

By Representative Cosgrove

1 A bill to be entitled
2 An act relating to the Viatical Settlement Act;
3 amending s. 626.9912, F.S.; prescribing
4 information to be included in an application
5 for a viatical provider license; amending s.
6 626.9913, F.S.; authorizing licensees to
7 execute a security bond; providing for a waiver
8 by the Department of Insurance of the deposit
9 requirement under specified conditions;
10 amending ss. 626.9923, 626.9924, F.S.;
11 modifying conditions for unconditional
12 rescission of a viatical settlement contract;
13 providing for a waiver of an unconditional
14 rescission provision; providing for reciprocal
15 licensure of viatical settlement providers with
16 other states; prohibiting life and health
17 insurers from entering into a viatical
18 settlement contract under certain conditions;
19 repealing s. 626.993, F.S., relating to viators
20 with dependent children; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (d) of subsection (3) of section
26 626.9912, Florida Statutes, 1996 Supplement, is amended,
27 present paragraphs (f) and (g) of that subsection are
28 redesignated as paragraphs (g) and (h), respectively, and a
29 new paragraph (f) is added to that subsection, to read:

30 626.9912 Viatical settlement provider license
31 required; application for license.--

1 (3) In the application, the applicant must provide all
2 of the following:

3 (d) A list showing the name, business and residence
4 addresses, and official position of each individual who is
5 responsible for conduct of the applicant's affairs, including,
6 but not limited to, any member of the applicant's board of
7 directors, board of trustees, executive committee, or other
8 governing board or committee ~~and any other person or entity~~
9 ~~owning or having the right to acquire 10 percent or more of~~
10 ~~the voting securities of the applicant.~~

11 (f) A list showing the name and business and residence
12 addresses of any person or entity owning or having the right
13 to acquire 10 percent or more of the voting securities of the
14 applicant.

15 Section 2. Subsection (3) of section 626.9913, Florida
16 Statutes, 1996 Supplement, is amended to read:

17 626.9913 Viatical settlement provider license
18 continuance; annual report; fees; deposit.--

19 (3) A viatical settlement provider licensee must
20 deposit and maintain deposited in trust with the department
21 securities eligible for deposit under s. 625.52, having at all
22 times a value of not less than \$100,000. As an alternative to
23 meeting the \$100,000 deposit requirement, the provider may
24 execute a surety bond in the amount of \$100,000, executed by a
25 surety company authorized to do business in this state,
26 payable to the department and conditioned on compliance with
27 the provisions of this act. Such bond shall be renewable
28 annually. The department must waive the \$100,000 deposit
29 requirement for any viatical settlement provider who disburses
30 the proceeds of viatical settlement contracts to viators only
31 through the use of an independent third-party trustee or

1 escrow agent who is licensed and regulated as a trust company
2 defined in s. 658.12(21) or as a trust department of a bank
3 defined in s. 658.12(22) under the laws and regulations of
4 this state or the equivalent laws and regulations of the state
5 in which such trustee or escrow agent is licensed.~~deposit and~~
6 ~~maintain deposited in trust with the department such~~
7 ~~securities in the amount of \$25,000 and post with the~~
8 ~~department a surety bond acceptable to the department in the~~
9 ~~amount of \$75,000.~~

10 Section 3. Subsection (5) of section 626.9923, Florida
11 Statutes, 1996 Supplement, is amended to read:

12 626.9923 Viatical settlement contracts; required
13 disclosures.--The viatical settlement broker, or the viatical
14 settlement provider in transactions in which no broker is
15 used, must inform the viator by the date of application for a
16 viatical settlement contract:

17 (5) That all viatical settlement contracts entered
18 into in this state must contain an unconditional rescission
19 provision which allows the viator to rescind the contract
20 within 15 days after the viatical settlement proceeds have
21 been paid by the viatical settlement provider to an escrow or
22 trust account ~~viator receives the viatical settlement~~
23 ~~proceeds, conditioned on the return of such proceeds.~~

24 Section 4. Subsection (2) of section 626.9924, Florida
25 Statutes, 1996 Supplement, is amended to read:

26 626.9924 Viatical settlement contracts; procedures;
27 rescission.--

28 (2) All viatical settlement contracts subject to this
29 act must contain an unconditional rescission provision which
30 allows the viator to rescind the contract within 15 days after
31 the viatical settlement proceeds have been paid by the

1 viatical settlement provider to an escrow or trust account.
2 The independent third-party trustee or escrow agent may not
3 disburse the viatical settlement proceeds to the viator until
4 15 days after the viatical settlement proceeds have been paid
5 to such escrow or trust account. A viator may waive the
6 unconditional rescission provision required by this
7 subsection, and when it is so waived the independent
8 third-party trustee or escrow agent may disburse the viatical
9 settlement proceeds without holding such proceeds for the 15
10 days ~~viator receives the viatical settlement proceeds,~~
11 ~~conditioned on the return of such proceeds.~~

12 Section 5. Viatical settlement providers; reciprocal
13 licensure with other states.--

14 (1) As used in this section, the term "department"
15 means the Department of Insurance.

16 (2) Any person who is licensed to perform the
17 functions of a viatical settlement provider in another state
18 whose regulatory policy of laws and regulations meets the
19 standards for accreditation by the National Association of
20 Insurance Commissioners and who provides the department proof
21 of such license, upon application to the department must be
22 issued a reciprocal license certificate and must be authorized
23 to perform the functions of a viatical settlement provider in
24 this state.

25 (3) Any person who applies to the department for a
26 reciprocal license certificate to perform the functions of a
27 viatical settlement provider automatically agrees to comply
28 with, and is subject to, the provisions of the Viatical
29 Settlement Act, including the department's authority to
30 examine business records, conduct investigations of licensees,
31 and discipline licensees.

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1 Section 6. (1) A life or health insurer may not
2 negotiate or enter into a viatical settlement contract with a
3 viator if the subject life insurance policy was issued by such
4 insurer or any other corporation owned or associated with such
5 insurer.

6 (2) A life or health insurer may not perform the
7 functions of a viatical settlement provider without first
8 having obtained a license from the Department of Insurance
9 pursuant to section 626.9912, Florida Statutes.

10 (3) At least 10 days before cancelling any life
11 insurance policy for failure to make the required premium
12 payments, the insurer must give written notice that any person
13 who has a catastrophic or life-threatening illness or
14 condition may exercise the alternative of a viatical
15 settlement contract in lieu of allowing the insurance policy
16 to lapse.

17 Section 7. Section 626.993, Florida Statutes, as
18 created by section 21 of chapter 96-336, Laws of Florida, is
19 repealed.

20 Section 8. This act shall take effect upon becoming a
21 law.

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23 SENATE SUMMARY

24 Amends the Viatical Settlement Act. Prescribes
25 information to be included in an application for a
26 viatical provider license. Authorizes licensees to
27 execute a security bond. Provides for a waiver by the
28 Department of Insurance of the deposit requirement for
29 licensees under specified conditions. Modifies conditions
30 for unconditional rescission of a viatical settlement
31 contract. Provides for a waiver of an unconditional
rescission provision. Provides for reciprocal licensure
of viatical settlement providers with other states.
Prohibits life and health insurers from entering into a
viatical settlement contract under certain conditions.
Repeals s. 626.993, F.S., relating to viators with
dependent children.