

1 A bill to be entitled
2 An act relating to viatical settlement related
3 provider trusts; amending s. 626.9911, F.S.;
4 revising definitions; providing a definition;
5 amending ss. 626.9913, 626.9914, and 626.9921,
6 F.S.; providing exclusions, limitations,
7 requirements, and liability for related
8 provider trusts; providing penalties; creating
9 s. 626.99235, F.S.; prohibiting
10 misrepresentation; providing disclosure of
11 required information; providing an effective
12 date.

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

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16 Section 1. Subsections (5) and (6) of section
17 626.9911, Florida Statutes, are amended and a new subsection
18 (8) is added to said section, to read:

19 626.9911 Definitions.--As used in this act, the term:

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

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

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

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

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

10 (d) A trust which meets the definition of a "related
11 provider trust".

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

24 Section 2. Subsection (2) of section 626.9913,
25 Florida Statutes, is amended, and a new subsection (4) is
26 added to said section, to read:

27 626.9913 Viatical settlement provider license
28 continuance; annual report; fees; deposit.--

29 (1) A viatical settlement provider license continues
30 in force until suspended or revoked.

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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 (3) A viatical settlement provider licensee must
13 deposit and maintain deposited in trust with the department
14 securities eligible for deposit under s. 625.52, having at all
15 times a value of not less than \$100,000. As an alternative to
16 meeting the \$100,000 deposit requirement, the provider may
17 deposit and maintain deposited in trust with the department
18 such securities in the amount of \$25,000 and post with the
19 department a surety bond acceptable to the department in the
20 amount of \$75,000.

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

24 Section 3. Subsection (4) is added to section
25 626.9914, Florida Statutes, to read:

26 626.9914 Suspension, revocation, or nonrenewal of
27 viatical settlement provider license; grounds; administrative
28 fine.--

29 (4) If a viatical settlement provider establishes a
30 related provider trust as permitted by this act, the viatical
31 settlement provider shall be liable and responsible for the

1 performance of all obligations of the related provider trust
2 under all viatical settlement contracts entered into by the
3 related provider trust, and for the compliance of the related
4 provider trust with all provisions of this act. Any violation
5 of this act by the related provider trust shall be deemed a
6 violation of this act by the viatical settlement provider as
7 well as the related provider trust. If the related provider
8 trust violates any provisions of this act, the department may
9 exercise all remedies set forth in this act for such
10 violations against the viatical settlement provider, as well
11 as the related provider trust.

12 Section 4. Subsection (1) of section 626.9921,
13 Florida Statutes, is amended, and a new subsection (3) is
14 added to said section, to read:

15 626.9921 Filing of forms; required procedures;
16 approval.--

17 (1) A viatical settlement contract form or related
18 form may be used in this state only after the viatical
19 settlement provider or related provider trust has filed the
20 form with the department and only after the form has been
21 approved by the department.

22 (2) The contract form or related form must be filed
23 with the department at least 60 days before its use. A
24 contract form or related form is considered approved on the
25 60th day after its date of filing unless it has been
26 previously disapproved by the department. The department must
27 disapprove a viatical settlement contract form or related form
28 that is unreasonable, contrary to the public interest,
29 discriminatory, or misleading or unfair to the viator.

30 (3) If a viatical settlement provider elects to use a
31 related provider trust in accordance with this act, the

1 viatical settlement provider shall file notice of its
2 intention to use a related provider trust with the department,
3 including a copy of the trust agreement of the related
4 provider trust.

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

7 626.99235 Disclosures to investors;
8 misrepresentations.--

9 (1) No person shall misrepresent the nature of the
10 return or the duration of time to obtain the return of any
11 investment related to one or more viatical settlements sold by
12 a viatical settlement provider or related provider trust.

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

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

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

22 (c) If required by the terms of the investment
23 contract, that the investor may be responsible for the payment
24 of insurance premiums on the life of the viator or late or
25 surrender fees or other costs related to the life insurance
26 policy on the life of the viator or viators which may reduce
27 the return.

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

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1 The written disclosure required under this subsection shall be
2 conspicuously displayed in any investment agreement, and any
3 solicitation material furnished to the investor by such
4 provider, trust or person, and shall be in contrasting color
5 and in not less than 10 point type or no smaller than the
6 largest type on the page if larger than 10 point type.

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