

Legislative History for Connecticut Act

**Act Number:** 08-175

**Bill Number:** 5512

**Senate Pages:** 5415, 5423-5425

**House Pages:** 4789-4801

**Committee:** Insurance: 724-799, 1074-1101

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13  
104

**Page Total:**

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2008

JUNE  
SPECIAL  
SESSIONS

VOL. 51  
PART 18  
5353-5643

jlm

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Senate

May 7, 2008

SEN. LOONEY:

Moving to Calendar Page 7, Calendar 512, House Bill 5514. Would move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Mr. President, on Calendar Page 8, Calendar 520, House Bill 5820. Mr. President, would move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President. Mr. President, on Calendar Page 9, Calendar 531, House Bill 5512, would move to place that item on the Consent Calendar.

THE CHAIR:

Without objection, so ordered, Sir.

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Senate

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An immediate roll call has been ordered in the  
Senate on the Consent Calendar. Will all Senators  
please return to the Chamber.

An immediate roll call has been ordered in the  
Senate on the Consent Calendar. Will all Senators  
please return to the Chamber.

Mr. President, those items placed on the second  
Consent Calendar begin on Calendar Page 4, Calendar  
435, Substitute for House Bill 5696.

Calendar 441, Substitute for House Bill 5158.

Calendar 455, Substitute for House Bill 5330.

Calendar Page 5, Calendar 483, House Bill 5321.

Calendar Page 6, Calendar 488, Substitute for  
House Bill 5599.

Calendar 492, Substitute for House Bill 5152.

Calendar Page 8, Calendar 520, Substitute for  
House Bill 5820.

Calendar Page 9, Calendar 531, Substitute for  
House Bill 5512.

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Calendar Page 10, Calendar 534, Substitute for House Bill 5159.

Calendar 539, House Bill 5048.

Calendar Page 11, Calendar 546, Substitute for House Bill 5800.

Calendar 547, Substitute for House Bill 5734.

Calendar Page 12, Calendar 553, Substitute for House Bill 5874.

Calendar 555, Substitute for House Bill 5853.

Mr. President, I hope that was all of the items placed on the second Consent Calendar.

THE CHAIR:

The machine will be open.

THE CLERK:

One more item, Mr. President. Calendar Page 3, Calendar 433, Substitute for House Bill 5825.

Mr. President, that completes those items previously placed on the second Consent Calendar.

THE CHAIR:

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Senate

May 7, 2008

The machine is open.

THE CLERK:

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

An immediate roll call has been ordered on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 2.

Total number voting, 36; those necessary for adoption, 19. Those voting "yea", 36; those voting "nay", 0. Those absent and not voting, 0.

THE CHAIR:

Consent 2 passes. Senator Looney.

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could sign it with their number so it looks like a real football, so we'll that pass that on to him, too.

It's in this green bag. So, it's working its way around. Everybody make sure they sign it and, shh, it's a secret. He doesn't know about it, okay? All right. Thank you, everybody.

That's it. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Sir. Will the Clerk please call Calendar Number 163.

CLERK:

On Page 23, Calendar Number 163, Substitute for  
House Bill Number 5512, AN ACT CONCERNING LIFE  
SETTLEMENTS, Favorable Report of the Committee on  
Judiciary.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative O'Connor, you have the floor, Sir.

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER KIRKLEY-BEY:

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The question before us is on acceptance and passage. Will you remark further, Sir?

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Madam Speaker. The Clerk is in possession of LCO Number 5426. I ask that he call it and ask leave to summarize.

DEPUTY SPEAKER KIRKLEY-BEY:

Will the Clerk please call LCO Number 5426. Do you have it yet? Okay.

Will the Clerk please call LCO Number 5406, designated House Amendment "A".

CLERK:

LCO Number 5426, House "A", offered by Representative O'Connor and Senator Crisco.

DEPUTY SPEAKER KIRKLEY-BEY:

The Representative asked for leave to summarize. Is there any objection? Hearing none, please proceed, Sir.

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Madam Speaker. What this amendment does, and I'll get into the bill, the underlying bill right afterwards, but what we're doing with this is

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that we changed as to who could be determined to be a life expectancy company.

We allow other entities to perform life, life expectancies or be able to get those results out. We've also changed the definition slightly of what we're calling stranger-originated life insurance that it would have to be an act or practice that's put in there as well.

We've also added disclosures and if the viator in this case fails to provide those required disclosures, it's a violation of the Connecticut Unfair Insurance Practices Act. The underlying bill had it as the Unfair Trade Practices Act.

We're also preventing the, or with the original concept of preventing premium finance companies from charging excessive fees, what we didn't want was to have a life settlement company be able to put costs that aren't associated with settling a policy into the premium finance transaction.

And we also wanted to allow transactions in which a broker has an affiliation or interest in a viatical

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settlement provider, as long as such relationship,  
again, was disclosed to the viator.

I move adoption.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on adoption of House  
Amendment "A". Representative D'Amelio, you have the  
floor, Sir.

REP. D'AMELIO: (71<sup>st</sup>)

Thank you, Madam Speaker. Madam Speaker, I rise  
in support of the amendment. This is the result of  
long deliberations among all the parties involved and  
I urge the Chamber to adopt it. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Sir. Will you remark? Will you  
remark further on House Amendment "A"?

If not, let me try your minds. All those in  
favor, please indicate by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

Those opposed, Nay.

REPRESENTATIVES:

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Nay.

DEPUTY SPEAKER KIRKLEY-BEY:

The Ayes have it. The amendment is adopted.  
Will you remark further, Representative O'Connor?

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Madam Speaker. As Representative  
D'Amelio stated, this is one of the big bills of the  
Committee this year.

It addresses a growing and abusive practice,  
which we call stranger-originated life insurance. And  
what that is, it circumvents the purpose of life  
insurance.

In a STOLI transaction, a person buys a life  
insurance policy, not for the benefit of his or her  
family or family members, but rather for the benefit  
of a third-party investor, who at the time of the  
policy origination has no insurable interest in the  
insured.

And just to kind of go into what a typical, what  
we call STOLI transaction is, is that a STOLI investor  
would induce a senior citizen, usually between the  
ages of 70 and 80, to purchase life insurance in his

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or her own name in exchange for an upfront payment with the understanding that the senior would transfer the policy to the investor at the end of the two-year contestable period.

And the transaction goes off, accompanied by investor financing of the premiums with the understanding that the senior would receive additional payment when he or she transferred the policy.

And what we're trying to get at, what was basically to establish consumer protections which prohibits these fraudulent transactions while protecting policyholder rights.

And I just want to state some of the key provisions of the legislation. The definition of stranger-originated life insurance accompanied by provisions that make engaging in a STOLI transaction, including those involved in trusts, unlawful.

There are important reporting and disclosure requirements that will enable the insurance department and insurers to identify and stop these transactions.

There's also language in here, because we understand that the life settlement industry is a

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viable industry and one that has some legitimacy, that it makes it unlawful for a person to, to basically, it prevents life insurance companies from preventing an agent from disclosing to a client the availability of a life settlement contract and they cannot prohibit the lawful assignment of that life insurance policy.

But what we're trying to get at again was, was those that did not have insurable risks.

It also makes it unlawful for a person to issue, solicit, market or otherwise promote the purchase of a life insurance policy for the purpose of, or with the emphasis on settling a policy.

But again, it is a lawful transaction if, if an individual purchases the insurance policy and wants to settle it later on, as long as they're using their own monies and, and is not premium financed by, by a stranger or third-party investor.

I move acceptance and passage.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams, you have the floor, Sir.

REP. WILLIAMS: (68<sup>th</sup>)

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Thank you, Madam Speaker, and good afternoon. I rise in support of this, the amendment and the underlying bill, the bill as amended, I guess.

And, you know, having just recently learned of this issue of stranger-originated life insurance, I have to say it's extraordinarily predatory towards elderly citizens and sometimes those are in the least position to be able to make a good decision on something like this.

You know, having watched a news clip on 20/20 or one of the news shows recently about it, it was very, very scary to me what had been going on and I thank the Chair and the Ranking Member of this Committee, Representative O'Connor and Representative Witkos, for bringing this out and I urge passage.

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Sir. Representative D'Amelio, D'Amelio. You have the floor, Sir.

REP. D'AMELIO: (71<sup>st</sup>)

Thank you, Madam Speaker. I, too, would like to add my voice in support of the bill and the amendment,

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as amended. You know, I was quite shocked myself, when I learned about STOLIs and what goes on, especially how they prey upon the elderly.

So this is a good piece of legislation. It's a good consumer protection for, especially our seniors and I urge adoption. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Sir. Representative Stripp, you have the floor, Sir.

REP. STRIPP: (135<sup>th</sup>)

Thank you, Madam Speaker. Madam Speaker, this reminds me of a modern twist on the old ton-ten routine that we've probably all read some stories about and adventures of everybody putting the money in the pot and the last one to survive is the one that gets all the money.

And all the skullduggery that goes on with it. And I've heard about these things for the last five years and they're somewhat concerning to me and somewhat bizarre.

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So I'm glad to see this legislation moving forward, but I do have one question, through you, Madam Speaker, for the proponent of the bill.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative O'Connor, prepare yourself.  
Representative Stripp, please frame your question.

REP. STRIPP: (135<sup>th</sup>)

Yeah. If an individual were to get a life insurance policy and then assign the proceeds to a bank to act as collateral for a loan they may have for legitimate purposes, would this bill prevent them from doing that?

It's a fairly common practice in commercial transactions. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative O'Connor.

REP. O'CONNOR: (35<sup>th</sup>)

Through you, Madam Speaker. No, it would not prevent that. That's a legitimate purchase of life insurance and use of it.

REP. STRIPP: (135<sup>th</sup>)

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Through you, Madam Speaker. I thank the Gentlemen for his answer and I am prepared to support the bill when it comes to a vote.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you. Representative O'Connor.

REP. O'CONNOR: (35<sup>th</sup>)

Thank you, Madam Speaker. Just, just one final point just for, for legislative intent that I just wanted to put in there.

Is that I just want to make it clear that it doesn't prevent insurance policyholders from learning more about the life settlement market or raising their awareness.

What we're just trying to get at is, again, the third-party origination where it's manufactured or artificial in its creation.

And I thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you. Will you remark? Will you remark further on the bill as amended? Will you remark further on the bill as amended?

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If not, staff and guests please come to the Well.  
Members, take your seats. The machine will be opened.

CLERK:

The House of Representatives is voting by Roll  
Call. Members to the Chamber. The House is voting by  
Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all Members voted? Have all Members voted?  
Please check the board to see that your vote has been  
properly cast. The machine will be locked and the  
Clerk will prepare the tally.

Will the Clerk please announce the tally.

CLERK:

House Bill Number 5512, as amended by House  
Amendment Schedule "A".

Total Number Voting	141
Necessary for Passage	71
Those voting Yea	141
Those voting Nay	0
Those absent and not voting	10

DEPUTY SPEAKER KIRKLEY-BEY:

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The bill as amended passes. Will the Clerk please call Calendar Number 448.

CLERK:

On Page 16, Calendar Number 448, Substitute for Senate Bill Number 414, AN ACT CONCERNING THE STATE-FUNDED HOME CARE PROGRAM FOR THE DISABLED, Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Abercrombie, you have the floor, Madam.

REP. ABERCROMBIE: (83<sup>rd</sup>)

Good afternoon, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Good afternoon.

REP. ABERCROMBIE: (83<sup>rd</sup>)

Madam Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is acceptance and passage in concurrence with the Senate.

Will you remark further, Madam?

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do provide to the beneficiaries that use our services.

And really, simply and briefly, this bill. What we believe this does is correct an oversight by inserting the statutory references to emergency medical service providers, which would then include us as a health care provider and afford us the same protection as other health care providers under the act.

I'd like to thank you, again, for your consideration. I'm available to answer any questions.

REP. O'CONNOR: Thank you, David. Are there any questions? Thank you very much.

DAVID LOWELL: Thank you.

SEN. CRISCO: I appreciate it. We'll continue now to House Bill 5512, viatical settlements. Jack Kelly.

JACK KELLY: Good afternoon, Mr. Chairman, and thank you. My name is Jack Kelly. I'm here for the Institutional Life Markets Association. The Institutional Life Markets Association is a trade association of the world's leading institutional investors in the longevity market place. (SB316)

Earlier I have submitted copies of my testimony so I'll prefer that the record reflect that information, and I'll speak from other issues. All members of our association include, Bayer

Sterns, Credit Suis, Golden Sacks, Mahoozoo International, Westel Bee, and UBS.

Joining me today is Chris McKinsey, a member of the board of ILMA, and also a managing director for fixed income, at UBS, from Stamford, Connecticut.

UBS, in Fairfield County, has over 4,000 employees, including its headquarters for its life settlement operation. Its trading floor, which is over two football fields sizes, trades over \$1 trillion a day in the markets, including life settlements, premium finance, and longevity transactions.

Other players, who are not members of ILMA, but players in this market place, are the Royal Bank of Scotland, RBS. Another Connecticut company.

Mr. Chairman, I'm appearing here in regard to Senate Bill 316. The legislation, you have before you today, is a significant step in pursuing consumer protection in the life settlement market and to curve improper transactions.

While we support many of the contents of this legislation, we have reservations with certain provisions. Specifically, our greatest concern related to--

SEN. CRISCO: Excuse me, Jack. You know, you're not testifying on House Bill 5512?

JACK KELLY: I'm sorry. I apologize Mr. Chairman. We have two bills that are cross-bills. I'm speaking on House Bill 5512 then. I'll speak to that.

In relevance to that bill, we support many of the concepts of that bill. That bill contains two provisions which speak to the definition to a five year provision and then the so called end coil definition as it relates to STOLIs.

One of the counter stones that ILMA was founded on was transactional transparency in the market place. What this really is about in the marketplace is consumers.

And we hear today, and we'll hear people talk today about, so called, stranger owned or stranger originated life insurance, STOLIs. Today, we'll hear from people from the life settlement markets.

We'll hear from people from the insurance industries. We will hear people today talk about STOLIs and stranger owned and initiated life.

ILMA and the members of ILMA in the market place and members of this market place in the institutional businesses, strongly and adamantly opposes stranger originated life or these, so called, STOLI transactions.

These manufactured transactions. They are, if they are truly manufactured. Thank you, Mr. Chairman. And I'll continue with that. To summarize, we are opposed to STOLIs.

We think that are ways to deal with it. We don't think that the five year ban that's raised is the proper way. We think a definitional solution is another solution, Mr. Chairman.

SEN. CRISCO: Any questions? Thank you very much. Bill Fisher.

