
A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431E-2, Hawaii Revised Statutes, is
2 amended by amending the definitions of "advertisement," "life
3 expectancy," "life settlement contact," and "Stranger-originated
4 life insurance" to read as follows:

5 "Advertisement" means any written, electronic, or printed
6 communication or any communication by means of recorded
7 telephone messages or transmitted on radio, television, the
8 Internet, or similar communications media, including film
9 strips, motion pictures, and videos, which are published,
10 disseminated, circulated, or placed [~~before the public,~~]
11 directly [~~or indirectly,~~] before the public in this state, for
12 the purpose of creating an interest in or inducing a person to
13 purchase or sell, assign, devise, bequest, or transfer the death
14 benefit or ownership of a policy or an interest in a policy
15 pursuant to a life settlement contract.

16 "Life expectancy" means the arithmetic mean of the number
17 of months the insured under the policy to be settled can be



1 expected to live [~~as determined by a life expectancy company~~]
2 considering medical records and appropriate experiential data.

3 "Life settlement contract" [~~means~~]:

4 (1) Means:

5 [~~(a)(1)~~] (A) A written agreement entered into between a
6 provider and an owner, establishing the terms
7 under which compensation or anything of value
8 will be paid, which compensation or thing of
9 value is less than the expected death benefit of
10 the owner's policy or certificate, in return for
11 the owner's assignment, transfer, sale, devise,
12 or bequest of the death benefit or any portion of
13 the policy or certificate for compensation, where
14 the minimum value of the contract is greater than
15 a cash surrender value or accelerated death
16 benefit available under the policy or certificate
17 at the time of an application for a life
18 settlement contract;

19 [~~(2)~~] (B) The transfer for compensation or value of
20 ownership or beneficial interest in a trust or
21 other entity that owns such policy or certificate
22 if the trust or other entity was formed or



1 availed of for the principal purpose of acquiring
 2 one or more life insurance contracts, which life
 3 insurance contract [~~insures the life of a~~] is
 4 owned by a person residing in this [~~State,~~]
 5 state; or

6 ~~[(3) (A) A written agreement for a loan or other lending~~
 7 ~~transaction, secured primarily by an individual~~
 8 ~~or group policy; or~~

9 ~~(B)]~~ (C) A premium finance loan made for a policy on
 10 or before the date of issuance of the policy
 11 where:

12 (i) The loan proceeds are not used solely to pay
 13 premiums for the policy and any costs or
 14 expenses incurred by the lender or the
 15 borrower in connection with the financing;

16 (ii) The owner receives on the date of the
 17 premium finance loan a guarantee of the
 18 future life settlement value of the policy;
 19 or

20 (iii) The owner agrees on the date of the premium
 21 finance loan to sell the policy or any



1 portion of its death benefit on any date
2 following the issuance of the policy.

3 ~~["Life settlement contract" does]~~ (2) Does not include:

4 ~~[(b)(1)]~~ (A) A policy loan by a life insurance company
5 pursuant to the terms of the policy or
6 accelerated death provisions contained in the
7 policy, whether issued with the original policy
8 or as a rider;

9 ~~[(2)]~~ (B) A premium finance loan, as defined herein,
10 or any loan made by a bank or other licensed
11 financial institution, so long as neither default
12 on such loan nor the transfer of the policy in
13 connection with such default is pursuant to an
14 agreement or understanding with any other person
15 for the purpose of evading regulation under this
16 chapter;

17 ~~[(3)]~~ (C) A collateral assignment of a policy by an owner;

18 ~~[(4)]~~ (D) A loan made by a lender that does not violate any
19 insurance premium finance law of this State;
20 provided that the loan does not qualify as a life
21 settlement contract;

22 ~~[(5)]~~ (E) An agreement where all the parties:



1 ~~[(C)]~~ (iii) Between one or more members in a limited
 2 liability company or between a limited
 3 liability company and one or more of its
 4 members or one or more trusts established by
 5 its members;

6 ~~[(8)]~~ (H) An agreement entered into by a service recipient,
 7 or a trust established by the service recipient,
 8 and a service provider, or a trust established by
 9 the service provider, who performs significant
 10 services for the service recipient's trade or
 11 business; or

12 ~~[(9)]~~ (I) Any other contract, transaction, or arrangement
 13 ~~[that is a life settlement contract and]~~ that the
 14 commissioner determines is not of the type
 15 intended to be regulated by this chapter.

