Insurance Council
BRITISH COLUMBIA

NOTICE

ICN 19-005 | Donations of Life Insurance Policies

December 19, 2019

Recently, a number of publications have advised of the potential for donations of life insurance policies to be considered trafficking in insurance, an activity prohibited by section 152 of the *Insurance Act*.

In BC, a person may purchase a life insurance policy and designate a registered charity as their beneficiary; however, donations of life insurance policies should be considered with extra diligence as they may have the potential to run afoul of anti-trafficking provisions.

In the course of their work, life agents working with potential donors or registered charities may be involved or requested to be involved in activities related to the procurement, sale, transfer, or assignment of a life insurance policy, or benefits underneath that policy. Life agents should be aware of the considerations surrounding these activities in order to comply with regulatory requirements.

The Requirement

Section 152 of the *Insurance Act* ("Act") states:

> Any person, other than an insurer or its authorized agent, who advertises, or holds himself or herself out, as a purchaser of life insurance policies or of benefits under them, or who traffics or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation of them to himself or herself or any person, commits an offence against this Act.

In relation to Section 152, an "authorized agent" is a person who has an agency relationship with an insurer and is authorized by that insurer to represent it in a transaction to purchase an existing life insurance policy.

Interpretation

Other than where a licensee is acting as an insurer's authorized agent for a transaction involving an insurer's purchase of an existing insurance policy from an insured person, a licensee should refrain from:

1. Advertising or representing readiness or willingness to purchase or facilitate purchase of a life insurance policy from an insured person.
2. Dealing or trading in existing life insurance policies for the purpose of obtaining the assignment or transfer of life insurance policies or related benefits with or without compensation to the insured person.
3. Dealing or trading in existing life insurance policies for the purpose of securing life insurance policies as collateral for loans.

Where a licensee is acting as an authorized agent of an insurer with respect to a transaction to purchase an existing insurance policy from an insured person, these activities would not constitute a contravention of section 152 of the Act. However, licensees must still fulfill their professional obligations towards the insured person under the *Financial Institutions Act*, the Insurance Council's Rules and Code of Conduct.

Licensees not acting as authorized agents may still play a role in a situation where an insured person is considering donating their life insurance policy to a registered charity and has specifically sought advice from the licensee. In this situation, licensees should only be acting for and advising the insured person, and should not be acting for or receiving any benefit from the registered charity. Licensees should also be careful to remain within their area of expertise, and advise the insured person to obtain legal, tax or financial planning advice where appropriate.

If you have any questions about this Notice, please contact Regulatory Services at 604-695-2008 or toll-free at 1-877-688-0321 ext. 3, or email regulatoryservices@insurancecouncilofbc.com.