BILL FISHER: Thank you, Mr. Chairman and Members of the Committee. I'm Bill Fisher, corporate vice president and associate general counsel for Massachusetts Mutual Life Insurance Company also located here, at least, in part of Connecticut. SB316

I'm here to testify, today, in opposition to House Bill 5512, AN ACT CONCERNING VIATICAL SETTLEMENTS. As Mr. Kelly indicated, in recent years there have been abuses in the life where viatical market place.

And those abuses have included, amongst other things, the, so called, stranger originated life insurance. Stranger originated life insurance, or STOLI, is basically the initiation by an unrelated stranger of the issuance of a life insurance policy on the life of a senior citizen, usually, aged 70, 75, or older, with the purpose of having that policy sold off in a relatively short period of time, a few years, into a secondary investor market place. The, typical, transactions include-

SEN. CRISCO: Bill, could I just interrupt you for a second?

BILL FISHER: Yes.

SEN. CRISCO: Are you opposed to House Bill 5512 or are you--

BILL FISHER: I am opposed to House Bill 5512.

SEN. CRISCO: Okay. All right.

BILL FISHER: The typical transactions include premium finance loans, which really means effectively there's no cost to the insurer for engaging these types of transactions.

It is also quite common for the insured to receive some hundreds of thousands of dollars, in many cases, just for engaging in the transaction.

These problems have caught the attention of Legislators and regulators. And, in fact, there are two model acts on the very issue of STOLI and life settlements.

One developed by the National Association of Insurance Commissioners last year and the second one adopted by the National Conference of Insurance Legislatures last December.

And in that regard, Chairman Crisco, we thank you for your participation in the end process on that issue. Proponents will, undoubtedly, count House Bill 5512 as providing strong protections against STOLI, as Mr. Kelly has kind of indicated.

In fact, we believe, it does exactly the opposite. It is based, to some extent, upon the NCOIL model, but it changes some of the provisions of the NCOIL model in a very critical way.

And in other places it simply doesn't bring some of the strong positions of the NCOIL model, which took a year of careful deliberation to develop.

We have many objections to the bill, but I'd like to just touch on some of the key ones. The first is, that the definition of STOLI has been modified in a way that doesn't protect against STOLI, but, in fact, permits STOLI.

Secondly, there is a provision in the bill which effectively means that Connecticut citizens who have \$1 million or more of net worth, which is many of our citizens, will not receive the protections of the bill at all, because they are exempted from it's ambit.

Third, the bill doesn't include important reporting protections, I will wrap up, Mr. Chairman, that are found in the NCOIL model that are a regulatory tool designed for regulators to identify and enforce against STOLI transactions.

It is for those reasons that my company is opposed to House Bill 5512, and would support another Bill, Senate Bill 316, which will be heard shortly. Thank you for this opportunity to comment.

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SEN. CRISCO: Thank you, Bill. Any questions?  
Thank you very much. I appreciate it. Jerry  
Flowers.

JERRY FLOWERS: Good afternoon. Thank you for your  
time. My name is Jerald Flowers. I'm with  
NAIFA, the National Association of Insurance  
and Financial Advisors.

And I'm speaking against House Bill 5512. This  
issue is a tough issue for you to handle. And  
I really want to try to put some framework for  
you, in terms of, you know, the two opposite  
ends of the world.

One end I'm an insurance agent. I have a  
client who is 79-years old and going into a  
nursing home and bought a policy three or four  
years ago and wants to sell it with the most  
genuine of interest.

Under these bills, that's going to be fine as  
long as they haven't financed the premiums.  
Financing is an alternate way to pay for  
insurance. It's a very valid way.

Libor, which is the base rate on this, is at a  
very attractive rate for individuals to have  
real estate and other fixed assets. It's a  
method.

They choose to do it. The problem is, there's  
a stranger owned initiated insurance market out  
there that has been rampant. And they are  
doing it in any way you can think of inducing  
individuals to buy a policy so that they can

receive, as you heard earlier, hundreds of thousands of dollars.

And this is clearly an insurability issue. The clients really didn't ever have insurability interest when they bought that policy. And so how do you go about creating a statute that's going to help give some framework for this issue.

And you're going to hear about Senate Bill 316, in a few minutes, which is another bill which is, again, not perfect. And I'll talk about that later.

But on House Bill 5512, my primary concern is there's just not enough teeth in this bill to allow us to stop the stranger owned transaction. Much of it has value to it, but we think that there needs to be more. And I'll comment further when I get to Senate Bill 316.

SEN. CRISCO: Thank you, Jerry. Any questions? Thank you very much. Kate Miratore. Kate, is it Joyce who is also from your company?

KATE MIRATORE: Is it who?

SEN. CRISCO: Joyce.

KATE MIRATORE: No.

SEN. CRISCO: Or Cayce. I'm sorry

KATE MIRATORE: Cayce. I don't believe he is here.

UNIDENTIFIED SPEAKER: He is.

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KATE MIRATORE: Oh, he is here.

SEN. CRISCO: Do you want to testify both of them together or? Begin, please.

KATE MIRATORE: Senator Crisco, Representative O'Connor, Members of the Committee, we appreciate the opportunity to testify here in support this bill that prohibits STOLI transactions.

(S13.316)  
(HB5512)

My name is Kate Miratore. And I'm the chief compliance officer at Integrity Settlement Provider, here in Hartford. And like I said, we support this bill, which prohibits STOLI transactions.

We feel that any agreement that allows the third party to arrange with a citizen of Connecticut to purchase a life insurance policy and then transfer the policy back to that third party so that the third party can, ultimately, benefit from the proceeds when the consumer dies, is a bad transaction and should never be allowed.

As a life settlement provider our aim is to help a consumer realize a benefit that otherwise would be unavailable to them. And prohibiting STOLI transactions will allow the life settlement market to provide great opportunities, primarily, for older consumers to obtain competitive cash offers for their unwanted or unnecessary life insurance policies.

For policies that a consumer can no longer afford in effect. The life settlement market is a very competitive market that benefits the consumer

The more competitive the market comes, the more the consumer will benefit from high market values. STOLI transactions have no place in this market, and, therefore, I, once again, urge you to support passage of this legislation. Thank you.

SEN. CRISCO: You're welcome. Cayce, do you want to make some comments?

CAYCE AWE: Yeah.

SEN. CRISCO: This is my grain of funny face. Just put it on.

CAYCE AWE: Oh. Okay. Thank you. I guess not. My name is Cayce Awe. I'm the CEO of Integrity Settlement Provider, here in Hartford. And I just want to reiterate what Kate was saying.

Roughly, that I think we've provided a valuable service for Connecticut consumers. We are not, in any way, affiliated with the STOLI transaction.

We don't purchase those types of policies. And we, too, are looking for ways to rid the market of STOLI. However, we don't think some of these over reaching bills are necessary in order to do that.

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SEN. CRISCO: Thank you, Cayce. Any questions?  
Yes, Sir.

REP. HARKINS: I just have a couple of questions.  
The more I'm listening to the whole STOLI  
product, or what's going on, it almost sounds  
like some of these things are scams.

That's a concern I have. It just seems wide  
open for abuse. I can understand that some  
people can, clearly, benefit from the product,  
but there is a side to it, which, clearly, is a  
little unsettling, to be quite frank with you.

Wasn't the industry in agreement, though, with  
the NCOIL definition or that the model act that  
came forward with the STOLI definition. Wasn't  
it enabled in an agreement that that was the  
way to go?

CAYCE AWE: With NCOIL, yes. Not with NNIC model,  
though. I think, that was over reaching as far  
as the five year ban. The 60-day provision  
period. But, no. We're not discussing that,  
though, at the moment.

REP. HARKINS: I thought that they then were not in  
agreement then with the NCOIL model act?

CAYCE AWE: Well, no NNIC.

SEN. CRISCO: If I could just comment. The big  
difference with the two year versus five year  
is part of the bill. NAIC is five, NCOIL is  
two. And so that was the biggest difference,  
to some degree.

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CAYCE AWE: Okay.

REP. HARKINS: So what is your take on the opponents of the bill, though? I mean, their concerns. What is the industry doing to rectify some of those concerns, if anything, regarding the whole STOLI issue?

CAYCE AWE: Well [Gap in testimony. Changing from Tape 1B to Tape 2A.]

CAYCE AWE: I guess, what I don't understand is why it's so difficult for them. Why the carriers think it so difficult for them to identify STOLI at the time of issue.

Every deal I have with any of the funds, from when I purchase, I have to buy the policy back from them if it turns out that that policy was a STOLI policy, which I'm not really excited to do at any time.

So we have filters that we go through to identify STOLI policies. What are the trusts, etc? Who owns the policy? There are ways for us to do that that I'm comfortable enough knowing that if I don't get it, I have to buy that policy back.

I just don't understand why they can't identify these policies at the time of issue. Why do you need a five year ban on anything to?

REP. HARKINS: How often does it happen that you have to actually buy it back?

CAYCE AWE: I haven't.

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REP. HARKINS: Okay.

REP. HARKINS: All right. Thanks for your testimony today. Thank you, Mr. Chairman.

SEN. CRISCO: You're welcome, Sir. Any other questions? Thank you both very much. Doug Head.

DOUG HEAD: Good afternoon Mr. Chairman. It's a pleasure to be before you once again. We discussed this back in the fall, and it's nice to be back in Connecticut.

AB5512

I'm Doug Head. I'm Executive Director of the Life Insurance Settlement Association. Mr. Awe, his company, is a member. I have other members here who are able to testify about the specifics of their experience in the settlement industry.

I have given you written testimony. Although, I think it's probably well for me to go to some of the questions that you've asked and to try to clarify some elements that I think may not be clear from earlier testimony.

We are opposed to STOLI. We are opposed to STOLI under our understanding of the definition of STOLI, which is that it is a contract to buy a policy before you even own it.

It's a contract to sell a policy that the consumer doesn't yet own. However, we don't believe it's appropriate to create a situation, the so called five year ban, in which a

consumer is prevented from exercising options that are the consumer's options because he has financed the policy or because he has undergone analysis for settlements or because he knows about his rights.

All of these kinds of conditions can inhibit the market and will inhibit consumer rights. It's our belief that the appropriate approach, which is contained in House Bill 5512 before you know, is to educate consumers to exchange information, as Mr. Awe mentioned, between insurers, who can obtain information about their customers through their agents about the understanding of the financing arrangements for a insurance contract and about what the consumer understands about his rights.

And with that information they can decide whether to issue a policy or not. Let me emphasize that STOLI occurs, I'll finish real quick, at the time of issue.

At issue of a policy. It involves a contract between the insurer and a consumer. It doesn't occur five years later or three years later or down the road. STOLI is at commencement of the policy.

SEN. CRISCO: Thank you, Doug. Any questions?  
Thank you very much. Peter Katz.

PETER KATZ: Hello. My name is Peter Katz. I live in Avon, Connecticut. I've spent, nearly, 30-years in the life insurance business. Mostly as a, what's called, an advanced marketing

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attorney with local life insurance companies and their home offices.

About three and a half years ago, I became acquainted with the life settlement industry, and I work as a life settlement broker. I've seen the good and the bad side.

The elderly insured who no longer need their policies who are able to get a lot more money as a result from the life settlement. I've also seen the dark side.

The STOLI arrangements. Where elderly policy holders are used to transfer life insurance policies to people who want to speculate on their lives.

I speak in favor of House Bill 5512, because that addresses the issue without going to the draconian measures that Senate Bill 316 does. House Bill 5512 does an excellent job of preventing the abuse of practices while not being over reaching as Senate Bill 316 does.

There are good and bad players in this market place. The bad players, who do STOLI, are the agents and brokers who promote the product. They're the investment companies who fund these loans.

But they're also the insurance companies that have turned a blind eye to many of these STOLI arrangements. There are some companies that are very good at doing it, like New York Life and others.

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Who have gone out there and told their agents we will not accept this. And there are others that have turned a blind eye. And now, they are using this legislation in a fidelity veiled attempt to try to get rid of the entire life settlement business, in its entirety. If you have any questions, I'd be glad to answer them.

SEN. CRISCO: Thank you, Peter. Any questions? Thank you very much. I appreciate it. Malcolm Sklar.

MALCOLM SKLAR: Good afternoon, Mr. Chairman, Committee Members. I'm Malcolm Sklar, a life-long Connecticut resident, residing in Redding. I have two offices in Connecticut, in East Hartford, Fairfield GBS Insurance.

We are a wholesale life operation. We provide insurance solutions to 1,000 financial advisors in the State of Connecticut. And I'm here to support House Bill 5512 as to being a prudent and realistic approach to the STOLI life settlement market place.

We have to de-couple strange or originated life insurance from life settlements. The insurance product is a very flexible policy. And to take away it's flexibility would harm the Connecticut consumer greatly.

I've submitted written testimony about several scenarios where Connecticut consumers have sold products after two years. That basically saved their financial lives.

In addressing the stranger originated, which I am against and don't support nor do engage in, you have to understand the landscape in the market places change.

The insurance carriers are doing a much better job of regulating it. If you look at a life insurance application, from most major carriers, if someone is over age 60 or 70, excuse me, applying for \$1 million or more, which is the sweet spot for stranger originated, there are questions they must answer and sign as to has the life expectancy calculation been done.

Is there premium finance involved? Is there recourse involved? These are things that gave stranger originated its legs, originally. And then the other side is, there is legitimate premium finance out there.

This premium finance endorsed by major insurance carriers with a list of providers. It's just another way of buying life insurance. But it gives you greater flexibility that yes you have the ability to sell the product in the secondary market after two years.

You're not required to. You can take ownership. You can terminate the loan. You can pay it off. You can continue it. But it gives you flexibility.

And I think House Bill 5512 does an excellent job of providing the flexibility that the consumer needs. Perfect timing. I'll take any questions. Thank you.

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SEN. CRISCO: Now I know why you're successful. Any questions? Thank you very much. Michael Lovendusky.

MICHAEL LOVENDUSKY: Good afternoon, Senator Crisco. It's good to see you again. I'm Michael Lovendusky with the American Council of Life Insurers from Washington DC.

The ACLI strongly opposes Raised House Bill 5512. Some proponents of the legislation will say that is based on the NCOIL life settlements model act.

This bill is based on the NCOIL model act, the way bank robberies are based on banks. It's a complete perversion of the virtues of the bill that you will earlier, Raised Senate Bill 316, which, in fact, has the endorsement of the expert insurance regulators of the NAIC and the expert insurance Legislators of NCOIL.

But House Bill 5512 is a special interest bill designed to expose Connecticut consumers to the worst kind of abuses and scams that are being perpetrated by these stranger originated life insurance transactions.