16 "Stranger-originated life insurance" or "STOLI" ~~[means a~~
 17 ~~practice or plan to initiate a policy for the benefit of a third~~
 18 ~~party investor who, at the time of policy origination, has no~~
 19 ~~insurable interest in the insured, and includes:~~

20 ~~(1) Arrangements in which life insurance is purchased with~~
 21 ~~resources or guarantees from or through a person or~~
 22 ~~entity who at the time of policy inception, could not~~



1 ~~lawfully initiate the policy by oneself or itself, and~~
2 ~~where, at the time of inception, there is an~~
3 ~~arrangement or agreement, whether verbal or written,~~
4 ~~to directly or indirectly transfer the ownership of~~
5 ~~the policy, the policy benefits, or both, to a third~~
6 ~~party; and~~

7 ~~(2) Trusts created to give the appearance of insurable~~
8 ~~interest and used to initiate policies for investors.]~~

9 (1) Means the procurement of new life insurance by persons
10 or entities that lack insurable interest on the
11 insured and, at policy inception, the person or entity
12 owns or controls the policy or the majority of the
13 death benefit in the policy and the insured or
14 insured's beneficiaries receive little or none of the
15 proceeds of the death benefits of the policy. Trusts
16 that are created to give the appearance of insurable
17 interest and are used to initiate policies for
18 investors violate insurable interest laws and the
19 prohibition against wagering on life. ["STOLI" does]

20 (2) Does not include the lawful assignment of a life
21 insurance including a life settlement contract as
22 defined in this chapter, or those practices set forth



1 in [~~subsection (b)~~] paragraph (2) of the definition of
2 "life settlement contract".

3 SECTION 2. Section 431E-3, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsections (a) and (b) to read:

6 "(a) No person, wherever located, shall act as a provider
7 or broker with an owner who is a resident of this [~~State,~~
8 state, without first having obtained a license from the
9 commissioner~~[-]~~, except as provided for in subsection (c)).

10 (b) Application for a provider license or a broker
11 license, except as provided for in subsection (c), shall be made
12 to the commissioner by the applicant on a form prescribed by the
13 commissioner, and the application shall be accompanied by a fee
14 in the amount provided by section 431:7-101."

15 2. By amending subsection (d) to read:

16 "(d) Not later than thirty days from the first day of
17 operating as a broker, the life insurance producer shall notify
18 the commissioner that the life insurance producer is acting as a
19 broker [~~on a form prescribed by the commissioner,~~] and shall pay
20 a fee in the amount provided by section 431:7-101.

21 [~~Notification shall include an~~] The notification shall only
22 require the following information:



- 1 (1) The name and address of the life insurance producer;
2 (2) The life insurance producer's Hawaii producer license
3 number;
4 (3) If applicable, the life insurance producer's resident
5 license of the life insurance producer's home state;
6 (4) The date of the producer's initial licensing as a
7 resident life insurance producer in this state or the
8 life insurance producer's home state;
9 (5) A statement that the life insurance producer has begun
10 operating as a life settlement broker and the date of
11 first operating as a life settlement broker, or a
12 statement that the life insurance producer intends to
13 operate as a life settlement broker; and
14 (6) An acknowledgment by the life insurance producer that
15 the life insurance producer will operate as a broker
16 in accordance with this chapter."

