

Multiple Agency Fiscal Note Summary

Bill Number: 5195 SB	Title: Life settlements model act
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Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Insurance Commissioner	4,125	4,125	4,125	4,125	4,125	4,125
Total \$	4,125	4,125	4,125	4,125	4,125	4,125

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Office of Insurance Commissioner	2.3	0	512,455	2.9	0	603,056	2.9	0	592,556
Total	2.3	\$0	\$512,455	2.9	\$0	\$603,056	2.9	\$0	\$592,556

Local Gov. Courts *									
Local Gov. Other **									
Local Gov. Total									

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

Prepared by: Ryan Black, OFM	Phone: 360-902-0417	Date Published: Final
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Individual State Agency Fiscal Note

Bill Number: 5195 SB	Title: Life settlements model act	Agency: 100-Office of Attorney General
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Part I: Estimates

☒ No Fiscal Impact

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Bob Shirley	Phone: 360-9020420	Date: 01/16/2009
Agency Preparation:	Tina Kondo	Phone: (206) 464-6293	Date: 01/21/2009
Agency Approval:	Sarian Scott	Phone: (360) 586-2104	Date: 01/21/2009
OFM Review:	John Shepherd	Phone: 360-902-0538	Date: 01/22/2009

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This act adopts the model life settlements act. It requires the Office of the Insurance Commissioner (OIC) to comprehensively regulate sellers of life settlement contracts. There is a cross reference to the Consumer Protection Act.

Section 3 states that providers and brokers of life settlements must be licensed by the OIC. Certain life insurance producers and settlement brokers meet the requirements for licensure. They must notify the OIC within thirty days that they are operating, and must comply with the terms of the Act. The insurer who issued the policy is not liable for any acts or omissions of the brokers or providers unless the insurer was paid. Terms and fees for the license are set by the OIC. The OIC “shall make an investigation of each applicant” pertaining to the applicants competency, experience, and antifraud plan effectiveness. The OIC shall require annual reports. Brokers must complete 15 hours of training biennially.

Section 4 allows the OIC to take action against a license based on specified bad behavior. However, any denial must be preceded by a hearing.

Section 5 sets requirements for the life settlement contracts form. The OIC has to approve the form used.

Section 6 identifies information to be set forth in the annual report. Identities of the owner of the insured are to be protected. Nonpublic personal information is restricted as set forth in the federal Gramm Leach Bliley Act.

Section 7 authorizes the OIC to examine the business and affairs of any licensee as necessary to protect the interests of the public. The OIC is given investigative authority, to include subpoena authority. The OIC also has the authority to hire consultants and attorneys as necessary. The cost of hired personnel is borne by the licensee.

Section 8 sets forth advertising requirements and prohibitions.

Section 9 specifies what information must be disclosed to owners, no later than the date of the application, for the life settlement contract.

Section 10 governs what questions insurance carriers may ask of applicants.

Section 11 requires an insurance company to notify the owner of an individual life insurance policy when the insured person reaches age 60, or is known to be terminally or chronically ill. There may be alternative transactions available at certain events. The commissioner shall approve a document calculated to advise the consumer of his or her rights as an owner of a policy and that life insurance is part of a broader financial plan. The document is to be available at no cost.

Section 12 sets forth general rules including, but not limited to, requiring the provider to obtain written consent for the release of medical records, and a written statement from an attending doctor that the owner is of sound mind. The insurer must verify coverage as specified. The execution must be witnessed to verify that the contract is entered into knowingly. The owner has 15 days to rescind. The provider must pay proceeds into escrow within 3 days.

Section 13 discusses conflict of laws if there is more than one owner of a single policy.

Section 14 identifies prohibited practices.

Section 15 prohibits fraudulent life settlement acts. Documents obtained by the OIC in an investigation of suspected or

actual fraudulent acts are privileged and confidential, and not a public record. This chapter does not preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of the law.

Section 16 identifies who can bring an action. The OIC may issue a cease and desist order and may seek an injunction in addition to other relief. Any injured person may bring an action for damages.