In addition to that, it would perpetuate the kinds of settlement abuses that were uncovered by the New York Attorney General and the Florida Insurance Commissioner.

House Bill 5512 has no pecuniary protections for consumers' settling their policies. It has insufficient consumer rescission rights. It

permits a settlement provider to hire Toni Soprano to contact a consumer to find out whether the consumer is still alive or whether he's suffering a bit of an illness.

There is no protections to consumers for anti-gauging by settlement brokers and providers that would otherwise be provided for with regard to their broker compensation disclosure.

There is no opportunity for disclosure to the consumer that the settlement provider has transferred their settled policy to the Toni Soprano hedge fund in Düsseldorf.

There is no protection for predatory practices against senior citizens. Especially, as soon as senior citizens, which are the targeted audience for STOLI transactions because they are an accredited investors.

Because they have successfully saved enough money and are of a certain affluence of age, they are going to be targeted for the exact scams of most concerns to the insurance industry.

And there is no opportunity in House Bill 5512 for consumers to be reimbursed by any rip-off by the provision of surety bonds guarding against fraud.

These are all the consumer omissions. The consumer protections that are lacking in House Bill 5512. I'm not here as a consumer representative.

I'm here as a representative of the life insurance industry. And our principle concern is the perversion of the business of insurance that is going on by the stranger originated life insurance transactions.

House Bill 5512 will engender an environment that will breed STOLI transactions to the detriment to citizenry of the state. And that's why it can't be the vehicle from moving forward to, in fact, provide meaningful consumer protections in this important area.

The omissions and the abuses and the tricks that are in House Bill 5512 are numerous. And they are sophisticated, because that is the nature of STOLI transactions.

Many of them can be found in the deviant definition of stranger originated life insurance that appears in House Bill 5512. The honest version appears in the bill you'll hear later, Senate Bill 316.

Another important perversion of this legislation is the exposure of senior citizen accredited investors. And, again, that is successfully addressed by the Senate Bill 316 and also by the NAIC model and by the NCOIL model.

There are many things that could be observed about the dangers of House Bill 5512. But I might take a moment to answer Representative Harkins' question about dealing with these scams and how a fundamental difference exists between the NAIC model and the NCOIL model.

The NAIC model is like a particular kind of cancer therapy that is well developed to address a particular STOLI transaction. And it successfully does that by the operation of the five year settlement moratorium.

That's the most valuable single perversion in any of the legislation that will become before you in addressing STOLI. But the thing that the NAIC model doesn't do is that it doesn't provide a broad base protection against the numerous kinds of cancers that could metastasize in the STOLI markets including trust abuses and including pure financial predatory lending abuses.

There are no protections against any kind of STOLI in House Bill 5512. That is way this, again, can't really be the vehicle by which you would with any integrity or sincerity address the problems that are arising with regard to senior citizens and their being targeted by STOLI promoters.

Let me stop there and ask whether there might be any questions that I might be able to answer.

SEN. CRISCO: Before I ask a question. My own, personal, opinion is that I don't think this honesty is monopolized by just the people who are trying to [inaudible]. I think it goes beyond that. Any other questions?

REP. O'CONNOR: That was based on your Soprano comment.

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SEN. CRISCO: Any other comments? Thank you very much.

REP. O'CONNOR: I'd just like to remind folks that there are to be no personal attacks on ethnicity or individuals testifying in opposition to your bill. Susan Giacalone.

SUSAN GIACALONE: Good afternoon Senator Crisco, Representative O'Connor, and Members of the Insurance and Real Estate Committee. Again for the record, my name is Susan Giacalone.

And I'm here on behalf of the Insurance Association of Connecticut. I'm here in opposition to House Bill 5512. Just for the record, we have also submitted Senate Bill 316 as in response to STOLI.

STOLI is a concern for the industry. Everyone here says STOLI is bad. It's quite interesting that the proponents of House Bill 5512 have changed the definition adopted by the NCOIL.

A lot of the provisions of House Bill 5512 are represented to come off of the NCOIL model. However, they only grasp some of the provisions, and they change them drastically.

This is same group. My understanding is that it's actually signed off and endorsed the NCOIL model when it was adopted. So I'm kind of confused how they endorse it on the national level, but then are trying to change it state by state.

It's not just happening in Connecticut. They're doing it across the country. The definition that is contained in House Bill 5512 leave great loop holes so STOLI can still occur.

They're targeting senior citizens as representing over. They are schemes. And they are preying on our older citizens and they should be stopped.

We believe the best way of doing it is by Senate Bill 316 with some changes. Those, just for the record, both the NAIC, the National Association of Insurance Commissioners have adopted the model NCOIL.

Both models are good. The best model is a hybrid of the two. They actually were very thought out and detailed models, and they should be adopted, if either model is adopted, in their entirety without the changes and tweaks that are being suggested throughout the country and weakening the provisions of those bills. Thank you.

REP. O'CONNOR: Thank you, Susan. Actually, specifically, can you go into a little bit more detail as to the definition, and granted you're going to have another opportunity with the next bill, but the differences between the definition of STOLI in House Bill 5512 and Senate Bill 316?

SUSAN GIACALONE: The definition in Senate Bill 316 is the actual NCOIL definition that was drafted and adopted by the NCOIL, National Conference

of Insurance Legislatures, which takes the whole scheme of what creates a STOLI environment.

It includes the whole process. Where in House Bill 5512 they limit it down just to the written agreement at the inception. And so it allows one to do a STOLI by getting around that, but not doing a written agreement where the NCOIL definition, again, it was a definition that was contemplated and signed off by everybody involved.

It gets the entire scheme. So their definition really weakens it down. And there are other provisions in their bill that they weaken the provisions of the NCOIL model. I can certainly do a chart for you showing the differences in each provision that is drafted into House Bill 5512.

REP. O'CONNOR: Okay. And also just another one of the differences between the two bills is the period from two years to five years. I guess, what are you protecting against by trying to go for the five year?

SUSAN GIACALONE: And I'm glad you actually raised that question. I would actually like to address comments that have been made about the five year prohibition and one's rights and the industries desire to get rid of life settlement industry.

That is an absolute falsity. We are not trying to get rid of the life settlement industry. It

provides a very valuable service to the citizens of this state.

The two year prohibition or the five year prohibition. The five year prohibition is not an outright prohibition. It still permits the valid, legitimate, life settlement as already approved under current statutory scheme.

It limits the five year. The five year basically was came up with for a legitimate purpose in that the investment aspect, after two years, decreases.

So the person looking to get into a STOLI type scheme is not going to want to get into something that they know they're not going to get or be able to potentially realize their investment for five years.

Where as two years, you know, the ideal scheme is they want to get someone who is in [inaudible] health. So they know they're going to live 25-months.

But then at the 25-months they'd like to see them go, because they would get a quick return on their investment. And it's a big return on the investment.

Making them hold it for five years before it can be transferred off, reduces that return investment and there is less interest of investors into those types of schemes.

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REP. O'CONNOR: You just contradicted what you were trying to say there. You're not trying to shut down the industry.

SUSAN GIACALONE: No, we're not. Because you can still after five years, it's still the legitimate life settlement that are there for the person who actually bought their own policy.

Who had it for 20-years and something has changed in their lives, they can still settle their policy, and it's not subject to the five year.

They're subject to the current standards that are there right now. They can transfer it if things change. It's just it gets to those schemes when the individual is not financing themselves and they have to hold onto it for the five years.

But the two life settlements, the ones that we already see now, and we all agree are valid, are still valid type settlements.

REP. O'CONNOR: Now, do you. I know it's been discussed by some of the life settlement companies that there are tools at the disposal of life insurance carriers to basically protect their product to questions that they ask at the application process.

You know, some of them have gone beyond that even with the contract saying that you can't resell this. Don't you think you already have

enough on the books to maybe prevent them from going to the STOLI root?

SUSAN GIACALONE: The answer to that is no. We would like to say that we can police ourselves as best as we can, and we're trying to. However, these are schemes.

These are people who are trying to get around it. They're advising. The experience that we've seen in the past, is that they're advising people how to fill out the forms properly to get around our internal mechanism to detect these types of products.

And the ironic thing is that if we find there is no insurable interest, I mean, the whole purpose of this is that there has to be an insurable interest, and a STOLI scheme actually has no insurable interest.

So it's violating the insurable interest law, outright. And if we find out that it was a STOLI, we have to return the premiums to the persons who, you know, put out the STOLI act in the first place.

So there's no harm done for the investor in the STOLI, because they get their premiums back. So, yet, we're trying to police. I remember in the fall, one of the answers was.

Just don't sell it to this market any longer. Well, that may have to be what we have to do. I know some people are tightening up their markets in this age area, because, as much as we're trying to police it, they're always one

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step ahead and getting around it. They're schemes.

REP. O'CONNOR: Thank you, Susan. Any other comments? Representative Harkins.

REP. HARKINS: Thank you, Mr. Chairman. Susan, if you could do that breakdown of the definitions, that would be helpful to us.

SUSAN GIACALONE: Absolutely.

REP. HARKINS: I'm kind of floating between here and a Public Hearing at banks and we're doing surplus and lending. Where we're talking about adding disclosure as opposed to eliminating it.

Where people were adversely affected by a different market that what we're talking about today. Just real quick. If this bill was implanted, what impact would it have on the industry and the marketplace, in your opinion?

SUSAN GIACALONE: House Bill 5512?

REP. HARKINS: Yes.

SUSAN GIACALONE: In our opinion, it wouldn't circumvent the STOLI market from occurring. It doesn't include the disclosure provisions in the regulatory scheme that the bill that we're advocating had.

It eliminates a lot of the provisions, disclosure provisions, that are in the two, actual, model bills. Either model bill doesn't contain nearly any of those provisions.

The protection. The disclosure provisions, and all that. In the interest of the sub-prime. I read an article recently that some of the sub-prime lenders are looking into these type of.

One of the terms being put of there now is death bombs. You know, looking into this is, maybe, another type of way to raise revenue.

REP. HARKINS: Thank you, Susan. Thank you, Mr. Chairman.

REP. O'CONNOR: Thank you, Representative. Any other questions? Thank you. To follow up on this. We have the alternative proposal, Senate Bill 316. Jack Kelly.

JACK KELLY: Thank you, Mr. Chairman. I'm Jack Kelly from the Institutional Life Markets Association, which I noted in the record earlier.

For clarity, the Institutional Life Markets Association supports the previous bill, House Bill 5512. We have concerns with Senate Bill 316. Specifically, as it relates to the five year provision.

Mr. Chairman, there has been references and to talk about these bills pre-standing is difficult. Because they are two similarities. Is that there has been reference in House Bill 5512 that the provision offered there for the definition for STOLI, which we think is the proper alternative for the five year.

It differs from the NCOIL that was adopted. That is an accurate statement. It does differ for one reason. NCOIL when it was adopted was not, in fact, supported by everybody in the industry that was proffered.

Secondly, in Kentucky this week one of the authors of the NCOIL bill, Representative Damron, who was the author of the bill that was adopted at NCOIL, amended his bill to take and adopt the changes that you see here today.

So in longer and greater time spent by that, particular, Legislative body, they determined that that was a more suitable definition. There's nothing magic about the five year provision, Senator. Representative.

It does not solve the problem. It basically says that if you use premium financing, you can't do a life settlement if there is not a recourse in it.

So in the converse to that you're saying. If you can go self-fund and buy insurance, you can do anything you want. Is that very consumer friendly?

There are unified periods of time where you use a premium finance transaction, a non-recourse premium finance transaction, to underwrite your insurance policy.

For example, the tax code in 2010 will change again and the heartens tax will be restored. It's a provision that ends at the year 2010.

If I'm a wealthy individual and I want to insure against the possibility of that bill not being extended and the death tax being extended.

I might consider taking out a three or two or one year period of time. A two or three year policy to be able to cover the short-term period whether that legislation passes.

And I have to cover a possible damage to my inheritance of my family. And at the end of that period of time, if the law changed the other way.

I would then have the opportunity to sell it. It might not be five years. But to arbitrarily pick the five year, it limits the ability of the consumer to sell their policy.

A policy is their asset. If STOLI is done and it is fraud. Fraud is fraud. We have fraud statutes that can deal with that. When a carrier sees a policy that's originally underwritten, policies that are, so called, STOLI policies are involved multi-million dollar, in many cases, policies.

When an underwriter sees that policy, he gets the opportunity then and for two years to explore everything surrounding that policy. This is a very unique situation.

And that underwriter has that ability to look back and say were there any pre-arrangements. Were there any deals. Did you have a life expectancy conducted on you.

And then can ascertain if they clearly want to whether they can do that. When the doctrine of insurable interest was established, it was to give a specified period of time for carriers to be able to determine if a policy had the insurable interest or not.

A hundred years ago, when insurable interest was established, it was so that the goal line couldn't be move arbitrarily. Today, we're proposing moving that goal line from two years to five years for this type of a transaction.

Just because it involves premium financing. I've taken enough of your time, Mr. Chairman. But I'd be happy to answer any questions if I could.

REP. O'CONNOR: Thank you. And, again, I'll pose the same question I asked the previous speaker. Can you, again, into greater detail as to the main differences for the STOLI, beside the five year?

But it doesn't seem like the definition of the previous bill does enough to protect the consumers from some of these schemes that have been alleged.

JACK KELLY: Well, I beg to differ. The actual five year provision, if you notice the length of it and all the exceptions to it gives in, reality, a road map for somebody to get around the five year provision.

As you noticed, there are a series of exceptions. If somebody wants to commit fraud. What they will do is they will take those exceptions and utilize those exceptions and say you know what, I'm going to commit this STOLI anyway.

Because I'm going to be able to get around it by going to these exceptions. So it doesn't solve it. The other definition, which is the similar to the NCOIL definition, captures the concept and captures the fact that at the point of the policy being originated there is a scheme that has already been agreed to.

That they've already exchanged paper on. That they've made the deal. And if you're making a deal to do a transaction like this, you're going to put in writing.

Trust me. Because you're going to want to make sure that at the end of the deal you've got something in writing that you're going to get paid for.

So others say that one of the concerns about the NCOIL definition is that it has to have in writing the agreement. You're going to have it in writing.

Just because an individual has a life expectancy performs on them for whatever reason shouldn't bar them from being able to go through the process of doing a life settlement at some period of time.

If they were able to underwrite it through premium financing. Those are the distinctions. You're taking one class of individuals who happen to premium finance it and say to them you are going to be treated differently than other people. And that's, in a crutch, the difference, Mr. Chairman.

REP. O'CONNOR: And you don't think that, I guess, the key here, at that point in time, you think that's a proper safeguard against the STOLI arrangement?