17 SECTION 3. Section 431E-4, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The commissioner may suspend, revoke, or refuse to
20 renew the license of any licensee if the commissioner finds
21 that:



- 1 (1) There was any material misrepresentation in the
2 application for the license;
- 3 (2) The licensee or any officer, partner, member, or
4 director has been guilty of fraudulent or dishonest
5 practices, is subject to a final administrative
6 action, or is otherwise shown to be untrustworthy or
7 incompetent to act as a licensee;
- 8 (3) The provider demonstrates a pattern of unreasonably
9 withholding payments to policy owners;
- 10 (4) The licensee no longer meets the requirements for
11 initial licensure;
- 12 (5) The licensee or any officer, partner, member, or
13 director has been convicted of a felony, or of any
14 misdemeanor of which criminal fraud is an element; or
15 the licensee has pleaded guilty or nolo contendere
16 with respect to any felony or any misdemeanor of which
17 criminal fraud or moral turpitude is an element,
18 regardless of whether a judgment of conviction has
19 been entered by the court;
- 20 (6) The provider has entered into any life settlement
21 contract using a form that has not been approved
22 pursuant to this chapter;



- 1 (7) The provider has failed to honor contractual
- 2 obligations set out in a life settlement contract;
- 3 (8) The provider has assigned, transferred, or pledged a
- 4 settled policy to a person other than a provider
- 5 licensed in this State, a purchaser, an accredited
- 6 investor or qualified institutional buyer as defined
- 7 respectively in Rule 501 of Regulation D or Rule 144A
- 8 of the federal Securities Act of 1933, as amended, a
- 9 financing entity, a special purpose entity, or a
- 10 related provider trust; or
- 11 (9) The licensee or any officer, partner, member, or key
- 12 management personnel has violated this chapter."

13 SECTION 4. Section 431E-6, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) For any policy settled within five years of policy
 16 issuance, each provider shall file with the commissioner on or
 17 before March 1 of each year an annual statement containing the
 18 information as the commissioner may prescribe by rule. In
 19 addition to any other requirements, the annual statement shall[+
 20 ~~(1) Specify]~~ specify the total number, aggregate face
 21 amount, and life settlement proceeds of policies
 22 settled during the immediately preceding calendar



1 year, together with a breakdown of the information by
2 policy issue year[~~and~~
3 ~~(2) Include the names of the insurance companies whose~~
4 ~~policies have been settled and the brokers that have~~
5 ~~settled said policies].~~

6 The information shall be limited to only those transactions
7 where the [insured] owner is a resident of this State and shall
8 not include individual transaction data regarding the business
9 of life settlements or information that there is a reasonable
10 basis to believe could be used to identify the owner or the
11 insured.

12 Every provider that wilfully fails to file an annual
13 statement as required in this section, or wilfully fails to
14 reply within thirty days to a written inquiry by the
15 commissioner in connection therewith, shall, in addition to
16 other penalties provided by this chapter, be subject, upon due
17 notice and opportunity to be heard, to a penalty of up to \$250
18 per day of delay, not to exceed \$25,000 in the aggregate, for
19 each such failure."

20 SECTION 5. Section 431E-21, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:

22 "(c) No person or trust shall:



1 (1) Directly or indirectly market, advertise, solicit~~[, or~~
2 ~~otherwise promote]~~ the purchase of a new policy for
3 the sole purpose of ~~[or with an emphasis on]~~ settling
4 the policy; or

5 (2) Use the words "free", "no cost", or words of similar
6 import in the marketing, advertising, soliciting, or
7 otherwise promoting of the purchase of a policy."

8 SECTION 6. Section 431E-31, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**§431E-31**[~~+~~] **Disclosures to owners.** (a) The provider
11 or broker shall provide in writing, in a separate document that
12 is signed by the owner ~~[and provider]~~, the following information
13 to the owner no later than the date ~~[the life settlement~~
14 ~~contract is signed by all parties:]~~ of application for a life
15 settlement contract:

16 (1) The fact that possible alternatives to life settlement
17 contracts exist, including but not limited to
18 accelerated benefits offered by the issuer of the
19 policy;

20 (2) The fact that some or all of the proceeds of a life
21 settlement contract may be taxable and that assistance
22 should be sought from a professional tax advisor;



