

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6697

BILL NUMBER: SB 233

DATE PREPARED: Dec 15, 1999

BILL AMENDED:

SUBJECT: Viatical settlement contract.

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**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill amends the definition of "security" in the Indiana securities law to include viatical settlement contracts or interests in viatical settlement contracts. It amends the incontestability provisions to allow a life insurance policy to be contested more than two years from the date of issue in the case of fraud. It also amends the definition of "viatical settlement contract" and excludes from the definition certain agreements and the provision of accelerated benefits under a life insurance policy.

Effective Date: July 1, 2000.

Explanation of State Expenditures: A viatical is a way for a terminally ill or elderly person (the viator) to get cash for their final days. Viatical settlements are cash lump sums given to terminally ill or elderly people in exchange for the death benefits of their life insurance. The viator sells the life insurance policy at a discount, based on the viator's life expectancy. Upon the viator's death, a broker deducts a commission and the person who purchased the discounted policy receives the rest of the proceeds. Viaticals are a fairly new and unregulated investment. For investors, viatical settlements can mean potential for great profit while at the same time doing good for someone in need. In 1996, Congress enacted legislation that allowed proceeds received under a life insurance contract on the life of an insured, terminally or chronically ill individual to be excluded from gross income, and therefore exempt from federal and state income tax. The legislation also provided that if a portion of a life insurance contract is assigned or sold to a viatical settlement provider, the amounts received are excludable.

According to the National Viatical Association, over \$1B in viatical settlements will be brokered in 1999. This figure is 20 times larger than when the practice began in 1989. So many relatively healthy elderly viators are selling their life insurance policies that it is estimated that \$3B in "senior" settlements will be brokered in 1999.

In May of 1999, the North American Securities Administrators Association (NASAA) cited viatical scams

as

Securities Division within the Office of the Secretary of State has pursued the illegal sales of viatical

Explanation of State Revenues:

Explanation of Local Revenues:

State Agencies Affected: Department of Insurance; Securities Division, Office of the Secretary of State.

Information _____ Brad Skolnik, Securities Commissioner, Office of the Secretary of State, (317) 232-6690; *Time Magazine* November 29, 1999, pp. 113-114; 2000 U.S. Master Tax Guide