JACK KELLY: I think if I'm an underwriter, and I receive a policy that say is \$1 million. And the person who is presenting the policy to me is 70-years old.

Well, the first thing that I'm going to do when I see that policy as an underwriter is I'm going to say you know I've got to make sure, all of sudden this walks like a dog. It barks like a dog.

And, maybe, it's got a tail and wags like dog. I've got to look at it to see if this is a STOLI. I, at that point in time, at the initial underwriting.

Not only at that point that I underwrite it, before I award the policy and issue the policy. For two years after that I have every ability to continually look into that policy, examine it, explore it, ask questions, and inquire, to be able to ascertain if there is something wrong with that policy.

If the agent and the person sitting at that coffee table or the person taking out that insurance policy lies to you, the insurance carrier, what have they done?

They've committed fraud. Fraud is wrong. Somebody said that if you did a STOLI, and it was discovered and you went back. You'd have to restore the premiums.

Why would you restore the premiums if a person lied and committed a fraud to you. I think you beat into the Attorney General or into the Commissioner asking them to prosecute the person.

When has a carrier last sought to prosecute somebody for, a so called, STOLI transaction. When has anyone come before the department and said a STOLI has been performed.

Let's put this person behind bars or let's prosecute them. That's a very important fact. Two years. Imagine the investigative tools that insurance carriers use today to be able to deny claims or to be able to review claims or to be able to award claims, be it on the life side or the PNC side.

Carriers are extremely good at exploring the facts and finding out the truth. They go to great lengths and any amount of time. Two years gives them ample period of time to be able to explore all the facts surrounding that.

This, gentlemen and ladies, is merely a nose under the camel's tent to try to get and change

that insurable interest period from two to five years.

Why on one product do you suddenly make it five years and others it's not? And the same product, if you pay for it out of your pocket. If I'm rich enough to pay the premiums for two years, it's not a STOLI transaction under this definition. Even if I scheme to go do it.

REP. O'CONNOR: Thank you. Representative Witkos.

REP. WITKOS: Thank you, Mr. Chairman. If there wasn't an issue, then this legislation wouldn't be here before us today. So you recommended that if there were problems somebody would file it with the Attorney General or may claim or file suit.

My belief is that there is fraud taking place out there. And that's why were having testimony in the legislation before us.

So could you comment on why, all of sudden, I don't know how the STOLIs have been out there for but why it's gotten to the level where now Legislative action has to be taken to prevent?

JACK KELLY: I think the fundamental question goes also back to what is a STOLI. And when you take out a life insurance policy, if at the point you take out that policy you had a genuine, valid reason to take out that policy, and you decide at a future period of time you want to sell that policy.

You have every right to. The question, then, becomes. Does an individual, unsolicited or anything, have the right to go out and take out insurance and sell it at a future time.

And since it's an asset and when it's offered to them one of the advantages that's said is you'll have the right to sell this. That's the crux.

The crux is for insurance carriers. They'll turn and say that they are concerned that they'll have to pay out on all insurance policies.

But the fact is when you take out an insurance policy if the assumption that it will ultimately be paid out. That's why people take out insurance policies.

And if they have other options they want to pursue with it, they'll do it. So what lies in the question you say. If these frauds do exist, why aren't they being prosecuted.

The question I ask is why haven't people sought to prosecute it? Have you had an Attorney General come before you and say I have discovered this transaction and I can't prosecute on it.

Have a complaint been made to a Commissioner or has a superintendent been before a Legislative body and said I have these major STOLI transactions and I'm not able to go prosecute on them.

And I think there is a better answer. If that were the truth. If there weren't the ability to pursue these, then I think the regulator and the Attorney General would be in here saying we need different law to deal with it.

REP. O'CONNOR: Thank you, Representative. I guess, I'll ask you this question. Can you, and I don't know how familiar you are with this situation.

But a high profile individual, like Larry King, had a situation with a life settlement arrangement. And I understand there is also some investigation going on in New York State with the life settlement industry.

Would you care to comment on those situations, because it seems like that as these become more and more prevalent that you will see more and more prosecutions and investigations?

JACK KELLY: I welcome that question, because, as stated earlier, the institution of life market, which is Bear Sterns, GBS, Goldman, the major institutional banks.

We believe that transactional transparency is the corner stone. One of the problems in this industry is that what we've done on the side of ILMA is we've created a document, which is required for anybody who uses any funding or any transactions with an ILMA company.

And that disclosure document tells the individual very clearly, A, how much money will

you receive at the end of this transaction.  
What's the face value of your policy.

How much in dollars, not in percentages. How much in dollars will the broker or the agent involved in this transaction be paid. And how much is being paid to others.

That has to be a notarized, signed form by the individual. I'd be happy to give a copy to the Committee. But it's a very clear document. If Larry King had used that document.

If that document had been required in his transaction, many of the things that were raised in that transaction would have been brought out.

First of all raised in the transaction was how much money he received versus what the broker or agent received in the commission. In this document, it clearly shows how much everybody got.

Larry King would have been instantly aware of that. The exact proposals that are in that document are proposed in much of the legislation that's before you today.

And I think that that's what we need is transactional transparency. If Larry King were properly educated. And think about the fact. Here's a man who sits on national TV, five nights a week. Okay.

This is a man who makes not a couple of million dollars. He makes hundreds of millions of

dollars. When he participated in this complex transaction, any individual who participates in this complex of financial transaction, would need a tax accountant, an attorney, maybe, a spiritual advisor, because he's looking at a lot of long-term phenomenon's here.

But he would need to sit there and say what is the impact of what they're asking me to do. And if those advisors, your financial advisors, didn't look at Larry King in an honest way and say Larry, you have an insurable capacity.

If you take out these policies, you may bump up against the top of that insurable capacity. Larry, do you know that the other gentleman sitting at the table who is representing you.

That broker who has a pecuniary relationship to you. Do you realize he's going to make XYZ dollars in this transaction and you're going to make ABC dollars in this transaction.

If he had the clarity of that transaction in front him, then he would have waited and probably made a different decision. What was raised by the State of New York in the allegations there.

Many of those same problems would have been corrected in the use of that form. Because the people would have clearly seen who was making the money.

And it would have demonstrated and been able to prevent the type of allegations that were made. And I urge that the fact the New York charges

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are merely allegations and have not been substantiated.

REP. O'CONNOR: Thank you. Any questions? Thank you very much for your testimony.

JACK KELLY: Mr. Chairman. I thank you and the Members of the Committee for you time on this. And I look forward to working with you. Thank you.

REP. O'CONNOR: I appreciate it. Bill Fisher please.

BILL FISHER: Thank you Chairman O'Connor and Members of the Committee. I'm Bill Fisher, corporate vice president and associate general counsel of Massachusetts Mutual Life Insurance Company.

I speak to you today in support of Senate Bill 316. In a view of some of the testimony that has just been heard and the questions that the Committee has been asking, I am going to really rely upon my written testimony in support of Senate Bill 316 and attempt to answer and supplement some of the answers that have made to the questions that have been raised.

First of all, Mr. Chairman. With respect to your question about the differences between the definitions. I think, there is a fundamental difference here between the some folks who have testified and certainly the folks on the life insurance industry.

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A lot of it does lye on the definition of STOLI. And we've heard and as illustrated by House Bill 5512, there is a requirement that the STOLI be a written agreement at the time of or prior to procurement of the insurance policy.

Mr. Head referred to it as a contract. If the world were that easy then things would be easy. But, in fact, what goes on is there are no written agreements.

There are understandings. There are winks and nods. There are plans. And let me illustrate that. We are aware of transactions that go in the premium financing area where there's no agreement to sell the policy upfront.

There is a premium financing. The individual is told, you don't have any cost for the insurance. At the end of a couple of years, you can walk away from the policy.

We take it over. And it goes into the life settlement market. There's no agreement to sell. It's touted as an option.

In fact, at the NCOIL hearing, last November, one major life settlement company, which incidentally has an affiliate that handles the premium financing for a major bank, did indicate, and this confirmed information we had received from other sources, that they expected at the time of those premium financing at 100% of those policies on the seniors would be settled.

Their concern, interesting enough, was not that that didn't happen. It was that some of the policies were settled with their competitors. That is what's going on. That's STOLI.

There is no written agreement or contract upfront. So that is one of the reasons that we are as concerned about the definition in House Bill 5512 and in support of the definition in Senate Bill 316.

I'd like to also comment just about the volume that is being seen. We are now seeing studies put out by the life settlement industry as to what incidents of settlement there is in the early years of these policies on seniors.

And it's astounding. One study, that was done last year, showed 73% of the policies that were settled were settled within the first 7-years of the policy.

And this is on seniors. Mr. Head's organization produced a similar study with different results. It showed that about 30% of the policies settled within the first five years.

But interestingly enough, about 25% to 30% more policies they couldn't identify the issue date on the contract on million dollar policies that their members had purchased.

It makes no sense to me. It tells me that there is a very high incident of settlement and that STOLI, in fact, is rapid. I appreciate

that fact that some people that life insurance companies can take of that issue.

The problem is that if somebody's intent on not telling us the truth, it's difficult for us to identify that. As a practical matter, I think any business that goes around and starts investigating people as a routine matter, within two years of initiating the customer relationship, is not going to be, particularly, well received by its customers.

The real problem there here who do we ask. And the real question is who is talking to us. Who is going to tell us the truth. It sounds good. Looks good on paper.

But it's not realistic. In our view, while we do have underwriting tools and most companies have strengthened their underwriting tools and more STOLI is being caught, there is still STOLI that is going through not withstanding those efforts.

And it's for that reason that we believe this type of abusive practice requires a public sector solution and should not be left to the private sector.

If you leave it to the private sector, it's kind of like saying, as I believe I've said before to this Committee, that the shoplifting doesn't have to be prohibited as a matter of law because the grocery store should do a better job at the check out line.

Those are my comments, Mr. Chairman. I appreciate this opportunity to testify in support of Senate Bill 316.

REP. O'CONNOR: Thank you, Bill. I guess I'm having trouble figuring out what you can accomplish in two years that you'll be able to do in five years? You know, I guess, I'm basically trying to figure out why do you need that extra three years?

BILL FISHER: Mr. Chairman. It's not a question of the carrier needing an additional three years. I think that's been some confusion here about the ability of the carrier to contest the policy and the two year or five year.

Let me separate those two things. An insurance company, when it issues a policy, as a general matter of law, has the right to contest the policy for material misrepresentation within two years after issue.

That is not changing. That is not changed by either bill. The five year is a prohibition against doing a life settlement. It's five years after issuance of the policy.

It originally, under current Connecticut law, it is two years. And that was designed several years back to get at the so called wet ink transactions where policies were literally being flipped within days of the issuance.

Two years seemed okay. And the life settlement industry was okay with it because, as a

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practical matter, they don't want the policies in the first two years.

Because they are contestable. They want to buy a secure transaction. The five years is inserted because we are seeing a high incident of policies being settled in a two to three year range.

And we're talking multi-million dollar policies. In my company's case, we had one a few years back, where we had issued about eight million.

We rescinded some of the insurance. We, ultimately, found that between us and other companies, over a hundred billion dollars had been issued on that life.

And it was clearly STOLI. But what we're trying to do with the five year, and what the NAIC was trying to do with the five year, is to make the transaction economically unviable.

That doesn't mean, and I stress, it doesn't mean that policies can't be settled after two years. They can be as long as they are not the abusive premium finance transactions that are, typically, found in STOLI.

REP. O'CONNOR: So you would separate the two? You know, if it were premium finance that would go to five years and if it were a regular life settlement, that you'd be okay with the two year remaining?

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BILL FISHER: That's, exactly, what Senate Bill 316 does. But it's not all premium finance, Mr. Chairman. It is premium finance under certain circumstances. The type of premium finance that we have seen associated with STOLI cases.

REP. O'CONNOR: Then the question is what's the difference? I mean, between selling it to someone who you may not have a relationship with. I guess basically how can you differentiate between the two?

BILL FISHER: We are differentiating between the two. Let me, perhaps, back up a little bit. We are not opposed to life settlements, legitimate life settlements.

And the classic life settlement is a policy that somebody bought some time ago, no longer wants or needs. We are concerned about these deals, which are very hard to detect, where there is premium finance upfront and really an intention to settle at the end of two years.

That's what the five year prohibition is attempting to catch. It will not catch a situation where an individual bought a policy with his own funds or he's bought a policy on a recourse premium finance basis and certain other circumstances. [Gap in testimony. Changing from Tape 2A to Tape 2B.]

--it has greased the skids of STOLI and permitted it to occur.

REP. O'CONNOR: Thank you. Any questions? Thank you, Bill. Gerald Flowers please.

GERALD FLOWERS: Good afternoon. My name is Gerald Flowers. I'm with NAIFA Connecticut, the National Association of Insurance and Financial Advisors.

Thank you for your time today. I think the big difference between two years and five years, if you really want to ask the question, is the financial justification of borrowing money on a non-recourse basis, which is interest rates up near 10% and compounding that over five years.

When you get there, these programs just don't work as they're currently designed. And it doesn't matter how you try to hide it. Financially they just don't work if you go out five years.

It certainly is limiting the clients' options. If you happen to go into a program like this and you are tied to LIBOR and the rates jump up 3%, 4%, or 5% very quickly, a client could have a much more expensive program than they were thinking.

And the five year program could limit them. And in that regard, any time you do a piece of legislation, it's going to be less than perfect.

This is the bill that I'm supporting and that NAIFA supports. There are a couple of issues in it that I wanted to bring to your attention.

One section is that there is some provisions that limit what insurers are needed to do and

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complying with documentations and other information necessary to expedite life settlements.

And I'm very concerned that those sections not be approved simply because that has nothing to do with STOLI. That has to do with life settlements.

Life settlements are a tremendously valuable alternative for clients. Certainly, some clients will never use them and others will. But that is certainly a concern of mine within the way the bill is written right now.

The five year time frame, I think, does a nice job of locking down the vast majority of the, so called, STOLI market place.

And the exceptions are going to handle most of the issues. It will not be a perfect bill. But it's the better of the two from our stand point.

REP. O'CONNOR: Thank you. Does NAIFA recognize that fact that this policy is owned by the original consumer and that it's been established that they should be able to sell it?

GERALD FLOWERS: I mean, unfortunately, if a client has purchased a policy, we absolutely believe it's important for them to have that option. Whether they choose to use that option or not, is very much up to their own personal decision.

Their advisor's decisions. It's a very scary thing, as an advisor, to be talking to an 80-year-old about selling a policy that might be worth \$1 million.

Because I don't know whether the \$200,000 that they're going to get today is a good deal or a bad deal. And, ultimately, they have to make a very tough decision.