- 1 (3) The fact that the proceeds from a life settlement
2 contract could be subject to the claims of creditors;
- 3 (4) The fact that receipt of proceeds from a life
4 settlement contract may adversely affect the
5 recipients' eligibility for public assistance or other
6 government benefits or entitlements and that advice
7 should be obtained from the appropriate agencies;
- 8 (5) The fact that the owner has a right to terminate a
9 life settlement contract within fifteen days of the
10 date it is executed by all parties and the owner has
11 received the disclosures contained herein.
- 12 Rescission, if exercised by the owner, is effective
13 only if both notice of the rescission is given, and
14 the owner repays all proceeds and any premiums, loans,
15 and loan interest paid on account of the provider
16 within the rescission period. If the insured dies
17 during the rescission period, the contract shall be
18 deemed to have been rescinded subject to repayment by
19 the owner or the owner's estate of all proceeds and
20 any premiums, loans, and loan interest to the
21 provider;



- 1 (6) The fact that proceeds will be sent to the owner
2 within three business days after the provider has
3 received the insurer or group administrator's
4 acknowledgment that ownership of the policy or
5 interest in the certificate has been transferred and
6 the beneficiary has been designated in accordance with
7 the terms of the life settlement contract;
- 8 (7) The fact that entering into a life settlement contract
9 may cause other rights or benefits, including
10 conversion rights and waiver of premium benefits that
11 may exist under the policy or certificate, to be
12 forfeited by the owner and that assistance should be
13 sought from a professional financial advisor;
- 14 ~~[-(8) The amount and method of calculating the compensation~~
15 ~~paid or to be paid to the broker, or any other person~~
16 ~~acting for the owner in connection with the~~
17 ~~transaction, wherein the term compensation includes~~
18 ~~anything of value paid or given;~~
- 19 ~~-(9)]~~ (8) The date by which the funds will be available to
20 the owner and the transmitter of the funds;
- 21 ~~[-(10)]~~ (9) The fact that the commissioner shall require
22 delivery of a Buyer's Guide or a similar consumer



1 advisory package in the form prescribed by the
2 commissioner to owners during the solicitation
3 process;

4 [~~(11)~~] (10) The following language:

5 "All medical, financial or personal information
6 solicited or obtained by a provider or broker about an
7 insured, including the insured's identity or the
8 identity of family members, a spouse or a significant
9 other may be disclosed as necessary to effect the life
10 settlement contract between the owner and provider.

11 If you are asked to provide this information, you will
12 be asked to consent to the disclosure. The
13 information may be provided to someone who buys the
14 policy or provides funds for the purchase. You may be
15 asked to renew your permission to share information
16 every two years.";

17 [~~(12)~~] (11) The fact that the commissioner shall require
18 providers and brokers to print separate signed fraud
19 warnings on their applications and on their life
20 settlement contracts as follows:

21 "Any person who knowingly presents false information
22 in an application for insurance or life settlement



1 contract is guilty of a crime and may be subject to
2 fines and confinement in prison.";

3 [~~(13)~~] (12) The fact that the owner may be contacted by
4 either the provider or broker or its authorized
5 representative for the purpose of determining the
6 owner's health status or to verify the owner's
7 address;

8 [~~(14)~~] (13) The affiliation, if any, between the provider
9 and the issuer of the policy to be settled;

10 [~~(15)~~] (14) That a broker represents exclusively the owner,
11 and not the insurer or the provider or any other
12 person, and owes a fiduciary duty to the owner,
13 including a duty to act according to the owner's
14 instructions and in the best interest of the owner;

15 [~~(16)~~] (15) The name, address, and telephone number of the
16 provider;

17 [~~(17)~~] (16) The name, business address, and telephone number
18 of the independent third party escrow agent, and the
19 fact that the owner may inspect or receive copies of
20 the relevant escrow or trust agreements or documents;
21 and



1 [~~(18)~~] (17) The fact that a change of ownership could in the
2 future limit the insured's ability to purchase future
3 insurance on the insured's life because there is a
4 limit to how much coverage insurers will issue on one
5 life.

