

**Introduced by Senator Roth
(Principal coauthor: Senator Liu)**

February 2, 2016

An act to add Section 10113.22 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 935, as introduced, Roth. Life insurance: life settlements: favorable tax treatment.

Existing law defines a “life settlement contract” as, among other things, a written agreement solicited, negotiated, or entered into in this state between a provider and an owner, establishing the terms under which compensation or anything of value will be paid, and that compensation or thing of value is less than the expected death benefit of the insurance policy or certificate.

Existing law prohibits a person from entering into, brokering, or soliciting life settlements unless the person is licensed by the Insurance Commissioner. Life settlement licensees are required to, among other things, provide certain disclosures, file an annual statement with the Department of Insurance, and are prohibited from engaging in any false or misleading advertising, solicitation, or practice, as provided. A violation of these provisions is a misdemeanor.

This bill would require a licensee that solicits, negotiates, or enters into a life or viatical settlement that is intended to qualify for special tax treatment under a specified provision of the federal Internal Revenue Code (IRC) as an amount paid to a person suffering from a chronic illness to file with the department a legal memorandum from outside tax counsel stating that the proceeds from that transaction would receive preferable tax treatment pursuant to that provision of the IRC.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10113.22 is added to the Insurance Code,
2 immediately following Section 10113.2, to read:
3 10113.22. (a) A licensee that solicits, negotiates, or enters into
4 a life or viatical settlement that is intended to qualify for special
5 tax treatment under Section 101(g) of the Internal Revenue Code
6 (26 U.S.C. Sec. 101(g)) as an amount paid to a person suffering
7 from a chronic illness shall file with the department a legal
8 memorandum from outside tax counsel stating that the proceeds
9 from that transaction would receive preferable tax treatment
10 pursuant to Section 101(g) of the Internal Revenue Code.
11 (b) A violation of this section is not subject to subdivision (t)
12 of Section 10113.2.

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