

1  
2 An act relating to viatical settlements;  
3 amending s. 626.9911, F.S.; redefining the  
4 terms "viatical settlement contract," "viatical  
5 settlement provider," "viator," "related  
6 provider trust," and "viatical settlement  
7 purchaser"; defining the terms "viaticated  
8 policy," "related form," "special purpose  
9 entity," and "financing entity"; amending s.  
10 626.9912, F.S.; requiring additional  
11 information for license applications; amending  
12 s. 626.9921, F.S.; providing for additional  
13 forms; amending s. 626.9922, F.S.; revising  
14 recordkeeping time requirements; defining the  
15 term "home office"; providing that records be  
16 made available; creating s. 626.99236, F.S.;  
17 providing for disclosure to viatical settlement  
18 purchasers; providing for rescission of  
19 agreements; amending s. 626.9924, F.S.;  
20 providing for notice of viaticated policies;  
21 requiring notice of transfer of ownership or  
22 change in beneficiary within a specified period  
23 of time; creating s. 626.99245, F.S.; providing  
24 for the regulation of interstate conflicts;  
25 amending s. 626.9925, F.S.; providing  
26 additional rulemaking authority; amending s.  
27 626.99275, F.S.; providing criminal penalties;  
28 creating s. 626.99278, F.S.; requiring the  
29 adoption of an anti-fraud plan; creating s.  
30 626.99285, F.S.; providing for the  
31 applicability of the Insurance Code; creating

1 s. 626.99287, F.S.; providing for the  
2 contestability of viaticated policies; creating  
3 626.99295, F.S.; providing for a grace period  
4 for unlicensed viatical settlement providers  
5 and viatical settlement brokers; amending s.  
6 626.9915, F.S.; allowing a provider whose  
7 license is suspended or revoked to continue to  
8 maintain and service viaticated policies if the  
9 department approves; providing an  
10 appropriation; providing an effective date.  
11

12 Be It Enacted by the Legislature of the State of Florida:  
13

14 Section 1. Subsections (5), (6), (7), (8), and (10) of  
15 section 626.9911, Florida Statutes, are amended and  
16 subsections (12), (13), (14), and (15) are added to that  
17 section to read:

18 626.9911 Definitions.--As used in this act, the term:

19 (5) "Viatical settlement contract" means a written  
20 agreement entered into between a viatical settlement provider,  
21 or its related provider trust, and a viator. The viatical  
22 settlement contract includes an agreement to transfer  
23 ownership or change the beneficiary designation of a life  
24 insurance policy at a later date, regardless of the date that  
25 compensation is paid to the viator. The agreement must  
26 establish the terms under which the viatical settlement  
27 provider will pay compensation or anything of value, which  
28 compensation or value is less than the expected death benefit  
29 of the insurance policy or certificate, in return for the  
30 viator's assignment, transfer, sale, devise, or bequest of the  
31 death benefit or ownership of all or a portion of the

1 insurance policy or certificate of insurance to the viatical  
2 settlement provider. A viatical settlement contract also  
3 includes a contract for a loan or other financial transaction  
4 secured primarily by an individual or group life insurance  
5 policy, other than a loan by a life insurance company pursuant  
6 to the terms of the life insurance contract, or a loan secured  
7 by the cash value of a policy.

8 (6) "Viatical settlement provider" means a person who,  
9 in this state, from this state, or with a resident of this  
10 state, effectuates a viatical settlement contract. The term  
11 does not include:

12 (a) Any bank, savings bank, savings and loan  
13 association, credit union, or other licensed lending  
14 institution that takes an assignment of a life insurance  
15 policy as collateral for a loan;

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

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

23 (d) A trust that meets the definition of a "related  
24 provider trust."

25 ~~(e) A viatical settlement provider, who from this~~  
26 ~~state, enters into a viatical settlement purchase agreement~~  
27 ~~with a purchaser who is resident of a state, other than~~  
28 ~~Florida, which has enacted statutes or promulgated regulations~~  
29 ~~governing viatical settlement purchase agreements. Such~~  
30 ~~viatical settlement purchase agreements shall be governed in~~  
31 ~~the effectuation of that viatical settlement purchase~~

1 ~~agreement, under the statutes and regulations governing~~  
2 ~~viatical settlement purchase agreements in the purchaser's~~  
3 ~~state of residence.~~

4 ~~(f) A viatical settlement provider who, from this~~  
5 ~~state, enters into a viatical settlement contract with a~~  
6 ~~viator who is resident of a state, other than Florida, which~~  
7 ~~has enacted statutes or promulgated regulations governing~~  
8 ~~viatical settlement contracts. Such viatical settlement~~  
9 ~~contracts shall be governed in the effectuation of that~~  
10 ~~viatical settlement contract, under the statutes and~~  
11 ~~regulations governing viatical settlement contracts in the~~  
12 ~~viator's state of residence.~~

13 ~~(e)(g)~~ A viator in this state.

