

**SB 2016**

JAN 20 2010

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# A BILL FOR AN ACT

RELATING TO LIFE SETTLEMENTS.

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

1 SECTION 1. Act 177, Session Laws of Hawaii 2008, is  
2 amended by amending section 7 to read as follows:

3 "SECTION 7. This Act shall take effect upon its approval,  
4 and shall be repealed [~~two years from the date of its approval.~~]  
5 on June 16, 2015."

6 SECTION 2. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 3. This Act shall take effect on June 15, 2010.  
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INTRODUCED BY:

*Rosely H. Baker*

*Arvid J. Lee*

*Will Espero*

*Norman Sotomayor*

*Yvonne J.*

*Carol Fukuoka*



**Report Title:**

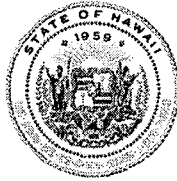
Life Settlements; Life Insurance

**Description:**

Extends the Life Settlements Act for an additional five years.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





LINDA LINGLE  
GOVERNOR  
  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

LAWRENCE M. REIFURTH  
DIRECTOR  
  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Thursday, February 4, 2010  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2016 – RELATING TO LIFE SETTLEMENTS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports this bill.

The Hawaii Life Settlements Act, which was codified as Hawaii Revised Statutes chapter 431E, has been in place for only two years. It makes sense to extend the effective date of the legislation for another five years so that we can determine whether the legislation is having an impact that benefits consumers. Since the inception of the statute, we have received no consumer complaints on life settlement transactions and the reported volume of life settlement transactions has been very small. That is to be expected due to the two year contestability period required by law. It would be prudent to wait and see what the future brings because there are significant abuses that can occur in this line of business.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.



Senate Committee on Commerce & Consumer Protection  
Senator Rosalyn Baker, Chair  
Senator David Ige, Vice Chair

**Hearing Date: February 4, 2010**  
**Hearing Time: 9:00 am**

**RE: Senate Bill 2016 – Relating to Life Settlements**

Chair Baker, Vice Chair Ige and members of the Committee, my name is Cynthia Hayakwa Takenaka, Executive Director, representing NAIFA Hawaii (National Association of Insurance and Financial Advisors). Our organization is made up of 400 life and health insurance agents and financial advisors across Hawaii.

**We are in strong support of SB 2016 and ask for your support in moving this measure forward.**

Act 177, 2008 Session Laws of Hawaii, (House Bill 94) known as the “Life Settlements Act” became effective on June 16, 2008. Act 177 bans “stranger originated life insurance” (STOLI) transactions with a sunset date of 2 years after the effective date.

**This measure will repeal the 2 year sunset and will continue to ban STOLI transactions in Hawaii until June 16, 2015.**

HB 94 was NCOIL’s life settlement model act to deter all manifestations of STOLI (stranger originated life insurance), whether in the form of a settlement, a trust or other scheme. The NCOIL model addresses STOLI by, among other things, defining and prohibiting STOLI transactions and requiring life settlement companies to annually report data to state insurance commissioners.

In a traditional life insurance purchase, an **insurable interest** exists between the policyholder and the policy’s named beneficiaries. **Insurable interest** is a fundamental concept in a well functioning life insurance marketplace. The concept preserves the social purpose of life insurance and helps to assure that the product will not be abused. **Insurable interest** statutes demonstrate the widespread belief that society is diminished when life insurance is used as a vehicle for gambling on human life.

**In a STOLI transaction, there is no insurable interest.** Seniors are often induced to purchase the life insurance, usually receiving some incentive, often a cash payment for buying the policy. In most cases, the “stranger” even pays the premium for the policy. Under the STOLI agreement, the policy is later “sold” to the stranger, who is paid the proceeds of the policy upon the death of the insured. The incentives, especially cash payments, used to lure seniors to participate in STOLI schemes are taxable as ordinary income.

These senior individuals are targeted because of their relatively short life expectancy and their wealth qualifies them for substantial amounts of life insurance. The investment firms fully finance the transaction and continue paying premiums throughout the life of the contract. Two years into the contract, the investment firms – speculators -- purchase the policy and stand to profit from the death benefits on lives of strangers.

STOLI attempts to circumvent state insurable interest statutes -- laws that are intended to assure that people who buy life insurance have a true and meaningful interest in the life of the insured. We believe it is unsound public policy to turn life insurance products into commodities for investment by third parties that have no relation to the insured.

Mahalo for allowing us to share our views.