



NEW YORK STATE SENATOR

Suzi Oppenheimer

## Senate Passes Landmark Consumer Protection Bill

SUZI OPPENHEIMER November 17, 2009

| ISSUE: **AGING, HEALTH, HEALTH CARE**

### **Legislation Safeguards Seniors Entering into Life Settlement Insurance Arrangements**

Senator Suzi Oppenheimer (D-Mamaroneck) today announced passage of legislation, S.3655A (Breslin), to protect individuals who, for various reasons, choose to sell their life insurance policies.

During the AIDS epidemic, many seriously ill individuals sold their life insurance policies to pay for medical care, experimental medical treatments or other essential needs. In 1994, the New York Legislature enacted measures to regulate transactions where an insured with a catastrophic or life-threatening illness sells his or her life insurance policy. These transactions, known as viatical settlements, are carried out by viatical settlement companies and brokers.

A new life settlement market has developed in recent years aimed at individuals, who while not suffering from a catastrophic or life-threatening illness, desire to sell their life insurance policies. These insured individuals are generally senior citizens who may no longer want or need their policy and are able to obtain a monetary benefit, greater than the cash surrender value but less than the death benefit of the policy, by selling the policy to a life settlement provider. Because these transactions fell outside the scope of the 1994 regulations, new

legislation was required to safeguard individuals entering into these arrangements.

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

The bill establishes a statutory framework to govern all such transactions regardless of the reason for sale. Specifically, it would:

- Require life insurance brokers to disclose essential information to the consumer, such as (1) the life settlement broker’s fiduciary duty to the policy owner; (2) the tax consequences that may result from the receipt of life settlement proceeds; (3) the owner’s right to rescind a life settlement contract; (4) the possible adverse impact to the insured’s insurable capacity; (5) the medical, financial or personal information that may need to be disclosed; and (6) the fact that the insured may be contacted at certain delineated times to determine his or her health status.
- Regulate legitimate life settlements by requiring the licensure and registration of all parties involved in the transaction and requiring thorough disclosure to the policy owner;
- Afford significant privacy protections with respect to the identity of the insured and the policy owner. The bill specifically limits the parties to whom, and the circumstances under which, such information may be disclosed; and
- Prohibit stranger-originated life insurance (STOLI) transactions. STOLI is a type of illegitimate life settlement arrangement in which speculators target individuals, typically seniors, to purchase a substantial life insurance policy for the sole purpose of selling that policy within a very short period of time. These speculators are strangers with no legitimate

insurable interest in the continued life of the insured.

“Regulating the life settlement industry is essential to protect senior citizens and others from fraudulent insurance practices,” declared Senator Oppenheimer. “I urge the Governor to sign this bill into law as quickly as possible.”