How Did We Get Here?

- New York Department of Insurance Office of General Counsel Opinion
- Impact on the Life Insurance Premium Finance Market
- Life Insurance Lobbying
- Media Coverage
- NAIC and NCOIL Reaction
- State Passage of Laws

External Forces

- Change in German Tax Code
- Mortgage/Banking Crisis
- The Weak Dollar
- Strong Euro
- Industry Profile
- Litigation
- Unsettled Regulatory Market

NAIC Viatical Settlements Model Act Amendments Impacting Premium Finance

- **5 Year Prohibition of Viatical Settlements**

No person may enter into a viatical settlement contract before application or issuance of a policy which is subject of viatical settlement contract or within a 5-year period commencing on date of policy issuance unless viator certifies to viatical settlement provider that within 5-year period

- **Mandated Disclosures to Life Insurers**



Changes with Passage

- Passage will have an impact on:
 - Originators
 - Funders
 - Agents/Producers
 - Consumers; and
 - Insurers



LIFA's Position

- Extracted from LIFA's Statement of Best Practices
 - Insurers should not discriminate against consumers who choose to utilize financing to enable their purchase of life insurance policies by restricting how and when they can purchase a life insurance policy for their or their family's or business' benefit.
 - Legitimate premium financing, whether recourse or non-recourse to the insured, should be available to all consumers who need or want a source of funds to help meet their life insurance needs.
 - Life insurance premium finance lenders should seek to finance only unquestionably validly issued life insurance policies because such policies are an important source of collateral for the loans.
 - Life insurance policies should not be issued if their sale includes rebating in violation of state insurance laws.
 - Life insurance policies should not be issued if the purchaser of the life insurance policy does not have an insurable interest in the insured's life at the time of the purchase of the policy.

The Bad News

- Many Have left the market
- Consumer Fear of the “STOLI” Monster
- Overreaction by Some States
- Overreaction by Some Insurance Carriers
- Money Has “Dried” Up
- Legitimate Deals Driven Away
- Legitimate Deals Driven to Stealth
- Some May be Left “Holding the Bag”

The Good News

- If Only You Knew.....
- Better Educated Consumers
- Market Awareness at an All Time High
- Demand at an All Time High
- Many Fringe Players left the Market
- Compliance is Required on All Sides of the Transaction
- Disclosures are Clearer



The Good News Continued...

- Better Understanding by Those Entering the Market
- Clearer Understanding of the Market
- Better and Cleaner Deals
- Money WILL come Back Into the Market



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Resources

www.lisassociation.org
www.lifeselementawarenessmonth.com
www.lss.webce.com
www.lifeselementsmarketwatch.com
www.lifaorg.org
www.21stservices.com
www.lockelord.com
www.lss-corp.com

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