



NEW YORK STATE SENATOR

Neil D. Breslin

Senate Passes Landmark Consumer Protection Legislation

NEIL D. BRESLIN November 17, 2009

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(Albany, NY) - New York State Senator Neil D. Breslin (D-Delmar) is pleased to announce that legislation, which he sponsored, passed the Senate this week. This legislation regulates the growing life settlement market in New York ensuring that, among other things, the medical and financial information of those who enter into a life settlement transaction is protected.

The life settlement industry began in the late 1970's and 1980's when, during the AIDS epidemic, many seriously ill individuals with life insurance policies sold their policies to pay for medical care, experimental medical treatments or other essential needs. In 1994, Article 78 of the Insurance Law was enacted to regulate transactions where an insured with a catastrophic or life-threatening illness or condition sold his or her life insurance policy.

In recent years, a new life settlement market has developed where the individuals insured under the policies being sold do not have a life-threatening illness. The insured individuals generally are senior citizens who no longer want or need their policy and who are able to obtain a monetary benefit greater than the cash surrender value but less than the death

benefit of the policy by selling their policy to a “life settlement provider”. The life settlement provider often then resells the policy to third party investors. These transactions, which fall outside of the scope of Article 78 of the Insurance Law, are currently unregulated. The legislation will regulate these life settlement transactions.

The legislation requires the licensure of life settlement companies and brokers by the New York State Insurance Department. The legislation also requires that the owner of the policy and the individual insured under the policy consent to the release of medical and other personal information. In addition, the legislation requires life settlement companies and investors to keep any personal information received as part of the transaction confidential.

The legislation also specifically outlaws stranger-originated life insurance (STOLI), a type of improper life settlement that has become prevalent over the last few years. In a STOLI transaction, life settlement companies and investors target individuals, typically senior citizens, to purchase a large face amount life insurance policy for the sole purpose of selling the policy within a very short period of time.

“I was pleased to play a central role in crafting this landmark consumer protection legislation which brings much needed regulation to the growing life settlement industry. This legislation contains numerous disclosure and consumer protection provisions which will help to ensure that an owner considering selling his or her policy makes an informed decision. The legislation will also protect the medical and other personal information of those who enter into a life settlement transaction. In addition, this legislation specifically outlaws certain improper and abusive practices currently happening in the life settlement industry. I encourage the Governor to immediately sign what will be one of the most comprehensive and effective laws in the country for the regulation of the life settlement industry,” said Senator Neil D. Breslin (D-Delmar).

Senate President Malcolm A. Smith said, “Consumers entering into life settlement transactions deserve to be well informed in their decision. I am pleased that this bill has passed the Senate and would like to thank Senator Breslin for his determination and diligence in the creation of this critical legislation that will protect New York’s consumers.”

Senate Majority Conference Leader John L. Sampson said, "New Yorkers are living longer and changing the life settlement dynamics, opting out of long-term agreements. Passage of today’s legislation will protect consumers, and ensure adequate regulation of the life insurance industry."

Senate Health Committee Chair Thomas K. Duane said, "I commend Senator Breslin for shepherding this much needed reform."

Senator Suzi Oppenheimer (D-Mamaroneck) said, “Seniors living on fixed or limited incomes are particularly vulnerable to unscrupulous insurance practices. This legislation, which I strongly support, contains critical safeguards to ensure that seniors are both fully informed and adequately protected when considering a life settlement arrangement.”

Senator Eric T. Schneiderman (D-Manhattan/Bronx) said, “Currently, fraud and abuse run rampant in New York’s life settlement industry. By creating a smart regulatory framework, this legislation brings commonsense checks and balances to the market and protects consumers from abusive insurance practices. I am proud to support these long overdue reforms.”

Senator Brian X. Foley (D – Blue Point) said, “This critical consumer protection legislation will help ensure that seniors and other vulnerable members of our society are not taken advantage of by those seeking to make a quick buck. I am proud to support this legislation because it will finally regulate an industry that has long operated in the shadows.”

Senator William Stachowski (D-C, Lake View) said, “Life settlements have the serious potential for abuse. With the stress of a struggling economy and financial pressures, many cash strapped New Yorkers are searching for ways to liquidate valuable assets including their life insurance policies. This legislation protects consumers by establishing more comprehensive disclosure requirements so that they will have the critical information they need to make such an important decision.”

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