

Oral Testimony of Susan E. Voss

Commissioner, Iowa Insurance Commission

Vice President, National Association of Insurance Commissioners

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Capital Markets, Insurance, and Government Sponsored
Enterprises

“Recent Innovations in Securitization”

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Chairman Kanjorski, Ranking Member Garrett, and Members of the Subcommittee, thank you for the opportunity to testify at today's hearing. My name is Susan Voss, and I am the Commissioner of the Iowa Insurance Commission, with jurisdiction over insurance and securities regulation in my state. I am also the Vice President of the National Association of Insurance Commissioners, and I am here today on behalf of my fellow regulators at NAIC.

I commend the subcommittee for today's hearing assessing the impact of securitization on life insurance settlements. The first life insurance settlements were developed as "viatical settlements" during the 1980s, in response to demand from HIV/AIDS patients who wished to sell their life insurance policies in order to raise much-needed funds for personal and health care expenses. Today, the marketplace has expanded to roughly \$3-4 billion annually so that individuals who no longer need or want their coverage for economic or personal reasons can sell their policies as an alternative to surrendering it for its cash value or letting it lapse.

Life insurance settlements are necessary transactions for some consumers, but they require appropriate regulation with a focus on disclosure and consumer protection. As such, nearly all the states have moved to pass regulations or laws specifically establishing strong oversight of life settlement transactions, but it's important to note that all states have the authority to protect consumer from fraud and misrepresentation in this area. All state insurance regulators enforce licensing and form requirements, and have examination

and enforcement authority, and require mandatory disclosures to the consumer about his/her rights.

This oversight is critical, particularly as “stranger owned life insurance”, or STOLI, has emerged in recent years. Under STOLI, investors solicit a healthy and high net-worth individual, who is typically at least 70 years of age, to obtain a life insurance policy with a certain minimum death benefit. The individual buys the insurance with the specific intent of selling it to those investors, and after a minimum period of incontestability ends, ownership of the policy is transferred in exchange for a taxable lump sum. The investors then receive the death benefit when the insured individual dies.

This concept violates state “insurable interest” laws that require a direct interest and relationship between the policyholder and beneficiary, but it is difficult to determine a policyholder’s true intent when purchasing a policy - making it challenging to distinguish between STOLI and a legitimate life insurance settlement. As such, the states are implementing requirements to target the timing of these transactions to make them unappealing to would-be STOLI investors, while preserving a policyholder’s right to sell his/her policy. Likewise, insurers are improving underwriting guidelines to better determine a policyholder’s intent when purchasing life insurance.

As you can see, state regulators already conduct significant oversight of life settlement transactions. However, the concept of securitizing life settlements is a relatively new phenomenon. While such securitization is outside the jurisdiction of insurance

regulators, we have concerns that securitization of life insurance settlement will incentivize would-be STOLI investors to attempt to expand the marketplace – much as securitization of mortgages helped dramatically expand that marketplace. It is also important to note that life settlement in general, and securitization of them in particular, would diminish the number of life insurance policies that would otherwise lapse, requiring insurers to raise their premiums. Finally, we would want to ensure that any securitization of life insurance settlements does not compromise the original policyholder’s rights and privacy.

We commend the SEC for creating an agency-wide task force regarding life settlement securitization and we would like to work with them on this critical issue. This issue is a clear example of where securities and insurance regulators need to work collaboratively to ensure that policyholders and investors are informed and protected.

Mr. Chairman, thank you again for the opportunity to testify before the Subcommittee, and I would be happy to answer any questions