

By the Committee on Banking and Insurance and Senator Burt

311-1951-98

1                                   A bill to be entitled  
 2           An act relating to the Viatical Settlement Act;  
 3           amending s. 626.9911, F.S.; modifying  
 4           definitions used in the act and adding a  
 5           definition of related provider trust; amending  
 6           s. 626.9913, F.S.; requiring viatical  
 7           settlement providers to file certain  
 8           information with the Department of Insurance;  
 9           specifying applicability of fee and deposit  
 10          requirements; amending s. 626.9914, F.S.;  
 11          specifying liability of a viatical settlement  
 12          provider for a related provider trust; amending  
 13          s. 626.9921, F.S.; requiring certain providers  
 14          to file notice with the department; providing  
 15          an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19           Section 1. Subsections (5) and (6) of section  
 20   626.9911, Florida Statutes, are amended and subsection (8) is  
 21   added to that section, to read:

22           626.9911 Definitions.--As used in this act, the term:

23           (5) "Viatical settlement contract" means a written  
 24   settlement entered into between a viatical settlement  
 25   provider, or its related provider trust, and a viator. The  
 26   agreement must establish the terms under which the viatical  
 27   settlement provider will pay compensation or anything of  
 28   value.

29           (6) "Viatical settlement provider" means a person who,  
 30   in this state or from this state, enters into a viatical  
 31   settlement contract with a viator. The term does not include:

1 (a) Any bank, savings bank, savings and loan  
2 association, credit union, or other licensed lending  
3 institution that takes an assignment of a life insurance  
4 policy as collateral for a loan;

5 (b) A life and health insurer that has lawfully issued  
6 a life insurance policy that provides accelerated benefits to  
7 terminally ill policyholders or certificateholders; or

8 (c) Any natural person who enters into no more than  
9 one viatical settlement contract with a viator in 1 calendar  
10 year, unless such natural person has previously been licensed  
11 under this act or is currently licensed under this act.

12 (d) A trust that meets the definition of a "related  
13 provider trust".

14 (8) "Related provider trust" means a trust established  
15 by a viatical settlement provider for the sole purpose of  
16 entering into or owning viatical settlement contracts. A  
17 related provider trust shall be subject to all provisions of  
18 this act that apply to the viatical settlement provider who  
19 established the related provider trust, except s. 626.9912,  
20 which shall not be applicable. A viatical settlement provider  
21 may establish no more than one related provider trust, and the  
22 sole trustee of such related provider trust shall be the  
23 viatical settlement provider licensed under s. 626.9912. The  
24 name of the licensed viatical settlement provider shall be  
25 included within the name of the related provider trust.

26 Section 2. Subsection (2) of section 626.9913, Florida  
27 Statutes, is amended and subsection (4) is added to that  
28 section, to read:

29 626.9913 Viatical settlement provider license  
30 continuance; annual report; fees; deposit.--

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1           (2) Annually, on or before March 1, the viatical  
2 settlement provider licensee shall file a statement containing  
3 information the department requires and shall pay to the  
4 department a license fee in the amount of \$500. A viatical  
5 settlement provider shall include in all statements filed with  
6 the department all information requested by the department  
7 regarding a related provider trust established by the viatical  
8 settlement provider.The department may require more frequent  
9 reporting. Failure to timely file the annual statement or to  
10 timely pay the license fee is grounds for immediate suspension  
11 of the license.

12           (4) There shall be no additional annual license fee or  
13 deposit requirements under this act for a related provider  
14 trust established by a viatical settlement provider.

15           Section 3. Subsection (4) is added to section  
16 626.9914, Florida Statutes, to read:

17           626.9914 Suspension, revocation, or nonrenewal of  
18 viatical settlement provider license; grounds; administrative  
19 fine.--

20           (4) If a viatical settlement provider establishes a  
21 related provider trust as permitted by this act, the viatical  
22 settlement provider shall be liable and responsible for the  
23 performance of all obligations of the related provider trust  
24 under all viatical settlement contracts entered into by the  
25 related provider trust, and for the compliance of the related  
26 provider trust with all provisions of this act. Any violation  
27 of this act by the related provider trust shall be deemed a  
28 violation of this act by the viatical settlement provider as  
29 well as the related provider trust. If the related provider  
30 trust violates any provisions of this act, the department may  
31 exercise all remedies set forth in this act for such

1 violations against the viatical settlement provider, as well  
2 as the related provider trust.

3 Section 4. Subsection (1) of section 626.9921, Florida  
4 Statutes, is amended, and subsection (3) is added to that  
5 section, to read:

6 626.9921 Filing of forms; required procedures;  
7 approval.--

8 (1) A viatical settlement contract form or related  
9 form may be used in this state only after the viatical  
10 settlement provider or related provider trust has filed the  
11 form with the department and only after the form has been  
12 approved by the department.

13 (3) If a viatical settlement provider elects to use a  
14 related provider trust in accordance with this act, the  
15 viatical settlement provider shall file notice of its  
16 intention to use a related provider trust with the department,  
17 including a copy of the trust agreement of the related  
18 provider trust.

19 Section 5. This act shall take effect July 1, 1998.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2004

4 Authorizes a viatical settlement provider to establish a  
5 "related provider trust" for the sole purpose of entering into  
6 or owning viatical settlement contracts.

6 Requires the related provider trust to be subject to all  
7 provisions that apply to viatical settlement providers except  
8 that a separate license would not be required for the trust.  
9 Only one such trust could be established by a viatical  
10 settlement provider, who would be the sole trustee. The  
11 licensed provider would be liable and responsible for the  
12 performance of all obligations of the related provider trust  
13 under all viatical settlement contracts entered into by the  
14 trust. Any violation of the act by the related provider trust  
15 would be deemed a violation of the act by the provider as well  
16 as the trust. If the trust violates any provisions of the act,  
17 the department could exercise all remedies for such violations  
18 against the viatical settlement provider, as well as the  
19 trust. The provider would be required to file notice of its  
20 intention to use a related provider trust, including a copy of  
21 the trust agreement, and include all information requested by  
22 the department regarding the trust in all statements filed  
23 with the department.  
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