14 ~~(f)(h)~~ A viatical settlement purchaser.

15 (g) A financing entity.

16 (7) "Viator" means the owner of a life insurance  
17 policy or a certificateholder under a group policy ~~insuring~~  
18 ~~the life of an individual with a catastrophic or~~  
19 ~~life-threatening illness or condition~~ who enters or seeks to  
20 enter into a viatical settlement contract. This term does not  
21 include a viatical settlement purchaser or a viatical  
22 settlement provider or any person acquiring a policy or  
23 interest in a policy from a viatical settlement provider, nor  
24 does it include an independent third-party trustee or escrow  
25 agent.

26 (8) "Related provider trust" means a trust established  
27 by a viatical settlement provider for the sole purpose of  
28 entering into or owning viatical settlement contracts. This  
29 term does not include an independent third-party trustee or  
30 escrow agent or a trust that does not enter into agreements  
31 with a viator ~~viatical settlement purchaser~~. A related

1 provider trust shall be subject to all provisions of this act  
2 that apply to the viatical settlement provider who established  
3 the related provider trust, except s. 626.9912, which shall  
4 not be applicable. A viatical settlement provider may  
5 establish no more than one related provider trust, and the  
6 sole trustee of such related provider trust shall be the  
7 viatical settlement provider licensed under s. 626.9912. The  
8 name of the licensed viatical settlement provider shall be  
9 included within the name of the related provider trust.

10 (10) "Viatical settlement purchaser" means a person,  
11 other than a licensee under this part, an accredited investor  
12 as defined in Rule 501, Regulation D of the Securities Act  
13 Rules, or a qualified institutional buyer as defined by Rule  
14 144(a) of the Federal Securities Act, or a special purpose  
15 entity ~~which is created solely to act as a financing source~~  
16 ~~for the viatical settlement provider,~~ who gives a sum of money  
17 as consideration for a life insurance policy or an equitable  
18 or legal interest in the death benefits of a life insurance  
19 policy which has been or will be the subject of a viatical  
20 settlement contract, for the purpose of deriving an economic  
21 benefit. The above references to Rule 501, Regulation D and  
22 Rule 144(a) of the Federal Securities Act are used strictly  
23 for defining purposes and shall not be interpreted in any  
24 other manner. Any person who claims to be an accredited  
25 investor shall sign an affidavit stating that he or she is an  
26 accredited investor, the basis of that claim, and that he or  
27 she understands that as an accredited investor he or she will  
28 not be entitled to certain protections of the Viatical Act.  
29 This affidavit must be kept with other documents required to  
30 be maintained by this act.

31

1           (11) "Viatical settlement sales agent" means a person  
2 other than a licensed viatical settlement provider who  
3 arranges the purchase through a viatical settlement purchase  
4 agreement of a life insurance policy or an interest in a life  
5 insurance policy.

6           (12) "Viaticated policy" means a life insurance  
7 policy, or a certificate under a group policy, which is the  
8 subject of a viatical settlement contract.

9           (13) "Related form" means any form, created by or on  
10 behalf of a licensee, which a viator or viatical settlement  
11 purchaser is required to sign or initial. The forms include,  
12 but are not limited to, a power of attorney, a release of  
13 medical information form, a suitability questionnaire, a  
14 disclosure document, or any addendum, schedule, or amendment  
15 to a viatical settlement contract or viatical settlement  
16 purchase agreement considered necessary by a provider to  
17 effectuate a viatical settlement transaction.

18           (14) "Special purpose entity" means an entity  
19 established by a licensed viatical settlement provider, which  
20 may be a corporation, partnership, trust, or other similar  
21 entity formed solely to act as a vehicle to permit a lender to  
22 the provider to access institutional capital markets for the  
23 provider. A special purpose entity shall not enter into a  
24 viatical settlement contract or a viatical settlement purchase  
25 agreement.