But if you know that they can't afford to pay the ongoing premiums and are going to lapse it and get \$0 tomorrow. \$200,000 or \$0 is an easy decision.

And so it's very important that the clients that are making these decisions have good advice and have both options available to them. And certainly of the two options that we have here, the House Bill 5512, I think, leaves open holes to continue the STOLI market place.

I think, the Senate Bill 316 is probably over kill. And, you know, my suggestion is to make as much regulation as needed, but not too much.

REP. O'CONNOR: Okay. And as far as an association, I don't know if you have an exact number. I don't know if you've looked into it into detail.

But what percentage of your customers actually you know, sell their policy after two years? You know, between that ban. That two to five year ban.

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GERALD FLOWERS: Our association would have no information along those lines. I do run a brokerage company that works with about 100 agents here in the Connecticut marketplace.

And this is a new environment that is rapidly changing. It's a very small percentage of policies. It does represent a very large percent of premium dollars that are being written right now.

As referred to here, you know, clients that are buying \$100 million worth of insurance and selling it quickly. At the percent of premium, it's a very large issue.

But it's a 1% issue at the moment. I think it will grow. It'll become more common as clients become older and become more aware of the issue and the opportunity.

REP. O'CONNOR: Thank you.

GERALD FLOWERS: Can I make one last comment. And that is to the question of can the companies control whether or not a piece of business is a STOLI piece of business?

I think, there are companies out there doing a very good job at doing it by reviewing the trusts. By requesting third party financials. By really doing detailed underwriting.

And even those companies would tell you that their fairly sure that in the prevalent states of New York, Florida, California, they're still being found to be in that business place.

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So, unfortunately, to some degree even with them being fully diligent, there needs to be more than what we have right now. And finding that right point is a job that you guys get to work over, and we appreciate your hard work.

REP. O'CONNOR: Thank you, Jerry. Any other questions? Thank you. Next we have Kate Miratore.

KATE MIRATORE: Good afternoon. My name is Kate Miratore, and I'm the chief compliance officer of Integrity Settlement Provider a life settlement provider firm located here in Hartford, Connecticut.

And we're here today in opposition to Senate Bill 316. As a life settlement provider, we strongly oppose this initiative because it would impose unreasonable prohibition on Connecticut consumers, legitimate use of their property or their life insurance policies, by restricting the assignment of the policy for five years.

The five year ban is triggered whenever the insured of the policy wants to evaluate it for settlement purposes or any other reason such as premium financing or issuing of a new policy.

The consumer shouldn't be punished for evaluating the market value of their property. Simply, evaluating what your property is worth in the market place is not evidence of STOLI transaction.

STOLI transactions occur at the time that the policy is being initiated, because they would violate insurable interest principles at the time the contract for insurance is made.

STOLI, therefore, cannot and should not be applied to the possible assignment of a lawfully obtained and lawfully owned life insurance policy.

This initiative will, ultimately, take away fundamental consumer rights to dispose of lawfully obtained property for five years. And it does nothing to stop stranger originated life insurance, but threatens to stop stranger owned life insurance.

Doing this will severely cripple the life settlement industry here, and the options and benefits that are available to the consumers all across the state. For those reasons, we would strongly oppose this bill. Thank you.

REP. O'CONNOR: Thank you. Any questions? Thanks. Are you going to testify? Cayce, go ahead.

CAYCE AWE: Cayce Awe, CEO of Integrity Settlement Provider here in Hartford. Just a couple of issues. I think, the biggest issue I have is with Senate Bill 316 is it makes it very difficult for me to perform an ordinary life settlement transaction.

There was a mention of a 60-day rescission period, which is difficult in that we end up having to pay premiums on policies that end up having to be rescinded down the road, which is

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just another administrative thing that makes things a little bit more difficult.

I believe I got three days when I purchased my house. I'm not sure what 60 days, why that's necessary. It seems a little bit long to me.

Additionally, the list that's provided here on why policies can't be settled from year two to year five. There's a whole list of things that if it meets any one of these A through Z, you can't sell that policy.

I guess, my question would be. I have the burden of proof, and I'm left trying to prove a negative. That none of these things took place.

And I don't know, exactly, how I'm supposed to do that. And it would make that transaction, the one that wasn't a STOLI transaction, difficult for me to get to the carrier, based on what the carrier says no you have not proved to me that there was no trust in place or deal in place prior to the sale of the policy. And I don't know how I prove that none of those things were there.

REP. O'CONNOR: Now, would you agree that, you know, we should try to fair it out, the STOLI transactions and put a prohibition on them?

CAYCE AWE: Absolutely. As I said, I'm not involved in STOLI in any way. In fact, STOLI can only hurt my business in that if I purchase a STOLI policy for one of my funders, I actually have

to buy that policy back if it's discovered it would be STOLI.

So it's certainly nothing I want to see in the marketplace. I'm here with absolutely no reasons to support STOLI, in any way.

REP. O'CONNOR: I guess to play devil's advocate then. What's the opposition to the five year then if that is deemed by the life insurance industry to basically stamp out the STOLI situation?

CAYCE AWE: Yeah, and the opposition, again, in my standpoint, is I'm left trying to prove. There's a list of things. A policy can't be sold if the following things are in place or were in place at the time of the transaction.

I'm having to prove that none of those things were there and proving a negative, as you know, can be very difficult. And how is that going to be resolved?

If they say, I have not proved to their satisfaction. You know, that's where I am. It makes it very difficult for me to operate.

REP. O'CONNOR: Okay. Any? Representative Witkos.

REP. WITKOS: Thank you. We heard earlier testimony that when people make decisions, large decisions, like this, they should have an actuary and an attorney and a spiritual leader.

And you said you had concern with the 60-day rescission. If somebody were to make in

consultation with their experts that they've hired, what percentage do you think that people would actually take that rescission.

Or in your experience that you have now in your industry, the guidelines of what you're given for rescission factors. How many people change their minds to all of a sudden no, I want a rescind my current contract?

CAYCE AWE: In six years, I've seen one policy rescinded. But I would also say that most of the policies we see are under funded or the premiums have increases substantially, because of changes in credit rates or they didn't pay premiums the way they were supposed to.

A majority of what we see, are close to lapsing. So I don't think you'd see a lot of people change their minds. And I also wanted to say that we are big fans of transparency at the time of the transaction so that all these things should be taken place at the time the contract is entered into.

REP. WITKOS: Hopefully, we wouldn't see premium rates change within the first 60-days of the contract.

CAYCE AWE: No, my point is that when the policy was issued, say in 1995, the credit rates had dropped during that time period. That they were shown--

REP. WITKOS: I was just commenting on your testimony, where you said that 60 days seemed

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excessive. When you bought out your home, you only had three days.

But I was just commenting at how many really took the rescission. Currently, you said one that you're aware of. So I don't.

CAYCE AWE: Yeah, for example, a lot of the funders are uncomfortable paying any premiums. They're certainly uncomfortable paying any commissions before the rescission period is up.

But they don't want to pay premiums during the rescission period either. And when you have policy so near to lapsing, if they can't pay the premium within the first 60 days. It makes it very difficult to do a transaction.

REP. WITKOS: The premiums, how often are those paid generally, monthly?

CAYCE AWE: It depends on the fund of it. Monthly, generally.

REP. WITKOS: Okay. So we may have two before it's rescinded?

CAYCE AWE: Yeah.

REP. WITKOS: If we kept the 60 days.

CAYCE AWE: I guess, what's the advantage of the 60-day? I guess, that's what I'm missing. Well, I'm not aware of any contract that comes close to having a 60-day rescission period in anything, in any business.

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REP. WITKOS: That's why we're here today to talk about from the experts out there to find out. You know, what is acceptable. What's not. What they've seen out there.

CAYCE AWE: Thank you.

REP. WITKOS: Thank you, Mr. Chairman.

REP. O'CONNOR: Thank you, Representative. Thank you for your testimony. Doug Head.

DOUG HEAD: Mr. Chairman, once again, you have my written testimony. The Life Insurance Settlement Association is strongly opposed to Senate Bill 316 as offered.

I would like to just spend a little time going through some issues that have already been raised that might be a little bit confusing.

Mr. Awe very accurately described the confusion you would face, in which all consumers would face, with the five year provision. Starting on page 44 of the bill and running over for two pages are the conditions.

These conditions are extremely complex. If nobody can sell a policy unless it goes onto say the viator, the seller of the policy submits independent evidence to the provider, the buyer of the policy, that a bunch of conditions are met and, additionally, the viator may not enter into the contract and there's I believe an error in the drafting of the bill.

It says not later. It should say not earlier. Then two years after the date of issuance of the policy and with respect to the policy at all times the policy premium have been funded exclusively with unencumbered assets.

What does that mean? We think that means premium finance, but exclusively with unencumbered assets may mean partial premium finance.

It goes onto say that there is no agreement or understanding. Does this mean that if the consumer understands his rights to sell the policy later on, that that is somehow a flaw and he can't sell it?

Neither the insured or the policy has been evaluated for settlement. I don't think we really understand what that means. All of these provisions.

And these provisions go on and on and on. Are all in our minds. Barriers to the process. It's been asserted by some of the earlier testimony that Senate Bill 316 is some kind of a hybrid of good practices from NCOIL and NAIC.

I want to just remind this Committee that the NCOIL group affirmatively regretted the five year ban. And in affirmatively regretting the five year ban proposal and this kind of language that is so damaging to consumers, the NCOIL body sought to identify the improper practice and to define it and to declare it to be improper and to provide consumer education

at the inception of the policy, which is when stranger originated life insurance occurs.

And the NCOIL body did a good job. In the Larry King situation, which was discussed a little bit ago, Larry King bought a policy and sold it almost immediately. We call that a wet paper transaction.

It is completely something different from STOLI. And Larry King in buying and selling, he paid all the premiums by the way. In selling that policy immediately under existing Connecticut law would have violated existing Connecticut law.

The fact that he did it in a jurisdiction in which there was no law, is bizarre. Additionally, he bought that policy with the assistance of an agent that is top producer of one of the life insurance companies testifying today in support of Senate Bill 316.

Who has not been, to my knowledge, fired or disciplined, or in any other way chastised for participating in the Larry King deal. Wet paper is improper, and it's already improper under the law.

And we believe that the two year period is a good rule. It has well established historic and dissidents. And it's a terrific way of addressing the problem.

Finally, I would like to say that the statistical length between laps and policy

sales, in our statistics, which were referenced by an earlier witness, is correct.

Because far too many people let policies lapse early in their ownership. Because they have buyer's remorse. What do they get? Nothing.

I think that the settlement industry with the two year prohibition on buying policies, which is in effect in Connecticut today, but, thereafter, consumers have rights is the best approach.

And it allows consumers to get out of deals that were not so good where they are suddenly finding that they can't afford the premiums. Mr. Kelly referred to tax law changes.

I would refer to the massive changes that are being undergone in the American economy. And we should not take away from consumers who may be undergoing those changes today.

The right to sell an asset that they have legitimately purchased and legitimately owned in their own name.

REP. O'CONNOR: Thank you, Doug. Did your association support the NCOIL model?

DOUG HEAD: Yes, we supported the NCOIL model. We have come to realize, in consultation of some of the authors of the NCOIL model, that the provisions may be a little over broad in reference to understandings.

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We believe that, as Mr. Kelly testified, that if there is a STOLI, there is paperwork. There's a contract. There's a deal. People do not offer premium finance in large dollars for understandings or intuition.

Consumers may be educated. And consumers may take advantage of the rights they have. And we don't think we should interfere with consumer rights. But we believe that the NCOIL definition, as originally defined, is a little too tight.

REP. O'CONNOR: Thank you. Any questions?

DOUG HEAD: Or too broad.

REP. O'CONNOR: Thank you, Doug. Chris Donahue.

CHRIS DONAHUE: Good afternoon, Members of the Committee. My name is Chris Donahue. I'm a practicing attorney in the area of trusts and estates. My office is in Danbury, Connecticut.

I spoke on a bill similar to this last time this was up. And I'm not affiliated with the life settlement industry or the life insurance industry.

However, I'm against Senate Bill 316, because of what you heard today. I think the word crippling affect on the life settlement industry that Senate Bill 316 would have.

At a minimum it has a chilling effect, and that's what troubles me. And that's what I

said the last time I was here. I have a number of clients who have the need over the years.

And all of us, this is nothing peculiar to me, all of us, in the trust and estates area, who have had the need for short-term life insurance for a variety of reasons.

Probably, the most prevalent reason recently is because of the change in the estate tax laws, who no longer need it.

And these aren't the Larry Kings' of the world. I would love to say that I was one of Larry King's advisor in taking out that policy. But I wasn't.

These are people who have homes, particularly, in Fairfield County. But it can be anywhere. Homes that are high in value that make up the bulk of their estate.

But they have very liquefied estates. And when they die, their families will not have enough money to fund the 37% federal estate tax as well as on estates worth more than \$2 million to Connecticut estate tax.

So they take out insurance, which is a logical, in many situations, a logical idea. However, as the estate tax exemption grows, which it is growing.

Or after they sell that home and have moved into a nursing home or moved in with their children, they have the liquidity, which

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otherwise go to continue to pay a premium on a policy that they just simply don't need.

And to have the opportunity to get out of those policies and to have an attractive market out there to do that in, I think, is important to my clients. And that's why I'm here today.

REP. O'CONNOR: Thank you, Chris. Any questions? Thank you very much. Michael Barthomelu.

MICHAEL BARTHOMELU: Thank you, Chairman O'Connor and Members of the Committee. My name is Michael Barthomelu. I'm with the American Counsel of Life Insurers.

And I'm here in support of Raised Senate Bill 316. What you have before you in Raised Senate Bill 316 is contrary to what Mr. Head said. It is a hybrid of the NAIC model enhanced by provisions that were adopted by the National Conference of Insurance Legislators.

Any of you who are Members of NCOIL will recall that recently Representative Ryan Patrick Kennedy sent out a letter extolling the virtues of the NCOIL model and it's constant support of it.

They have not changed their position on it. Contrary to what Mr. Head just said. We support NCOIL model. And we re-support the NAIC model.

This happens to be a combination of the best of the both. I've given you written testimony. Without going into elaborate detail in the

testimony, I'd just like to give you some highlights about what the NAIC model does in support of consumer's rights.

It has a limited five year settlement provision that targets transactions with characteristics of STOLI such as non-recourse financing, that's free insurance, settlement guarantees or life expectancy evaluations.

That's a new phenomenon in this business. As you know, if you buy life insurance sometimes you have to go and get a physical examination by a doctor or a paralegal for the insurance company to make an evaluation of your mortality.