Section 17 sets forth civil penalties.

Section 18 makes a violation of this chapter a Consumer Protection Act violation.

Section 19 describes how current providers can become licensed and allows them to continue operating if they use preapproved forms.

Section 20 modifies the Public Disclosure Act to exempt names and individual identification data of all persons in the business of life settlements.

This bill is assumed effective July 1, 2009.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

None.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 5195 SB	Title: Life settlements model act	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

☒ No Fiscal Impact

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Bob Shirley	Phone: 360-9020420	Date: 01/16/2009
Agency Preparation:	Jane Habegger	Phone: 360-753-4625	Date: 01/23/2009
Agency Approval:	Les Myhre	Phone: 360-586-4949	Date: 01/23/2009
OFM Review:	John Shepherd	Phone: 360-902-0538	Date: 01/24/2009

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Individual State Agency Fiscal Note

Bill Number: 5195 SB	Title: Life settlements model act	Agency: 160-Office of Insurance Commissioner
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2010	FY 2011	2009-11	2011-13	2013-15
General Fund-State 001-1	4,125		4,125	4,125	4,125
Total \$	4,125		4,125	4,125	4,125

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	3.3	1.4	2.3	2.9	2.9
Fund					
Insurance Commissioners Regulatory Account-State 138-1	373,099	139,356	512,455	603,056	592,556
Total \$	373,099	139,356	512,455	603,056	592,556

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐

Capital budget impact, complete Part IV.

☒

Requires new rule making, complete Part V.

Legislative Contact: Bob Shirley	Phone: 360-9020420	Date: 01/16/2009
Agency Preparation: Stacey Warick	Phone: 725-7035	Date: 01/23/2009
Agency Approval: Kacy Scott	Phone: (360) 725-7041	Date: 01/23/2009
OFM Review: Ryan Black	Phone: 360-902-0417	Date: 01/23/2009

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill adopts most of the NCOIL Life Settlements Model Act and in Section 23, repeals the current viatical settlements chapter 48.102 RCW.

Section 3 requires the Commissioner to license life settlement providers and brokers before they are authorized to conduct business in this state. The Commissioner will need to develop application forms and establish reasonable fees. The Commissioner is instructed to investigate whether each applicant meets the requirements of this law. Any external costs to the Commissioner for verifying the information provided in the application shall also be added to the fees paid by the licensee. Licensees are required to file annual statements with the Commissioner containing the information that the Commissioner requires by rule.

Section 4 provides a process by which OIC can suspend, revoke, or refuse to re-new licenses of life settlement providers and brokers. Several sections within this division and several other divisions will be required to monitor, investigate and take action against life settlement providers and brokers.

Section 6 requires life settlement providers to file annual statements with the Commissioner. The Commissioner will be required to develop annual statement forms and instructions and to analyze those annual statements. The required analysis will be for both financial and market purposes.

Section 7 provides authority for the Commissioner to examine the business and affairs of licensees when deemed necessary. Because of the nature of the life settlement business, and the potential for harm to consumers, examinations will likely be warranted on a 2-3 year cycle. As currently drafted, this bill is unclear about the Commissioner's recovery of the costs of examination.

Section 9 the Commissioner may have to prescribe the form of a buyers guide.

Section 11 requires the Commissioner to approve documents that life insurers are required to give to owners of life insurance policies.

Section 15 requires providers and brokers to file anti-fraud plans with the Commissioner and makes individuals having knowledge of fraudulent life settlement acts responsible for notifying the Commissioner.

Section 16 gives the Commissioner the power to issue cease and desist orders and emergency orders for violation of the chapter and its related rules and written agreements with the Commissioner.

