

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; creating s.
15 626.99235, F.S.; prohibiting misrepresentation;
16 providing disclosure of required information;
17 providing an effective date.

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

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21 Section 1. Subsections (5) and (6) of section
22 626.9911, Florida Statutes, are amended and subsection (8) is
23 added to that section, to read:

24 626.9911 Definitions.--As used in this act, the term:

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

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

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

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

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

15 (d) A trust that meets the definition of a "related
16 provider trust".

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

29 Section 2. Subsection (2) of section 626.9913, Florida
30 Statutes, is amended and subsection (4) is added to that
31 section, to read:

1 626.9913 Viatical settlement provider license
2 continuance; annual report; fees; deposit.--

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

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

17 Section 3. Subsection (4) is added to section
18 626.9914, Florida Statutes, to read:

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

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

1 trust violates any provisions of this act, the department may
2 exercise all remedies set forth in this act for such
3 violations against the viatical settlement provider, as well
4 as the related provider trust.

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

8 626.9921 Filing of forms; required procedures;
9 approval.--

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

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

21 Section 5. Section 626.99235, Florida Statutes, is
22 created to read:

23 626.99235 Disclosures to investors;
24 misrepresentations.--

25 (1) No person shall misrepresent the nature of the
26 return or the duration of time to obtain the return of any
27 investment related to one or more viatical settlements sold by
28 a viatical settlement provider or related provider trust.

29 (2) The viatical settlement provider, itself or
30 through another person, shall provide in writing the following
31 disclosures to any investor or investor prospect:

1 (a) That the return available under the viatical
2 investment is directly tied to the projected life span or date
3 of death of one or more viators;

4 (b) If a return is represented, the disclosure shall
5 indicate the projected life span or date of death of the
6 viator or viators whose life or lives are tied to the return.

7 (c) If required by the terms of the investment
8 contract, that the investor may be responsible for the payment
9 of insurance premiums on the life of the viator or late or
10 surrender fees or other costs related to the life insurance
11 policy on the life of the viator or viators which may reduce
12 the return.

13 (d) The amount of any trust fees or other expenses, if
14 any, to be charged to the investor.

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16 The written disclosure required under this subsection shall be
17 conspicuously displayed in any investment agreement, and any
18 solicitation material furnished to the investor by such
19 provider, trust or person, and shall be in contrasting color
20 and in not less than 10 point type or no smaller than the
21 largest type on the page if larger than 10 point type.

22 Section 6. This act shall take effect July 1, 1998.
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