6 (b) The written disclosures shall be conspicuously
7 displayed in any life settlement contract furnished to the owner
8 by a provider, including any affiliations or contractual
9 arrangements between the provider and the broker.

10 (c) A broker shall provide the owner and the provider with
11 at least the following disclosures no later than the date the
12 life settlement contract is signed by all parties. The
13 disclosures shall be conspicuously displayed in the life
14 settlement contract or in a separate document signed by the
15 owner and provide the following information:

16 (1) The name, business address, and telephone number of
17 the broker;

18 (2) A full, complete, and accurate description of all the
19 offers, counter-offers, acceptances, and rejections
20 relating to the proposed life settlement contract;

21 (3) A written disclosure of any affiliations or
22 contractual arrangements between the broker and any



1 person making an offer in connection with the proposed
2 life settlement contract;

3 ~~[(4) The name of each broker who receives compensation and~~
4 ~~the amount of compensation received by that broker,~~
5 ~~which compensation includes anything of value paid or~~
6 ~~given to the broker in connection with the life~~
7 ~~settlement contract;~~

8 ~~(+5)]~~ (4) A complete reconciliation of the gross offer or
9 bid by the provider to the net amount of proceeds or
10 value to be received by the owner. For the purpose of
11 this paragraph, "gross offer" or "bid" means the total
12 amount or value offered by the provider for the
13 purchase of one or more life insurance policies,
14 inclusive of commissions and fees; and

15 ~~[(+6)]~~ (5) The fact that the failure to provide the
16 disclosures or rights described in this section shall
17 be deemed an unfair trade practice under section 480-
18 2."

19 SECTION 7. Section 431E-32, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~+~~]**§431E-32**[~~+~~] **Disclosure to insurer.** (a) [~~Without~~
22 ~~limiting the ability of an insurer from assessing the~~



1 ~~insurability of a policy applicant and determining whether or~~
2 ~~not to issue the policy, and in] In~~ addition to other questions
3 an insurance carrier may lawfully pose to a life insurance
4 applicant, insurance carriers may inquire in the application for
5 insurance whether the proposed owner intends to pay premiums
6 with the assistance of financing from a lender that will use the
7 policy as collateral to support the financing.

8 (b) If, as described in subsection (a)(3) of the
9 definition of "life settlement contract" in section 431E-2, the
10 premium finance loan provides funds that can be used for a
11 purpose other than paying for the premiums, costs, and expenses
12 associated with obtaining and maintaining the policy and loan,
13 the application shall be rejected as a violation of the
14 prohibited practices in section 431E-41.

15 (c) If the premium financing does not violate section
16 431E-41 in this manner, the insurance carrier[+] may not reject
17 the life insurance application solely because the premiums will
18 be financed, and the insurance carrier:

19 (1) May make disclosures to the applicant and the insured,
20 either on the application or an amendment to the
21 application to be completed no later than the delivery
22 of the policy, including the following:



1 "If you have entered into a loan arrangement where the
2 policy is used as collateral, and the policy does
3 change ownership at some point in the future in
4 satisfaction of the loan, the following may be true:

- 5 (1) A change of ownership could lead to a stranger
6 owning an interest in the insured's life;
- 7 (2) A change of ownership could in the future limit
8 your ability to purchase future insurance on the
9 insured's life because there is a limit to how
10 much coverage insurers will issue on one life;
- 11 (3) Should there be a change of ownership and you
12 wish to obtain more insurance coverage on the
13 insured's life in the future, the insured's
14 higher issue age, a change in health status,
15 and/or other factors may reduce the ability to
16 obtain coverage and/or may result in
17 significantly higher premiums; and
- 18 (4) You should consult a professional advisor, since
19 a change in ownership in satisfaction of the loan
20 may result in tax consequences to the owner,
21 depending on the structure of the loan";

22 and



1 (2) May require certifications, such as the following,
2 from the applicant [~~and/or~~] or the insured[+], or
3 both:

4 "(1) I have not entered into any agreement or
5 arrangement providing for the future sale of this
6 life insurance policy;

7 (2) My loan arrangement for this policy provides
8 funds sufficient to pay for some or all of the
9 premiums, costs, and expenses associated with
10 obtaining and maintaining my life insurance
11 policy, but I have not entered into any agreement
12 by which I am to receive consideration in
13 exchange for procuring this policy; and

14 (3) The borrower has an insurable interest in the
15 insured."