Section 19 provides only a short period in which any entity currently doing business in this state as a life settlement provider can file their applications for licensure. That short period compresses the initial workload for processing license applications. The short filing period also increases the possibility that entities will not become properly licensed and will trigger investigation leading to enforcement activity. There are currently 6 foreign viatical settlement providers licensed here. We assume that all will seek re-licensure as life settlement providers because this bill repeals the existing authority of viatical settlement providers. California currently licenses 30 life settlement providers. Informal conversations with life settlement providers in other states suggest that several of those licensed in California will seek licensure in this state. We assume that a total of 15 foreign life settlement providers (current viatical settlement providers and new entrants to our market) will seek licensure. We also assume that most of those applications will occur within 90 days of the law's effective date. Historically, in the area of financial analysis, one analyst can effectively monitor no more than 15 companies.

Section 20 sets out the public record uses and protections for reporting fraudulent life settlement acts and investigating them.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Section 3 - Effective July 1, 2009, the license and license renewal fee for insurance producers is \$55. RCW 48.14.010(1)(e). Assuming that this is a reasonable fee, and that 50 individuals and 25 business entities seek licensure under this bill, it is estimated that approximately \$4,125 will be collected in license fees during the first year after its enactment. Assuming that the number of licensees remains at about 50 individuals and 25 business entities after the first year the law is in effect and every succeeding year, approximately \$4,125 will be received each biennium thereafter in license renewal fees.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

LIFE SETTLEMENT BROKERS

Section 3(2), (3) and (4) provides for licensing of “life settlement” brokers and permits licensed insurance producers, resident and non-resident, with the life line of authority to operate as a broker with notice to the Commissioner.

Section 3(11) requires that each applicant be investigated to support affirmative findings, among others, of trustworthiness and intending to act in good faith, and possessing a good business reputation and experience, etc., to be qualified. Section 3(9)(c) authorizes the Commissioner consider the qualifications of the officers, employees, stockholders, and partners in licensing business entities. Using the number of life settlement licensees in Oregon as a comparison for estimating purposes, we can expect that as many as 50 individuals and 25 business entities will seek to be licensed in the first year of the law’s effect as brokers. This is in addition to those licensed life insurance producers who, under section 3(3) and (4), notify the Commissioner that they are acting as brokers. It is estimated that each investigation will required by section 3(11) will take, on the average, 2.5 days for one investigator to complete. It is estimated that each of the business entity applicants will require, at least, three separate investigations including the business entity, officers, employees, stockholders, and partners. This means that approximately 1.2 FTEs (functional program analyst 3) will be needed for the first year that the law is in effect to perform investigations of new applicants. It is estimated that the number of applicants for broker licenses will decrease to approximately 5 individuals and 2 business entities per year in each year after the law is in effect.

Section 3(13) requires that each licensee file an annual statement with the Commissioner’s office. It is estimated that for each year after the first year the law is in effect, there will be approximately 75 licensees. Therefore, approximately 75 annual statements will be filed requiring review and analysis by staff for each year after the first year the law is in effect. It is estimated that 0.1 FTE (functional program analyst 3) will be required to perform investigations of new applicants and review annual statements for each year after the first year the law is in effect.

LIFE SETTLEMENT PROVIDERS

Sections 3, 4, and 6 directly and by inference require licensing and receipt and analysis (both financial and market) of annual statements of life settlement providers. OIC will need to develop processes and forms to accomplish those activities for this new type of entity, before actually beginning the regulatory process. Historically we have found that one financial analyst can effectively monitor no more than 15 companies, which is our assumed level of life settlement provider activity. It is assumed that 1 FTE additional financial analyst could manage the initial crunch of licensing applications, perform qualification examinations, and develop/modify analysis forms and procedures, before shifting to actual financial analysis activities.

Because of the nature of the life settlement business, and the increased possibility for fraud and other consumer harm, market analysis of the life settlement business will be critical. We anticipate that this business segment will require more detailed and closer analysis. At this time we anticipate the need for at least .25 FTE Functional Program Analyst 3 to adequately monitor the life settlement market.

Assuming 15 life settlement providers become licensed, and assuming that the nature of that business suggests examination on a 3 year cycle, and assuming life settlements become a growth area because of current demographics and economic environment, we believe that 1.5 FTE Financial Examiner II will be required to adequately monitor the life settlement segment. This staffing level would provide one examiner for slightly over two months to complete each examination and maintain a 3-year cycle. Hiring those staff members can be delayed until the third fiscal year after the effective date of the bill.

