

**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: Jan 28, 2000
BILL AMENDED: Jan 27, 2000

SUBJECT: Viatical settlement contract.

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FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) 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 life insurance incontestability provisions to allow a policy that is part of a viatical settlement contract to be contested for up to 6 years from the date of issue in the case of fraud in the application for life insurance benefits under the policy. 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 one of the top 10 financial cons perpetrated in the United States. In the past five months, the Indiana Securities Division within the Office of the Secretary of State has pursued the illegal sales of viatical settlements and has issued six cease-and-desist orders against 18 companies and 14 individuals.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

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

Local Agencies Affected:

Information Sources: Brad Skolnik, Securities Commissioner, Office of the Secretary of State, (317) 232-6690; Liz Carroll, Chief Deputy Commissioner, Department of Insurance, (317) 232-2406; *Time Magazine*, November 29, 1999, pp. 113-114; 2000 U.S. Master Tax Guide, Chapter 8, § 803, p. 241.