What we have found in a lot of research that's done by the companies and by others is that the settlement provision people are in the business of doing life expectancy evaluations.

They go way beyond the kinds of questions that the insurance law permits us to ask. That's because they need to tie down what the life span of this person is going to be so they can sell that life down the road to third party investors.

It's a protection of consumer property rights otherwise by permitting anytime the settlement or cause such as death of a spouse, divorce, disability, bankruptcy, loss of a job, or chronic or terminal illness.

There's no two year limit. There's no five year limit. Expanding the right of consumers

to rescind. I thought it was interesting that somebody thought that 60 days was too long. These are very complex transactions.

And I think people, especially, a vulnerable population, like people at 75 or older, should have the full time to make that decision. There are tax implications, of course.

Because this is a transfer for value under the internal revenue code. And unlike a transaction with an insurance company, the proceeds that you receive are taxable as income.

Settlement reporting requirements to enable regulators to identify and stop STOLI transactions and is a prohibition about advertising.

That the insurance is free or at no cost. Also, a provision that actually is in the other bill, Raised House Bill 5512, would not be in the bill.

If it really followed either the NAIC or NCOIL model, there is the definition of an accredited investor, which is a loop hole to get around regulation.

The NCOIL law, in addition to all of these protections that are in the NAIC model, define STOLI. The Legislators that worked on this thought that well, five years is okay I guess, but really all it is it lets these kind of transactions happen after five years.

The Legislators said we think they ought to be outlawed period, forever. And so they defined STOLI. And basically said any kind of these transactions are a prohibited practice and they should be outlawed.

The raised language in the bill making it unlawful for a person to issue, solicited, market, or otherwise promote the purchase of life insurance policy for the purpose of or emphasis on settling it.

It's a really good provision that exists in NCOIL doesn't not exist per se in the NAIC model. I'll leave it at that. I think that the comments before in support of the bill are ones that we would adopt as well.

And I think that the question to be asked of the settlement companies is that if they're not engaged in STOLI, why do they have a problem with the definition of STOLI.

It was reached after an awful lot of deliberation and a lot of testimony and over more than a year that defined all of the transactions that have come to play in the experience of both regulators and insurance companies.

Where there are harmed consumers. The purpose was to control that. To permit life settlements, because we think they're a viable opportunity for somebody who has a policy that they have no longer any use for because their kids are grown, out of college, and married.

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And to settle it, it's a fine thing. It's a good opportunity. But to manufacture a transaction in a very non-transparent way, this is the lack of transparency.

And that's why need legislation. There's nothing transparent about these provisions that these transactions at all. They're under the table.

They carried on before the transactions takes place and that's why the definition is why it is. We need to encompass the practice. So and, of course, as an insurance company, we need to make our case after the fact that it did happen.

And we stand ready to do that. Thank you. I have with me Michael Lovendusky, who testified before in opposition of House Bill 5512, who is more of an expert on this than I am to answer any questions that you might have.

REP. O'CONNOR: Thank you. Are there any questions? Thank you very much. Peter Katz please.

PETER KATZ: Good afternoon. Peter Katz. Avon, Connecticut. Life Settlement Broker. I find it interesting that the insurance industry is suddenly interested in disclosure, when they don't disclose their own life insurance commissions to the consumer.

They also don't have surety bonds as they suggested that this bill have. And, finally, they support a 60-day rescission period when

you're only given a 10-day rescission period when you buy the insurance policy.

So suddenly they seem to be very, very concerned with disclosure and consumer interest. In talking about the over broad five year rule.

Basically, what the problem is with this rule is it catches the innocent consumer in their net. The vast majority or certainly a significant portion of lapses in life insurance policies occur in the early years.

So if you prevent people who are between three and five years of owning their policy from doing a life settlement instead of lapsing a policy.

You're severely hurting that consumer. An example of the unexpected reach of the five year ban. We are the life settlement brokers for a major life insurance company.

They only allow their agents to do life settlements through us, because they want to closely monitor their conduct. They have decided, as one of their guidelines, that the agent can't do a life settlement regardless of how legitimate that life settlement is, if it's within five years of an issue of a policy.

They simply don't want to get into the level of detail or level of inspection of determining whether or not this policy was financed. Whether or not it meets one of the exceptions under Senate Bill 316.

The way these exceptions and the rule is designed is just too great a threat to the life settlement industry. And too much of a punishment to innocent consumers.

Rather than catching the bad players at inception who do these STOLI transactions, it's punishing consumer three, four, five years down the road who may be completely innocent of the transaction.

It will create an under belly of policies between three and five years old that don't have as much value on the marketplace as untainted policies, which would be greater than five years old.

And in such would deprive consumers of getting full value for their policies. Do you have any questions? I'd be glad to answer them.

REP. O'CONNOR: Thank you. Actually, if I understand you correctly, you stated that the majority if not only the business goes through a licensed life insurance carrier.

PETER KATZ: Yes, I didn't say the majority of our business. But what I said is, we are the exclusive life settlement broker for to actually to major life insurance companies.

They allow their producers, their life insurance agents who actually they're the ones that bring most of the life settlement business in throughout the industry.

They allow their life settlement producers to do life settlements. They will allow them to do through us because we've passed their diligence process. We do the life settlements the way these carriers want.

REP. O'CONNOR: Well, I guess, the question I was going to ask is, is it seems like there is viability after five years if they have that prohibition on that says you couldn't sell them unless you had a relationship for five years or held onto that policy for five years.

PETER KATZ: Well, the ban says that you can't sell the policy in less than five years except, you know, if you meet certain things. It's not been premium financed or there has been a change in this and all of that.

And, frankly, the companies in doing their do diligence as to whether or not the agent is doing the right thing in doing a life settlement, did not want to get into what happened in under five years.

So to simplify their lives they just said hey no life settlements on policies that are less than five years old. It's the result of this over broad legislation.

I mean, they, you know, obviously it's not been enacted yet but they want to follow what the proposed legislation is looking at the NAIC model.

REP. O'CONNOR: Thank you. Any questions? Thank you very much. Malcolm Sklar.

MALCOLM SKLAR: I'm Malcolm Sklar, president of GBS Insurance with offices in Fairfield and East Hartford. I submitted written testimony. I want to talk about a few issues that were raised.

And I want to clear up one misconception that I heard two speakers ago. The gentleman mentioned transfer for value life settlement when it's taxable.

That taxable event is to the buyer. Not to the insurer. The insurer sold the policy. They have no interest in the death benefit. It's the buyer who has to pay income tax on the death benefit.

So it's irrelevant to the transaction as far as the consumer is concerned. That's the buyer's obligation. Also, premium finance, when you look at it, it's an alternate way of paying premiums.

And one of the speakers talked about LIBOR going up. So how do you legislate someone from taking a home equity loan at one over prime. And in two years interest rates went from 7% to 11%.

How does that differ from, legitimate, premium finance? Not stranger originated. I'm talking about company approved programs where you have the ability to sell the policy after two years, but your premium finance can be for a period of five or ten years, and it can be renewed.

It's a way of utilizing other peoples' money on a favorable interest rate arbitral. That's all. One of the things that I really object to in Senate Bill 316 is it doesn't have any language about changing economic times.

It lists all of these exceptions. We just did a transaction for a client whose net worth went from \$10 million to \$3 million because of bad choices in the stock market.

Google is down 40% in the last year. Apple down 40%. You have to have the flexibility to adapt the changing economic times. In this particular transaction he had \$3 million of coverage that he couldn't afford, nor did he need anymore.

And we were able to do a life settlement after 27-months. And he received enough money to fully pay the remaining \$1 million he sold to. He now has \$1 million paid forever, and he's got financial security.

So there are many, many instances where a settlement is a valid transaction after two years. And Senate Bill 316 would inhibit that ability. Any questions?

REP. O'CONNOR: Thank you very much. Susan Giacalone.

SUSAN GIACALONE: Good afternoon Chairman O'Connor, Representative Witkos, Senator Caligiuri, and Representative Altobello. For the record, I'm Susan Giacalone, and I'm here on behalf of the

Insurance Association of Connecticut in support of Senate Bill 316.

I'd like to thank you for raising the bill for us. Just one point of issue is that the bill as drafted varies from the bill that we had offered that was a pure hybrid of the NAIC model with some NCOIL provisions.

And in the drafting it has altered some of those provisions. And that we would actually like to see the bill go forward in the pure format.

A repealed of the current statutes and adoption of the model with the NCOIL provisions. The NCOIL provisions that were added on to NAIC to provide the boot spenders to the NAIC bill and provide the protection, strong consumer protections, that were adopted by two different legislation national coalitions to come up with strong protections.

There's some testimony earlier about not seeing activity, criminal activity, right now on this. STOLIs are new types of transactions. We don't want to be behind.

We want to be ahead. We want to have the regulatory scheme in place so they can't happen. So we're not waiting and we're not having these seniors being taken advantage of. That there is a regulatory scheme in place to prevent those things from happening.

This is being looked at in 28 states.  
[inaudible] came out this summer. Twenty-eight

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states are looking to be active in this. And we hope that you are also going to do the same.

I think you've had most of the questioned answered at this point. You have our comments and I will give you a breakdown as addressed before. So if there are any other questions you may have at this time.

REP. O'CONNOR: Thank you, Susan. I guess, you don't have to answer it now. But if you can go back to your association. If we were to look at the pure NCOIL model as a proposal, what you consideration of that would be as far as the definition?

SUSAN GIACALONE: I can tell you right now. The pure NCOIL model, the definition actually that's contained in Senate Bill 316. We fully support.

The definition contained in House Bill 5512 is a weakened version of it and we don't support that. But NCOIL model we completely support.

REP. O'CONNOR: In the bill itself. The NCOIL model as a whole?

SUSAN GIACALONE: We support both bills. But we like what we [inaudible] because it's a hybrid and it provides the strength and protection. And we think the five year prohibition that's in the NAIC is a booting that needs to be in place.

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REP. O'CONNOR: Thank you. Susan you can stay there. We are moving onto Senate Bill 281 on captive insurance.

SUSAN GIACALONE: Again, for the record, I'm Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut.

In regards to Senate Bill 281, we only really have one concern with the bill as drafted. And that is involving on Section 11. It's something that we've addressed in the previous years that this bill has been contemplated by this Committee.

And that it provides a credit for reinsurance for a captive insurance company that came into that state that's not available to any other insurer.

And it's something if they do come in. We'd like them to be treated the same as regular market. And just as a side, any funding by the department to get up to speed and regulate these, we would just ask that it's not being funded by our industry. That it's being funded by the captives or some other mechanism.

REP. O'CONNOR: Thank you, Susan. Any questions?  
Thank you.

SUSAN GIACALONE: Thank you.

REP. O'CONNOR: Senate Bill 277. Michael Pero.

MICHAEL PERO: Chairman O'Connor, Members of the Committee, good afternoon. My name is Michael

JOINT  
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PART 4  
1022-1372

2008



**TESTIMONY IN OPPOSITION TO**  
**House Bill 5512 – An Act Adopting the Viatical Settlements Model Act.**  
**before**  
**the Insurance and Real Estate Committee**  
**February 28, 2008**

Good morning Chairman Crisco, Chairman O'Connor and distinguished members of the Insurance and Real Estate Committee. My name is William Fisher and I am Corporate Vice President and Associate General Counsel of Massachusetts Mutual Life Insurance Company. I am testifying today in opposition to House Bill 5512 – An Act Concerning Viatical Settlements.

Unfortunately, the past few years have brought a wave of transactions involving investors using life insurance to profit from the deaths of people they do not know. These types of transactions, known as stranger originated life insurance ("STOLI"), involve unrelated investors (or strangers) initiating the purchase of life insurance on an older individual, typically over 75 years old, without having an insurable interest in the life of that person. The life insurance purchases are financed by investors with the expectation that the insurance policies will be sold into the secondary, investor market within a short period of time. The investors are obviously counting on the insured dying as quickly as possible. The longer the insured lives, the longer investors have to pay premiums on the policy. And, the longer the investors have to pay premiums, the less money they make. One can quickly see how this practice is adverse to good public policy. You must act to stop this wagering on human life.

As I have testified before, there are many dangers to consumers which are inherent in STOLI arrangements. For example, the sale of a life insurance policy is a taxable transaction, a fact of which the insured may not understand or be aware. In addition, there are limits on the amount of life insurance a person can take out on themselves. Consumers may not know that by participating in these types of arrangements they may exhaust their life insurance purchasing capability. STOLI transactions may also impact the marketplace by increasing the price of life insurance for seniors. Moreover, there could be negative impacts on the tax treatment of life insurance if these types of transactions are allowed to continue. Because the government wants to encourage the public policy of people providing for loved ones upon their death, life insurance proceeds are currently not taxable. It would be unfair if the life settlement industry's practices were the cause of widows and orphans being taxed on the proceeds from death benefits left to them by a loved one. This is why the legislature must act to stop these transactions.

MassMutual Financial Group strongly opposes the manufacturing of policies for the settlement market. It is our position that these deals violate the spirit, if not the letter, of time-honored insurable interest laws that require a person purchasing insurance on the

life of another to have an interest in that the insured's continuing life. Close family members, business partners, employers in some situations, and charities are typically recognized as having insurable interests.

The public policy underlying insurable interest laws is to prohibit wagering on human life. But, STOLI transactions constitute exactly that – wagering on human life. They are cleverly designed to try to circumvent the insurable interest laws by doing indirectly that which cannot be done directly. Insurable interest, and life insurance itself, should not be treated as a commodity unrelated to the public policy purposes for which it is intended. STOLI transactions undermine the purpose and intent of the life insurance mechanism.

Public officials nationwide are now actively working to address the STOLI problem. In June of 2007 the National Association of Insurance Commissioners (“NAIC”) adopted its updated Viatical Settlement Model Act. More recently, last December the National Conference of Insurance Legislators (“NCOIL”) adopted its new Life Settlement Model Act. Both Models are designed not only to more strongly regulate viatical settlements, but also to prohibit STOLI transactions. I would like to take a moment here to recognize Chairman Crisco's efforts at NCOIL in developing the Life Settlement Model. Thank you, Senator Crisco, for your interest in this issue and your work at NCOIL to develop this important consumer protection legislation.