Experience has shown that professionals in this division benefit from NAIC training early in their OIC career. That training equips new staff to more quickly assume responsibility at a lower level of supervision. Historically, the cost of that training is about \$2,000 per person including tuition, transportation, and per diem. Professionals in this division are all licensed or accredited. Continuing education to maintain skill levels costs about \$1,500 per staff member per year.

Ongoing Costs:

Salary, Benefits, training, travel, and associated costs for Insurance Examiner 2, and Functional Program Analyst 3 positions.

One-time Costs:

(3) Computers and workstations

Rule making costs - .66 FTE WMS Regulatory Policy Specialist; .16 FTE Functional Prog Analyst 4; \$1,600 printing costs

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	3.3	1.4	2.3	2.9	2.9
A-Salaries and Wages	221,214	85,786	307,000	365,792	365,792
B-Employee Benefits	58,260	23,168	81,428	98,392	98,392
C-Personal Service Contracts					
E-Goods and Services	78,669	30,239	108,908	132,046	128,046
G-Travel	1,956	163	2,119	326	326
J-Capital Outlays	13,000		13,000	6,500	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$373,099	\$139,356	\$512,455	\$603,056	\$592,556

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Financial Examiner 2	64,740	1.0	1.0	1.0	2.5	2.5
Functional Program Analyst 3	60,132	1.5	0.4	0.9	0.4	0.4
Functional Program Analyst 4	66,420	0.2		0.1		
WMS Regulatory Policy Specialist	88,872	0.7		0.3		
Total FTE's		3.3	1.4	2.3	2.9	2.9

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 3 provides for the Commissioner to set the licensing fee for brokers and providers, and the information to be required in applications for a license. It also provides for the Commissioner to prescribe the information to be contained in the annual statement required to be filed by licensees.

Section 6 requires life settlement providers to file annual statements with OIC.

Section 9 provides that the Commissioner may require delivery of a buyer's guide or similar package of by producers and brokers to owners of life settlement policies.

Section 11 allows the Commissioner to set by rule the requirements for a document to appraise consumers of their rights as an owner of a life insurance policy.

Section 13 gives the Commission the power to adopt rules to implement the chapter and regulate the activities and relationships of providers, brokers, insurers and their agents.



Multiple Agency Ten-Year Analysis Summary

Bill Number	Title
5195 SB	Life settlements model act

This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts (Dollars in Thousands)

Agency Name	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Fiscal Year 2019	2010-19 TOTAL
Office of Insurance Commissioner	4,125	0	4,125	0	4,125	0	4,125	0	4,125	0	20,625



Ten-Year Analysis

Bill Number	Title	Agency
5195 SB	Life settlements model act	100 Office of Attorney General

This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimates

☒ No Cash Receipts ☐ Indeterminate Cash Receipts

Narrative Explanation (Required for Indeterminate Cash Receipts)



Ten-Year Analysis

Bill Number	Title	Agency
5195 SB	Life settlements model act	110 Office of Administrative Hearings

This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimates

☒ No Cash Receipts ☐ Indeterminate Cash Receipts

Narrative Explanation (Required for Indeterminate Cash Receipts)



Ten-Year Analysis

Bill Number 5195 SB	Title Life settlements model act	Agency 160 Office of Insurance Commissioner
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This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimates

☐ **No Cash Receipts** ☐ **Indeterminate Cash Receipts**

Estimated Cash Receipts

Name of Fee	Acct Code	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017	Fiscal Year 2018	Fiscal Year 2019	2010-19 TOTAL
Insurance Licensing Fees	001	4,125	0	4,125	0	4,125	0	4,125	0	4,125	0	20,625
Total		4,125	0	4,125	0	4,125	0	4,125	0	4,125	0	20,625
Biennial Totals		4,125		4,125		4,125		4,125		4,125		20,625

Narrative Explanation (Required for Indeterminate Cash Receipts)

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