



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

**BULLETIN 06-05
(REVISED AND REISSUED)**

TO: ALL LIFE INSURERS TO DO BUSINESS IN LOUISIANA

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: AUTHORIZED AND UNAUTHORIZED QUESTIONS FOR USE ON A LIFE INSURANCE APPLICATION

DATE: SEPTEMBER 21, 2020

Bulletin 06-05, originally issued on September 5, 2006, is being amended to update the cited statutory provision. Acts 2008, No. 415, §1, effective January 1, 2009, redesignated the provisions of Title 22, formerly comprising La. R.S. 22:1 to 22:3311, into a new format and numbering scheme comprising La. R.S. 22:1 to 22:2371, without changing the substance of the provisions.

Bulletin 06-05 was issued because historically, some investors in the premium finance arena, who were seeking to own policies insuring the lives of those in whom the investors lack an insurable interest, had initiated the creation of life insurance policies for the purpose of settlement in contravention of controlling Louisiana law. In particular, such an improper initiation can be detected by, in the first two years of the policy, the payment of consideration (other than the amount loaned to take out and sustain coverage) in order to induce the insured to take out a life insurance policy and/or an agreement between the insured and a particular investor to sell the life insurance policy at some point in the future. These arrangements are also sometimes characterized by an investor or lender, contemporaneous with the initiation of the life insurance policy, taking an interest in the death benefit above and beyond the repayment of principal and interest.

This is a reminder that such arrangements may, depending on the facts, violate some or all of the following Louisiana Insurance Code provisions, or other Louisiana statutes or jurisprudence, including, but not limited to insurable interest (La. R.S. 22:901), prohibition on wager policies, rebating (La. R.S. 22:1964), prohibition on "wet ink" life settlements (La. R.S. 22:1799), premium finance, and usury. Sound life insurance underwriting will seek to apply these principles.

As a result of these arrangements, certain practices regarding premium financing of life insurance policies have become a focal point of insurance underwriting, including application questions and decisions on whether or not to issue a life insurance policy. Life insurers have an obligation to ensure that an application does not violate the applicable

provisions of the Louisiana Insurance Code, and life insurers can and should seek to ascertain whether life insurance applications are legally sound.

However, life insurance underwriting may not discriminate against applicants for life insurance based solely on the intention of the insured to subsequently sell the life insurance policy to a life settlement company or on the method of payment utilized by the insured to pay the premium. Such an underwriting decision would be a violation of the Louisiana Insurance Code. The following questions are the type that would be a form of unfair discrimination and shall not be approved for use in a Louisiana life insurance application and are not authorized for use in Louisiana, unless otherwise required by law: questions that inquire about the intention of the applicant to premium finance the policy, questions that inquire about the intention of the applicant to use the policy as collateral for a loan, questions that inquire about whether the applicant has previously converted a life insurance policy via the life settlement provisions, or questions that inquire about whether the applicant is cognizant that he is vested with a property right to settle a life insurance policy in the future.

I recognize the importance of this matter to both life insurers and insureds, and I hereby reiterate that there are certain legitimate questions that are appropriate for use in Louisiana with regard to a life insurance application and life insurance underwriting. Those questions that are appropriate for use in Louisiana include questions that inquire about whether the applicant has been offered a cash advance or other consideration as inducement to purchase the life insurance policy, questions that inquire about whether the applicant has been offered "free insurance," questions that inquire about whether the applicant has entered into a finance arrangement which arranges a life settlement with a particular investor, questions that inquire about whether the applicant has entered into a finance arrangement that entitles a lender or investor to a portion of the death benefit above and beyond the repayment of principal and interest on the loan, or questions that inquire about the total amount of life insurance the applicant currently has in force.

If there are any questions regarding this Bulletin, please contact the Deputy Commissioner for the Office of Health, Life, and Annuity, electronically at public@ldi.la.gov.

Baton Rouge, Louisiana, this 21st day of September, 2020.



JAMES J. DONELON
COMMISSIONER OF INSURANCE