

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

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6697**

**BILL NUMBER: SB 233**

**DATE PREPARED:** Feb 22, 2000

**BILL AMENDED:** Feb 21, 2000

**SUBJECT:** Insurance, public libraries, fireworks.

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**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill allows a township trustee in a township that is not served by a public library to pay the cost of a library card for a resident of the township.

It allows the wholesale and retail sale of common fireworks to an individual who is at least 16 years of age, and prohibits the sale of fireworks to an individual who is less than 16 years of age.

It 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 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.

It permits the Commissioner of the Indiana Department of Insurance to regulate an interinsurance association or reciprocal or interinsurance exchange organized and operating before January 1, 1991.

It also requires a life insurance policy to contain an accelerated death benefit for a terminal illness after June 30, 2000.

**Effective Date:** (Amended) Upon passage; July 1, 2000.

**Explanation of State Expenditures:** (Revised) This bill prohibits new viatical settlement contracts after June 30, 2000. 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:** (Revised) This bill makes the knowing and intentional sale of fireworks to a person less than sixteen years old a Class A misdemeanor. It also makes the purchase of fireworks by a person less than sixteen years old a Class C infraction and a delinquent act. In 1998, there were 25,563 new delinquency filings in Indiana's trial courts.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum judgment for a Class C infraction is \$500 which is deposited in the state General Fund. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

This bill would allow township trustees of a township not served by a public library to pay the cost of a library card at the nearest library for township resident. Any impact on expenditures is dependent on local action.

**Explanation of Local Revenues:** (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement

the compensation of jury members.

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

**Local Agencies Affected:** Township trustees; trial courts, local law enforcement agencies.

**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; 1998 Indiana Judicial Report, Vol. I, p.47; Steve Buschmann, Buschmann, Carr & Shanks, (317) 636-5511.