S T A T E O F N E W Y O R K

4427

2011-2012 Regular Sessions

I N S E N A T E

April 5, 2011

Introduced by Sens. SEWARD, DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the licensure and reporting requirements of life settlement providers, certain disclosures of life settlement providers and life settlement brokers, and scope of law for life settlement contracts; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 2 of subsection (c) of section 7803 of the insurance law, as added by chapter 499 of the laws of 2009, is amended and a new paragraph 3 is added to read as follows:

(2) The applicant for a life settlement provider license shall:

(A) fully disclose the identity of all stockholders (except stockholders owning fewer than ten percent of the voting shares of a life settlement provider whose shares are publicly traded), partners, officers, members, directors and persons with a controlling interest. For purposes of this section, "controlling interest" means a person who directly or indirectly, has the power to cause to be directed the management, control or activities of such licensee;

(B) provide a detailed plan of operation;

(C) provide, if a legal entity, a certificate of good standing from the state of its domicile;

(D) provide an anti-fraud plan that meets the requirements of article four of this chapter;

(E) demonstrate financial accountability as evidenced by a bond or other method for financial accountability as determined by the superintendent pursuant to regulation; and

(F) provide any other information required by the superintendent TO VERIFY THAT THE APPLICANT QUALIFIES AS A LIFE SETTLEMENT PROVIDER AND DETERMINE COMPLIANCE WITH ANY APPLICABLE STATE LAW.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(3) THE SUPERINTENDENT SHALL NOT REQUIRE AN APPLICANT TO PROVIDE ANY INDIVIDUAL TRANSACTION DATA REGARDING THE BUSINESS OF LIFE SETTLEMENTS.

S 2. Paragraph 1 of subsection (a) of section 7807 of the insurance law, as added by chapter 499 of the laws of 2009, is amended to read as follows:

(1) Every licensed life settlement provider shall file in the office of the superintendent, annually on or before the first day of March, a statement, to be known as its annual statement, verified by the oath of at least two of its principal officers, showing its condition at the end of the preceding calendar year. The statement shall be in such form and shall contain such other matters as the superintendent shall prescribe. [In addition to any other requirements, the] THE annual statement shall specify the total number, aggregate face amount and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The information shall not include individual transaction data regarding the business of life settlements [or information if there is a reasonable basis to believe the information could be used to identify the owner or the insured].

S 3. Paragraph 13 of subsection (a) of section 7811 of the insurance law is REPEALED and paragraphs 14, 15, 16 and 17 are renumbered paragraphs 13, 14, 15 and 16.

S 4. Paragraph 3 of subsection (c) of section 7811 of the insurance law is REPEALED and paragraphs 4 and 5 are renumbered paragraphs 3 and 4.

S 5. Paragraph 6 of subsection (a) of section 7814 of the insurance law, as added by chapter 499 of the laws of 2009, is amended to read as follows:

(6) directly or indirectly, purchase or obtain an interest in any policy that is the subject of a life settlement contract where the person has acted as a life settlement broker or life settlement intermediary with respect to the policy, unless such affiliation has been disclosed to the owner pursuant to [paragraph three of subsection (c) of section seven thousand eight hundred eleven of] this article; and (A) if a life settlement broker, the broker has provided all offers and counter offers pursuant to paragraph two of subsection (c) of section seven thousand eight hundred eleven of this article, and has conducted the transaction on a fair and equitable arm-length basis; or (B) with respect to a life settlement intermediary, the intermediary complies with subsection (o) of section seven thousand eight hundred thirteen of this article;

S 6. Section 7819 of the insurance law, as added by chapter 499 of the laws of 2009, is amended to read as follows:

S 7819. Applicability and choice of law. (a) The provisions of this article shall ONLY apply to [any] A life settlement contract [made, proposed to be made, or solicited] ENTERED INTO with [a resident of] AN OWNER WHOSE PRINCIPAL RESIDENCE IS IN this state [or any owner physically in this state].

(b)(1) If there is more than one owner on a single policy, and the owners are residents of different states, then the state of residency shall be the state in which the owner having the largest percentage of ownership resides or, if the owners hold equal ownership, the state of residence of one owner, agreed upon in writing by all of the owners.

(2) A life settlement contract entered into with an owner who is a resident of another state may be governed by the laws of the other state provided that the owner elects in writing to be governed by the laws of

the other state, and if the owner is also a resident of this state, the life settlement contract is made, proposed to be made and solicited outside this state.

(c) For the purposes of this section, with respect to any person other than a natural person, the state of residence shall be:

(1) the state in which the person maintains its principal place of business; or

(2) with respect to a trust, a state in which the [grantor resides] TRUST IS SITED.

S 7. This act shall take effect immediately.