16 (d) With respect to each policy issued by an insurance
17 company, the insurance company shall send written notice to the
18 owner of an individual life insurance policy, or a certificate
19 holder under a group life insurance policy, where the insured
20 person under the policy is age sixty or older or is known to be
21 terminally ill or chronically ill, that a life settlement is an



1 alternative transaction available to the owner at the time of
2 each of the following:

3 (1) When a life insurance company receives from the owner
4 a request to surrender, in whole or in part, an
5 individual life insurance policy, or a certificate
6 under a group life insurance policy;

7 (2) When a life insurance company receives from the owner
8 a request to receive an accelerated death benefit
9 under an individual life insurance policy, or a
10 certificate under a group life insurance policy;

11 (3) When a life insurance company receives from the owner
12 a request to collaterally assign an individual life
13 insurance policy, or a certificate under a group life
14 insurance policy as security for a loan;

15 (4) When a life insurance company sends to the owner a
16 notice of lapse of an individual life insurance
17 policy, or a certificate under a group life insurance
18 policy; or

19 (5) At any other time that the commissioner may require by
20 rule or regulation."

21 SECTION 8. Section 431E-41, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



- 1 " (a) It is unlawful for any person to:
- 2 (1) Enter into a life settlement contract if the person
- 3 knows or reasonably should have known that the policy
- 4 was obtained by means of a false, deceptive, or
- 5 misleading application for such policy;
- 6 (2) Engage in any transaction, practice, or course of
- 7 business if the person knows or reasonably should have
- 8 known that the intent was to avoid the notice
- 9 requirements of this chapter;
- 10 (3) Engage in any fraudulent act or practice in connection
- 11 with any transaction relating to any life settlement
- 12 contract involving an owner who is a resident of this
- 13 [State,] state; and
- 14 ~~[-(4) Issue, solicit, market, or otherwise promote the~~
- 15 ~~purchase of a policy for the purpose of or with an~~
- 16 ~~emphasis on settling the policy;~~
- 17 ~~-(5) Enter into a premium finance agreement with any person~~
- 18 ~~or agency, or any person affiliated with the person or~~
- 19 ~~agency, pursuant to which the person shall receive any~~
- 20 ~~proceeds, fees, or other consideration, directly or~~
- 21 ~~indirectly, from the policy or owner of the policy or~~
- 22 ~~any other person with respect to the premium finance~~



1 ~~agreement or any life settlement contract or other~~
2 ~~transaction related to such policy that are in~~
3 ~~addition to the amounts required to pay the principal,~~
4 ~~interest, and service charges related to policy~~
5 ~~premiums pursuant to the premium finance agreement or~~
6 ~~subsequent sale of such agreement; provided that any~~
7 ~~payments, charges, fees or other amounts in addition~~
8 ~~to the amounts required to pay the principal,~~
9 ~~interest, and service charges related to policy~~
10 ~~premiums paid under the premium finance agreement~~
11 ~~shall be remitted to the original owner of the policy~~
12 ~~or to the owner's estate if the owner [is] not living~~
13 ~~at the time of the determination of the overpayment;]~~

14 (4) If providing premium financing, receive any proceeds,
15 fees, or other consideration from the policy or owner
16 of the policy that are in addition to the amounts
17 required to pay principal, interest, and any
18 reasonable costs or expenses incurred by the lender or
19 borrower in connection with the premium finance
20 agreement, except in the event of a default, unless
21 either the default on the loan or transfer of the
22 policy occurs pursuant to an agreement or



1 understanding with any other person for the purpose of
2 evading regulation under this chapter;