Proponents will undoubtedly tout House Bill 5512 as providing strong protections against STOLI. In fact, it does exactly the opposite. While some of its provisions are derived from the NCOIL Life Settlement Model Act, in many instances those provisions are modified in a manner that permits STOLI. Further, some of the strong anti-STOLI provisions found in the NCOIL Model Act are noticeably absent from House Bill 5512, and the bill includes some extraneous, but burdensome, provisions that are not found in either the NCOIL or NAIC Model Acts. While we have many objections to the bill, our key concerns are as follows:

STOLI Definition (Section 1, subsection (15), lines 128-142). This definition diverges substantively from, and is far weaker than, the strong and carefully drafted NCOIL Model Act STOLI definition. The Model Act definition simply requires a practice or plan to initiate a life insurance policy for the benefit of an unrelated third party investor and encompasses arrangements, whether verbal or written. In contrast, House Bill 5512 requires a written agreement for the procurement of the policy. In practice it is easy to avoid the reach of this definition simply by not having a written agreement at inception of the policy, and we believe that many STOLI transactions start out exactly that way.

Viator Definition (Section 1, subsection (23), line 284). Unlike the Model Act, accredited investors are exempted from the definition of viator. An accredited investor is basically a person with a net worth or at least \$1 million. This means that many residents are denied the statutory consumer protections for viatical settlement transactions, and it continues a loophole that permits many STOLI transactions today.

Reporting requirements (Section 5(a), lines 447-452). This section does not include the detailed annual report of viatical settlement transactions found in the NCOIL Model Act. That report is an important regulatory tool to identify patterns of STOLI transactions.

Insurer Notice and Impairment of Contract Rights (Section 6, subsection (e), lines 726-746 and Section 8, subsection (g)(6), lines 971-986). These provisions would require insurers to notify policyholders about viatical settlement alternatives and would limit insurers' ability freely to contract with life insurance producers. Both provisions have been considered and rejected in other forums and are not contained in either the NCOIL or NAIC Model. They are objectionable because they create unnecessary burdens, are irrelevant to the regulation of viatical settlements, effectively require life insurers to be marketers for viatical settlement companies, and could result in imposition of legal liability on insurers for viatical settlement transactions in which they have no part.

For the foregoing reasons I urge you not to enact House Bill 5512 and to support legislation, such as Senate Bill 316, that will provide meaningful regulation of viatical settlements and prohibition of STOLI transactions.

Thank you for your consideration and I would gladly take any questions at this time.

If you have any further questions, please contact my associate Kate Kiernan-Pagani at [kkiernanpagani@massmutual.com](mailto:kkiernanpagani@massmutual.com) or at phone number 413-744-4026.



### MetLife Statement Opposing CT HB 5512

In furtherance of preserving the value of life insurance as a family safety net, as well as a financial planning tool, MetLife supports the NCOIL Life Settlements Model Act. The regulation of life settlement contracts is important to the future of the life insurance industry and those consumers who purchase life insurance products, thus we urge careful and deliberate study of any amendments to this important model act.

In addition, MetLife specifically opposes the following proposed amendments to NCOIL's Life Settlements Model Act, put forth by the settlement company industry in HB 5512, which would promote results that are often not in the best interest of consumers and will result in unreasonable administrative burdens, liability, and costs to insurers.

- The revised definition of STOLI or stranger-originated life insurance in Section 1, subsection (15),
- The inclusion of a mandatory notice of a life settlement alternative requirement contained in lines 726 through lines 744 (subsection (8)(d)(2)(B)(iii)(e)(1-5),
- The addition of the above lines would require insurers to add disclosures to policies that should be the responsibility of settlement companies,
- The addition of lines 971 through 986 (subsection (g)(6) would prohibit insurers from contracting with their employees/producers and limit the right of contract, and otherwise engage in business.

In support of the above positions, MetLife asks that you please consider the following:

#### Consumer Concerns

**Less money to policyholders.** Only policies where a high rate of return is expected are likely to be purchased by life settlement companies. Alternatives to life settlements are available that will frequently provide a better return for the policyholder or the beneficiary. Other options that would enable a policy to be maintained include having the beneficiary pay the premium, restructuring the policy to minimize premium payments, accessing policy loans or exercising other contractual options that may be available. A life settlement alternative is not a viable option for many policyholders and perhaps not the most rewarding alternative for a number of others.

**Greater consumer confusion.** General or brief statements, such as "You may be able to transfer your policy to a life settlement company as an alternative to this transaction," will likely raise policyowner questions, and not provide truly useful information. **Insurers should not be the marketers for settlement companies.** Mandating a written notice of a life settlement alternative often would be impractical to implement and would not serve the interests of policyholders as notices would be triggered too often and in situations where a consumer has no desire to pursue a life settlement.

#### New Burdens Imposed

**Added complexity.** Complying with the proposed amendments of the life settlements industry will significantly add to administrative complexity and costs. The amendments leave many important questions unanswered.

**New legal liability.** To the extent that such a mandatory notice of a life settlement alternative and disclosures would direct policyholders to life settlement companies or brokers, there are potential legal liabilities that insurers could incur. These notices and disclosures should rest with the life settlement companies who need to market their own products.

**Restricting right to contract.** Insurers have the right to contract with their employees/producers and amendments that restrict this right should be opposed.

In summary, the life settlement amendments are unnecessary and unfairly interfere with the business of life insurance and the relationships between consumers and life insurers. We do not believe insurance companies should be forced to promote life settlements at any level. For 140 years, our business has focused on encouraging people to carefully plan for their families' future financial protection. MetLife opposes any amendments that would require us to act in a contrary manner.



*Testimony Submitted to the Insurance Committee*

*In Support of:*

**Raised H.B. 5512 AN ACT CONCERNING VIATICAL SETTLEMENTS.**

Submitted By: Doug Head, Executive Director, Life Insurance Settlement Association

Public Hearing Date: February 28, 2008

Senator Crisco, Representative O'Connor and members of the Insurance & Real Estate Committee, I appreciate the opportunity to provide testimony regarding this important legislative initiative.

My name is Doug Head and I am the Staff Director of the Life Insurance Settlement Association, America's oldest and largest and most diverse organization of participants in the Life Settlement industry. We have 170 Members across the nation doing business in every state. We have been able to function under the current extensive regulation of our industry in Connecticut and we look forward to many more years of activity in this state and the ability we have proven to bring millions of dollars of benefit to the insurance consumers of Connecticut. We buy policies on which people do not want to continue to pay premiums and we offer them good value for those policies, well in excess of the surrender or lapse options otherwise available. Our members are anxious to continue to bring the settlement option to consumers in this state.

I am writing in **support** of Raised H.B. 5512 An Act Concerning Viatical Settlements. This bill will confirm that Connecticut will not allow the so-called "STOLI" transactions: which are **ST**ranger **O**riginated **L**ife **I**nsurance transactions. These STOLI transactions are pre-arranged agreements where a stranger will arrange with a citizen to purchase a life insurance policy and the person then agrees to transfer the policy back to the stranger so that the stranger can ultimately benefit from the proceeds of the insurance policy when the citizen passes away.

The Connecticut Life Settlement market is very well-regulated, and the citizens who have taken advantage of life settlement contracts appear to be satisfied with their transactions: very few, if any complaints have been filed with the Connecticut Insurance Department during the past three years, and it is unclear whether or not the complaints even stem from a STOLI transaction. However, it has been reported that STOLI transactions have been occurring in some other states, so it makes sense to clarify our law to prohibit such practices:

- HB 5512 prohibits STOLI transactions: Section 1 specifically provides that it shall be considered a **fraudulent viatical settlement act to enter into any practice or plan that involves stranger-originated life insurance** (section, lines 48, 69-70).
- HB 5512 also provides further protections against STOLI transactions by providing that **No advertising by any person shall solicit, market or otherwise promote the purchase of an insurance policy for the sole purpose of or with the primary emphasis on entering into a viatical settlement contract** (section 10, lines 1198-1201).
- Finally, as long as STOLI transactions are prohibited—as they would be if the Legislature enacts HB 5512—the Life Settlement Market provides great opportunities, primarily for older adult consumers, to obtain competitive cash offers for their unnecessary or unwanted life insurance policies or for policies where the consumer can no longer afford the insurance premiums.

The key to this legislation is consumer awareness and education, along with good protections and information exchange with insurers. By allowing all parties to recognize and avoid improper practices, while allowing consumers to avail themselves of good financial planning options in the realm of insurance, all can be winners. Insurers can sell more insurance, and consumers can benefit on their own definition of their own needs in a timely manner. This is just good sense public policy.

Without loading up the current functional regulation of the Settlement Market, in which there are no complaints from consumers, we can move toward a better market with this bill which deals directly with the described issues of STOLI.

The Life Settlement Market is a very competitive market, where several reputable financial institutions are bidding to purchase the consumer's policy; and the consumer can make the decision whether to accept any one of the institution's bids. A vibrant, competitive market is always good for the consumer.

Thank you for your consideration of House Bill 5512, which offers good solid protections without damaging an important market for Connecticut consumers.

*In closing, once again, I urge you to*

***Support Passage of H.B. 5512 An Act Concerning Viatical Settlements.***

*I thank you for your time and consideration of these critically important issues. Please do not hesitate to contact me with any questions, or for additional information:*

*Doug Head  
Executive Director  
Life Insurance Settlement Association  
1011 East Colonial Drive  
Orlando, FL 32803  
407-894-3797*

***Statement***

***Insurance Association of Connecticut***

Insurance and Real Estate Committee

February 28, 2008

HB 5512, An Act Concerning Viatical Settlements

The Insurance Association of Connecticut supports the adoption of a Model Viatical and Life Settlement bill that will protect consumers and ensure effective regulation of the viatical and life settlement market. HB 5512, An Act Concerning Viatical Settlements, fails to do that.

In recent years a new trend has developed that involves inducing old citizens with somewhat reasonable means to permit another entity to purchase life insurance on that individual. These schemes are known as Stranger Owned (or Originated) Life Insurance (STOLI). Such STOLI transactions violate Connecticut's insurable interest laws, yet they remain unregulated. Everyone agrees such transactions are bad for the consumer, yet HB 5512 fails to ensure that such transactions are fully prohibited.

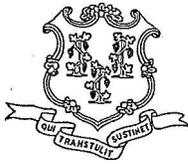
The National Conference of Legislators (NCOIL) spent 2 years drafting and adopting a Model Act that provides stringent consumer protections with great regulatory oversight. The impacted parties endorsed the NCOIL Model in its entirety however, HB 5512 appears to simply grafts significantly

altered provisions of the NCOIL model into current law. As such, HB 5512 severely weakens the consumer protections afforded by the NCOIL Model

For example, the STOLI definition adopted by NCOIL specifically define a STOLI transaction as a practice or plan to initiate a life insurance policy for the benefit of a third party investor. However, subdivision (15) of section 1 of HB 5512 provides an amended version of the NCOIL definition which fails to provide the protections included in the well thought out definition contained in the NCOIL Model. The definition contained in HB 5512 changes the definition to apply only to written agreements for the procurement of a new life policy. This definition limits STOLI transactions to those that already violate insurable interest laws. The NCOIL definition was carefully crafted to address the many forms of STOLI. The altered definition contained in HB 5512 significantly dilutes the consumer protection of the law.

Additionally, HB 5512 further tweaks the NCOIL Model by requiring insurers to provide its customers notice regarding alternatives to life settlements. This provision seeks to make the life insurance industry the promoter of life settlements. This provision was soundly rejected by NCOIL and not included in the Model. This provision has nothing to do with the regulation of STOLI. There is no consumer protection value in such a clause. A notice provided by an insurer is meaningless. It would be like requiring a Ford dealer to talk about the benefits of a Toyota over the Ford.

The IAC fully supports the adoption of the NCOIL Model as adopted by NCOIL and strongly urges your rejection of HB 5512 as drafted.



STATE OF CONNECTICUT  
INSURANCE DEPARTMENT

Testimony of the Connecticut Insurance Department  
Before  
The Insurance and Real Estate Committee  
February 28<sup>th</sup>, 2008

House Bill 5512 -- An Act Concerning Viatical Settlements  
Senate Bill 316 -- An Act Adopting the Viatical Settlements Model Act

The Connecticut Insurance Department would like to offer the following comments on House Bill 5512—An Act Concerning Viatical Settlements and Senate Bill 316—An Act Adopting the Viatical Settlements Model Act.

It is the Department's understanding that Senate Bill 316 attempts to combine the provisions of both the National Association of Insurance Commissioners (NAIC) Viatical Settlements Model Act and the National Conference of Insurance Legislators (NCOIL) Life Settlements Model Act. Both models have been widely discussed and address several issues in the life settlement marketplace.

The NAIC Model strengthens several consumer protections, and addresses issues regarding the emerging products commonly referred to as Stranger-Originated Life Insurance (STOLI) including a five-year ban on settling a life insurance policy that include STOLI elements. During deliberations on the NAIC Model, I spoke in support of these protections for consumers, particularly those who are vulnerable, and voted in favor of its passage.

The NCOIL Model also strengthens consumer protections and it, too, addresses issues regarding the emerging STOLI market including important disclosure and penalty provisions.

The Department would like, nonetheless, to bring to your attention that Raised Bill 316 requires that the Department implement a complex mechanism of licensee examinations similar to the process that is currently undertaken when examining an insurance company. These requirements include confidentiality provisions, privilege with regard to certain documents and a system that resembles the market conduct surveillance mechanism advocated by insurers' organization. Implementation of these provisions would require a substantial amount of resources from the Department and would impact a number of divisions, including Examination, Market Conduct and Legal.

Raised Bill 316 also eliminates provisions requiring insurers to comply with requests for documents and other information necessary to expedite viatical transactions. It also eliminates provisions preventing insurers from implementing measures that make more difficult the assignment of policies. To the extent that viatical settlements are desirable for consumers in certain situations, the elimination of these provisions would jeopardize,

or at least make it more difficult to exercise, the consumers' right to enter into such arrangements.

With respect to House Bill 5512, the proposal deletes virtually all the required disclosures that viatical settlement providers and brokers are currently required to give to purchasers before effecting a viatical settlement transaction. This undermines the right of the purchaser to be fully informed prior to entering into such agreements.

Finally, since the Committee is considering changing current statutes in this area, the Department would like the Committee to consider an amendment. Specifically, the Department is seeking to promulgate regulations for viatical settlements for other than terminally ill persons, to be consistent with current statutes governing viatical settlements. Currently, there is a lack of consensus about whether our authority to promulgate regulations extends only to viatical settlements that are sold to terminally ill patients. The Department is simply seeking that its authority to promulgate regulations be made explicit and consistent with that granted under CGS 38a-465. Without this revision, there has been some confusion regarding the Commissioner's authority to regulate certain aspects of life settlements and we are seeking to clarify this area.

The Department is available to provide assistance to the Committee as it deliberates these important changes.