3 ~~[(6)]~~ (5) With respect to any policy or life settlement
4 contract and a broker, knowingly solicit an offer
5 from, effectuate a life settlement contract with or
6 make a sale to any provider, financing entity, or
7 related provider trust that is controlling, controlled
8 by, or under common control with ~~[such]~~ the broker~~[+]~~
9 unless the relationship is disclosed to the owner;

10 ~~[(7)]~~ (6) With respect to any policy or life settlement
11 contract and a provider, knowingly enter into a life
12 settlement contract with an owner, if, in connection
13 with such life settlement contract, anything of value
14 will be paid to a broker that is controlling,
15 controlled by, or under common control with such
16 provider or the financing entity or related provider
17 trust that is involved in such life settlement
18 contract~~[+]~~ unless the relationship is disclosed to
19 the owner;

20 ~~[(8)]~~ (7) With respect to a provider, enter into a life
21 settlement contract unless the life settlement
22 contract promotional, advertising, and marketing



1 materials, as may be prescribed by rule, have been
2 filed with the commissioner. In no event shall any
3 marketing materials expressly reference that the
4 insurance is "free" for any period of time. The
5 inclusion of any reference in the marketing materials
6 that would cause an owner to reasonably believe that
7 the insurance is free for any period of time shall be
8 considered a violation of this chapter;

9 ~~[(9)]~~ (8) With respect to any life insurance producer,
10 insurance company, broker, or provider, make any
11 statement or representation to the applicant or
12 policyholder in connection with the sale or financing
13 of a policy to the effect that the insurance is free
14 or without cost to the policyholder for any period of
15 time unless provided in the policy;

16 ~~[(10)]~~ (9) Knowingly and intentionally interfere with the
17 enforcement of the provisions of this chapter or
18 investigations of suspected or actual violations of
19 this chapter; ~~[and]~~

20 ~~[(11)]~~ (10) With respect to a person in the business of life
21 settlements, knowingly or intentionally permit any
22 person convicted of a felony involving dishonesty or



1 breach of trust to participate in the business of life
2 settlements[-]; and

3 (11) If an insurer, to:

4 (A) Prohibit, restrict, limit or impair a life
5 insurance producer from lawfully negotiating a
6 life settlement contract on behalf of an owner,
7 aiding and assisting an owner with a life
8 settlement contract, or otherwise participating
9 in a life settlement transaction under this
10 chapter;

11 (B) Engage in or permit any discrimination between
12 individuals of the same class, same policy
13 amount, and equal expectation of life in the
14 rates charged for any life insurance policy or
15 annuity contract based upon an individual's
16 having entered into a life settlement contract or
17 being insured under a settled policy;

18 (C) make any false or misleading statement as to the
19 business of life settlements or financing
20 premiums due for a policy or to any owner or
21 insured for the purpose of inducing or tending to



1 induce the owner or insured not to enter into a
2 life settlement contract; or
3 (D) Engage in any transaction, act, practice or
4 course of business or dealing which restricts,
5 limits, or impairs in any way the lawful transfer
6 of ownership, change of beneficiary, or
7 assignment of a policy."

8 SECTION 9. Section 431E-42, Hawaii Revised Statutes, is
9 amended to read as follows:

10 " [†] **§431E-42** [†] **Fraudulent life settlement acts**

11 **prohibited.** It is a violation of this chapter for any person,
12 provider, broker, or any other party related to the business of
13 life settlements, to commit a fraudulent life settlement act.

14 For the purposes of this section, "fraudulent life
15 settlement act" includes:

16 (1) Acts or omissions committed by any person who,
17 knowingly and with intent to defraud, for the purpose
18 of depriving another of property or for pecuniary
19 gain, commits, or permits its employees or agents to
20 engage in acts including but not limited to:

21 (A) Presenting, causing to be presented, or preparing
22 with knowledge and belief that it will be



- 1 presented to or by a provider, premium finance
2 lender, broker, insurer, insurance producer, or
3 any other person, false material information, or
4 concealing material information, as part of, in
5 support of, or concerning a fact material to one
6 or more of the following:
- 7 (i) An application for the issuance of a policy
8 or life settlement contract;
 - 9 (ii) The underwriting of a policy or life
10 settlement contract;
 - 11 (iii) A claim for payment or benefit pursuant to a
12 policy or life settlement contract;
 - 13 (iv) Premiums paid on a policy;
 - 14 (v) Payments and changes in ownership or
15 beneficiary made in accordance with the
16 terms of a policy or life settlement
17 contract;
 - 18 (vi) The reinstatement or conversion of a policy;
 - 19 (vii) In the solicitation, offer to enter into, or
20 effectuation of a policy or life settlement
21 contract;



- 1 (viii) The issuance of written evidence of a policy
- 2 or life settlement contract;
- 3 (ix) Any application for or the existence of or
- 4 any payments related to a loan secured
- 5 directly or indirectly by any interest in a
- 6 policy; or
- 7 (x) ~~[Entering into any practice or plan that~~
- 8 ~~involves stranger originated]~~ Stranger-
- 9 originated life insurance; or
- 10 ~~[-(B) Failing to disclose to the insurer, where the~~
- 11 ~~insurer requests such disclosure, that the~~
- 12 ~~prospective insured has undergone a life~~
- 13 ~~expectancy evaluation by any person or entity~~
- 14 ~~other than the insurer or its authorized~~
- 15 ~~representatives in connection with the issuance~~
- 16 ~~of the policy;~~
- 17 ~~-(C)]~~ (B) Employing any device, scheme, or artifice to
- 18 defraud in the business of life settlements; ~~[or~~
- 19 ~~-(D) In the solicitation, application, or issuance of~~
- 20 ~~a policy, employing any device, scheme, or~~
- 21 ~~artifice in violation of state insurable interest~~
- 22 ~~laws.]~~

- 1 (2) In the furtherance of a fraud or to prevent the
- 2 detection of a fraud, any person commits or permits
- 3 its employees or its agents to:
- 4 (A) Remove, conceal, alter, destroy, or sequester
- 5 from the commissioner the assets or records of a
- 6 licensee or other person engaged in the business
- 7 of life settlements;
- 8 (B) Misrepresent or conceal the financial condition
- 9 of a licensee, financing entity, insurer, or
- 10 other person;
- 11 (C) Transact the business of life settlements in
- 12 violation of laws requiring a license,
- 13 certificate of authority, or other legal
- 14 authority for the transaction of the business of
- 15 life settlements;
- 16 (D) File with the commissioner or the chief insurance
- 17 regulatory official of another jurisdiction a
- 18 document containing false information or
- 19 otherwise concealing information about a material
- 20 fact from the commissioner;
- 21 (E) Engage in embezzlement, theft, misappropriation,
- 22 or conversion of moneys, funds, premiums,



1 credits, or other property of a provider,
2 insurer, insured, owner, insurance, policy owner,
3 or any other person engaged in the business of
4 life settlements or insurance;

5 (F) Knowingly and with intent to defraud, enter into,
6 broker, or otherwise deal in a life settlement
7 contract, the subject of which is a policy that
8 was obtained by presenting false information
9 concerning any fact material to the policy or by
10 concealing, for the purpose of misleading
11 another, information concerning any fact material
12 to the policy, where the owner or the owner's
13 agent intended to defraud the policy's issuer;

14 (G) Attempt to commit, assist, aid, or abet in the
15 commission of, or conspire to commit the acts or
16 omissions specified in this definition; or

17 (H) Misrepresent the state of residence of an owner
18 to be a state or jurisdiction that does not have
19 a law substantially similar to this chapter for
20 the purpose of evading or avoiding the provisions
21 of this chapter."



1 SECTION 10. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun, before its effective date.

4 SECTION 11. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 12. This Act shall take effect on January 1, 2020.



Report Title:

Life Settlements Model Act; Stranger-Originated Life Insurance

Description:

Makes various clarifying and technical amendments, and corrects inadvertent errors, in the Life Settlements Model Act, chapter 431E, HRS, which establishes consumer protections in life settlement transactions. Effective 01/01/2020. (HB1439 HD1)