**Vatical and Life Settlements**  
**An informational presentation**  
**by the**  
**Connecticut Insurance Department**

October 31, 2007

Thomas R. Sullivan, Commissioner  
Mary Ellen Breault, Director, Life & Health Division  
Beth Cook, Esq., Counsel  
Tony Caporale, Esq., Counsel  
Debra Korta, Legislative Program Manager

## DEFINITIONS

### Insurance

A method of spreading losses that cannot be easily borne by an individual over a large number of people. In return for a premium, an insurance company assumes the risk and distributes losses among a large group of individuals with similar risks.

### Insurable interest

A basic requirement for all types of insurance. For life insurance, insurable interest means there would be a financial loss by the owner of the life insurance policy in the event of the death of the insured person. The concept of insurable interest was established to prevent gambling on the lives of others and the moral hazard of arranging for someone to die to collect the life insurance.

# DEFINITIONS

## Life insurance

A contract to pay a sum of money upon the occurrence of the insured's death. The purpose of life insurance is to provide protection against financial losses resulting from the insured's death.

## Viatical settlement

Arrangements that offer people the chance to sell their policies to viatical settlement providers who keep paying the premiums until the seller dies and then collect the payout/death benefit. Traditionally, viatical settlements were offered to those terminally or chronically ill

## Life settlement

The same as a viatical settlement, but there is no requirement that the insured be terminally or chronically ill. Typically life settlements are offered to seniors with an expectation of life of seven years or less.

## DEFINITIONS

### Stranger-owned life insurance (STOLI)

A transaction in which a life insurance policy is owned by an investor unrelated to the insured, where the insured pays little or nothing for the life insurance, and where a third party, who has no insurable interest related to the insured, pays for the insurance and collects the death benefit upon the insured's death. In a STOLI transaction, the purpose of the insurance is not for protection against premature death or as a wealth accumulation vehicle, but rather for a profit on the future trading of a life insurance contract.

### Premium finance company

A company that loans someone money to pay for premiums on an insurance policy.

## **Current Connecticut Regulatory Authority Relevant Governing Statutes**

- Connecticut General Statutes §38a-465 *et seq.*
- Viatical settlement is defined to include life settlements
- Viatical settlement providers (companies that purchase life policies) must be licensed by the Insurance Department
- Viatical settlement brokers and investment agents must be licensed by the Insurance Department

# **Current Connecticut Regulatory Authority Relevant Governing Statutes**

- **The Commissioner has the authority to examine the records of the viatical settlement providers**
- **All contracts and forms must be filed for prior approval**
- **Disclosure statements of the policyholder/viator's rights are required at the points of application and sale**

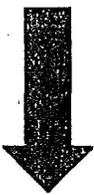
# **Current Connecticut Regulatory Authority Relevant Governing Statutes**

- Once a viatical settlement contract is in place, there is limited contact with the insured to check on the current health status. No more than once every three months, but no more than once per month if life expectancy is less than 1 year
- Investors are prohibited from influencing the insured's medical treatment
- Viatical settlement investment agents are prohibited from having any direct contact with or knowledge of identity of the insured
- A viatical settlement contract cannot be entered into within 2 years from the date of issuance of the life insurance policy unless the insured is terminally or chronically ill

# EVOLUTION OF LIFE INSURANCE AND VIATICAL/LIFE SETTLEMENT

Life Insurance

- provide for financial security in the event of death; no original intent to sell



Life Insurance w//Accelerated Death Benefit Rider

- provide for financial security in the event of death; no original intent to sell
- included a prepayment option of % of death benefit if diagnosed with terminal illness



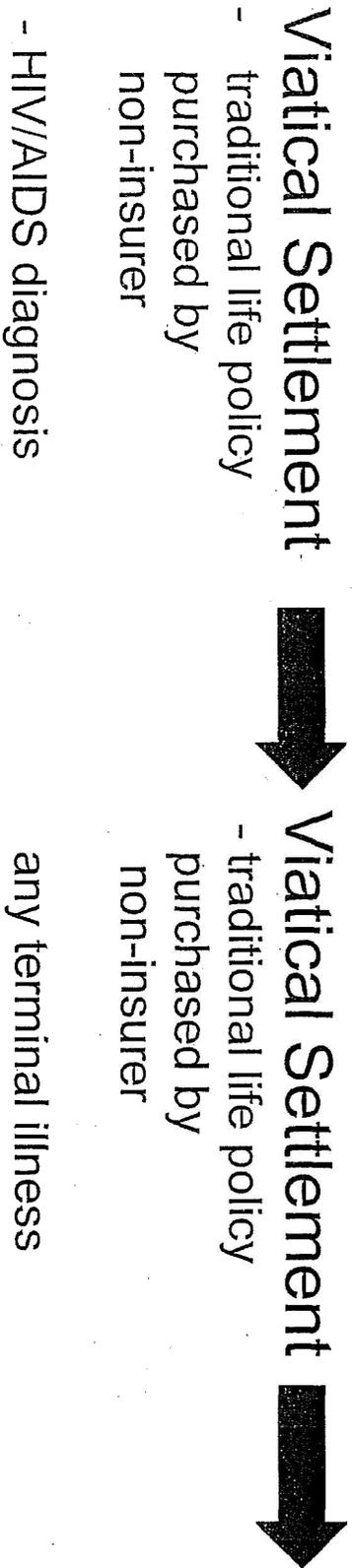
**HIV/AIDS EPIDEMIC**

creates need for early  
Withdrawal of cash from  
policy

**Non – insurers**

begin to purchase  
policies t give  
terminal patients  
access to cash

# EVOLUTION OF LIFE INSURANCE AND VIATICAL/LIFE SETTLEMENT



# EVOLUTION OF LIFE INSURANCE AND VIATICAL/LIFE SETTLEMENT



Life Settlement

- life insurance policy purchased by viatical/ life settlement company



Life Settlement

- life insurance policy bought with specific intent to sell



life insurance policy

- no longer needed;
- hold; lapse, take cash value;
- repositioned as financial/estate planning element and sold

# EVOLUTION OF LIFE INSURANCE AND VIATICAL/LIFE SETTLEMENT

Stranger Owned

Life Insurance (STOLI)

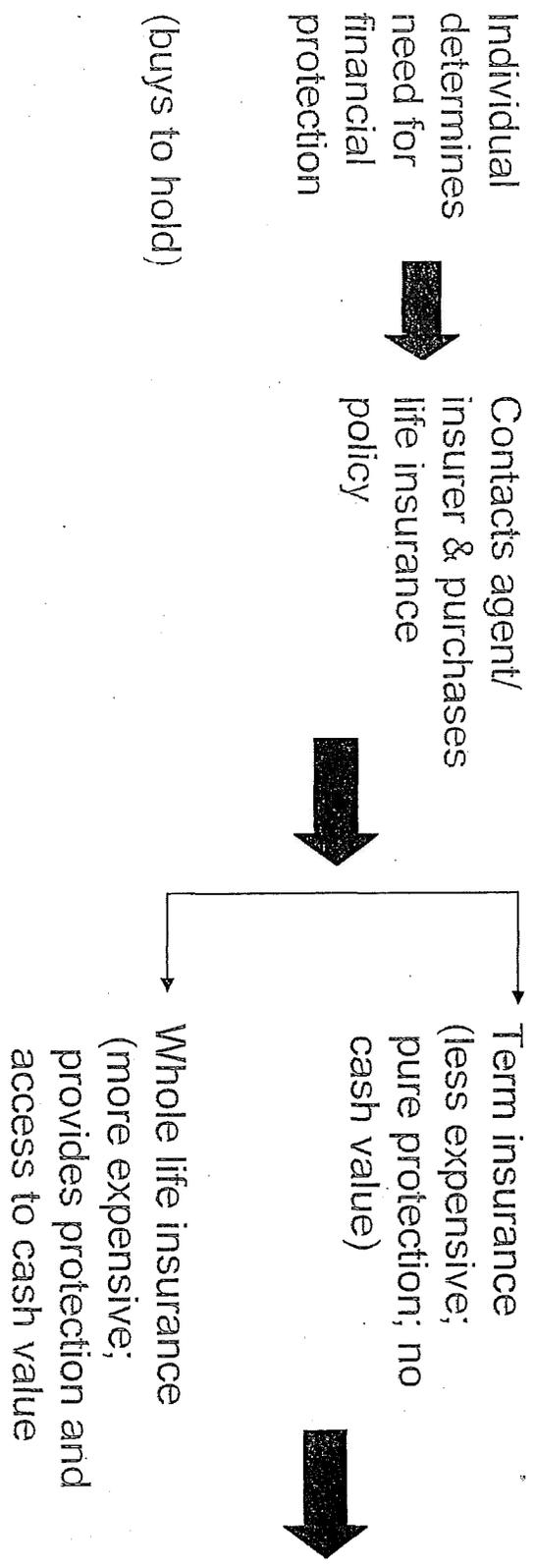
- life insurance policy solicited for purchase by investor with intent to resell to other investors (currently 2 year hold on resale of policy)



What's Next?

- investor does not have an insurable interest on the insured's life

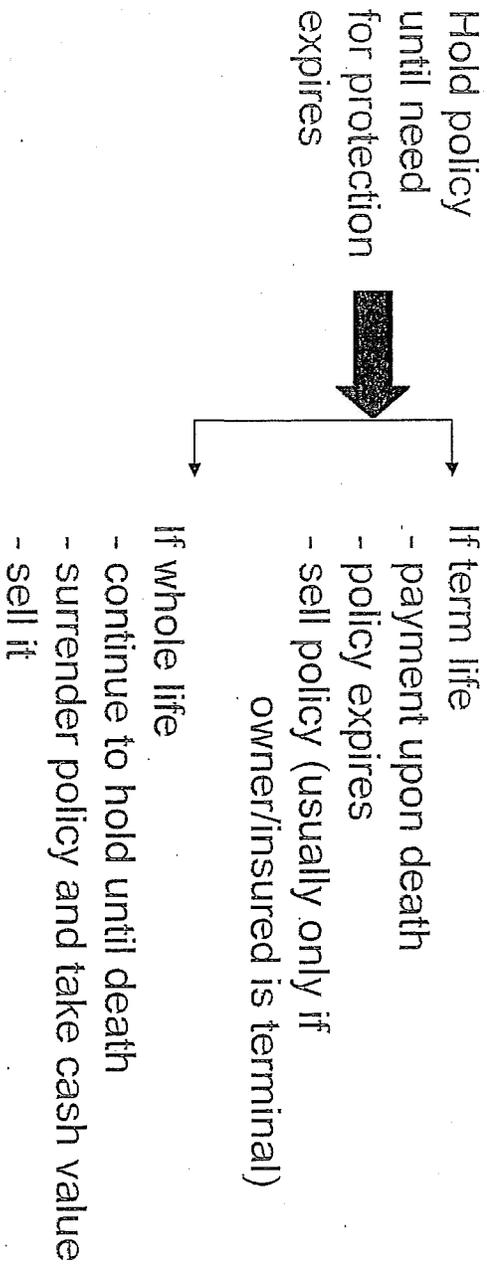
# VIATICAL/LIFE SETTLEMENT TRANSACTION



Green = Regulated by CID  
Blue = Not regulated by CID

CT Insurance Department

# VIATICAL/LIFE SETTLEMENT TRANSACTION



# VIATICAL/LIFE SETTLEMENT TRANSACTION

Policyholder contacts

Life Settlement Provider

Other Investors

Life Settlement



Broker (can be original agent);

- buys, bundles and resells to other investors

- individuals
- institutions

Life Settlement

Broker locates

- banks
- funds

buyer for policy

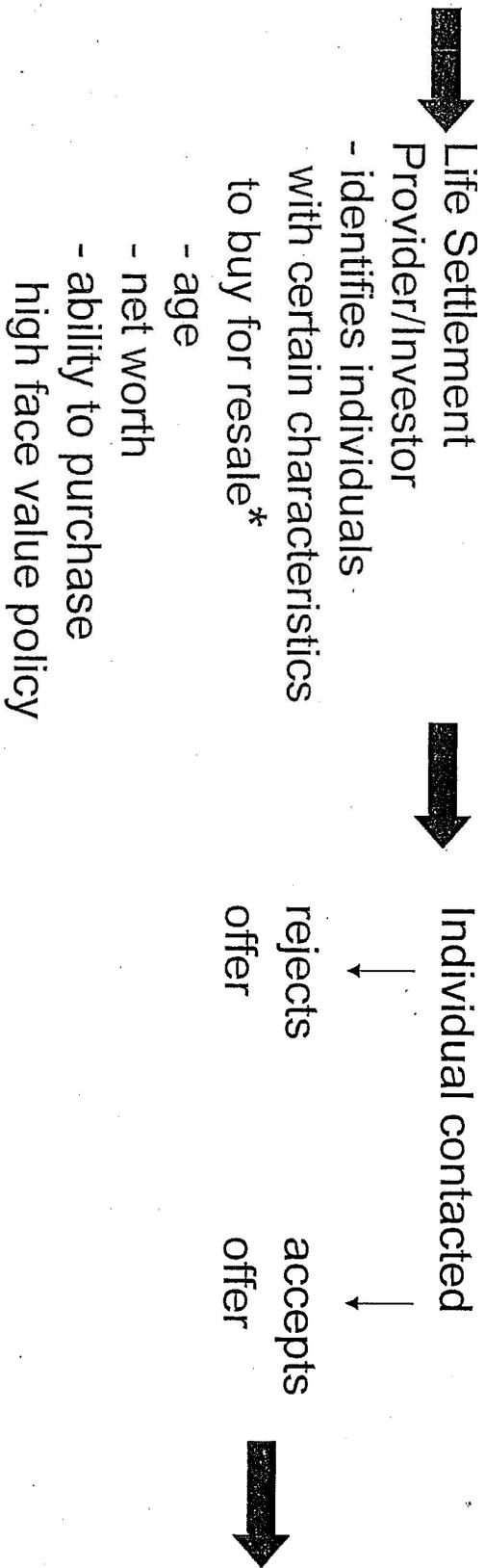
- obtains multiple bids

**Policyholder uses cash to:**

- buy new insurance policy/annuity
- invest in other options
- pay bills or other debts
- make a major purchase

*CT Insurance Department*

# VATICAL/LIFE SETTLEMENT TRANSACTION



**\*Stranger Owned Life Insurance (STOLI)**

# VATICAL/LIFE SETTLEMENT TRANSACTION

## Individual

- completes life insurance application to purchase insurance policy



Policy issued for resale within specified time\*



- completes loan application to finance premium payments (Premium Finance Company)



Premium Finance Company starts paying premiums to issuing insurer or trusts

\*Resale Timeframe Recommendations:  
NAIC – hold policy for 5 years before resale  
NCOIL – hold policy for 2 years before resale (Current CT law)

# VATICAL/LIFE SETTLEMENT TRANSACTION