26           (15) "Financing entity" means an underwriter,  
27 placement agent, lender, purchaser of securities, or purchaser  
28 of a policy or certificate from a viatical settlement  
29 provider, credit enhancer, or any person that may be a party  
30 to a viatical settlement contract and that has direct  
31 ownership in a policy or certificate that is the subject of a

1 viatical settlement contract, but whose sole activity related  
2 to the transaction is providing funds or credit enhancement to  
3 effect the viatical settlement and who has an agreement in  
4 writing with a licensed viatical settlement provider to act as  
5 a participant in a financing transaction. The term does not  
6 include a nonaccredited investor or other natural person.

7 Section 2. Subsection (1), paragraph (f) of subsection  
8 (3), subsection (4), and paragraph (b) of subsection (5) of  
9 section 626.9912, Florida Statutes, are amended to read:

10 626.9912 Viatical settlement provider license  
11 required; application for license.--

12 (1) ~~After July 1, 1996,~~A person may not perform the  
13 functions of a viatical settlement provider as defined in this  
14 act or enter into or solicit a viatical settlement contract  
15 without first having obtained a license from the department.

16 (3) In the application, the applicant must provide all  
17 of the following:

18 (f) All applications, viatical settlement contract  
19 forms, viatical settlement purchase agreement forms, escrow  
20 forms ~~rating manuals~~, and other related forms proposed to be  
21 used by the applicant.

22 (4) The department may not issue a license to an  
23 entity other than a natural person if it is not satisfied that  
24 all officers, directors, employees, stockholders, ~~and~~  
25 partners, and any other persons who exercise or have the  
26 ability to exercise effective control of the entity or who  
27 have the ability to influence the transaction of business by  
28 the entity meet the standards of this act and have not  
29 violated any provision of this act or rules of the department  
30 related to the business of viatical settlement contracts or  
31 viatical settlement purchase agreements.

1           (5) Upon the filing of a sworn application and the  
2 payment of the license fee, the department shall investigate  
3 each applicant and may issue the applicant a license if the  
4 department finds that the applicant:

5           (b) Is competent and trustworthy and intends to act in  
6 good faith in the business authorized by the license applied  
7 for; ~~however, for purposes of this act, including this~~  
8 ~~paragraph, a person shall not be deemed to be incompetent and~~  
9 ~~untrustworthy solely for any felony committed more than 5~~  
10 ~~years before licensure if the person has had his or her civil~~  
11 ~~rights restored by the Governor and Cabinet with respect to~~  
12 ~~such felony.~~

13           Section 3. Section 626.9921, Florida Statutes, is  
14 amended to read:

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

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

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



1 public interest, discriminatory, or misleading or unfair to  
2 the viator or the purchaser.

3 (3) If a viatical settlement provider elects to use a  
4 related provider trust in accordance with this act, the  
5 viatical settlement provider shall file notice of its  
6 intention to use a related provider trust with the department,  
7 including a copy of the trust agreement of the related  
8 provider trust. The organizational documents of the trust must  
9 be submitted to and approved by the department before the  
10 transacting of business by the trust.

11 (4) The department may adopt, by rule, standardized  
12 forms to be used by licensees, at the licensee's option in  
13 place of separately approved forms.

14 Section 4. Subsection (2) of section 626.9922, Florida  
15 Statutes, is amended and subsections (3), (4), and (5) are  
16 added to that section to read:

17 626.9922 Examination.--

18 (1) The department may examine the business and  
19 affairs of any licensee or applicant for a license. The  
20 department may order any licensee or applicant to produce any  
21 records, books, files, advertising and solicitation materials,  
22 or other information and may take statements under oath to  
23 determine whether the licensee or applicant is in violation of  
24 the law or is acting contrary to the public interest. The  
25 expenses incurred in conducting any examination or  
26 investigation must be paid by the licensee or applicant.  
27 Examinations and investigations must be conducted as provided  
28 in chapter 624, and licensees are subject to all applicable  
29 provisions of the insurance code.

30 (2) All accounts, books and records, documents, files,  
31 contracts, and other information relating to all transactions

1 of viatical settlement contracts or viatical settlement  
2 purchase agreements must be maintained by the licensee for a  
3 period of at least 3 years after the death of the insured and  
4 must be available to the department for inspection during  
5 reasonable business hours.

6 (3) All such records or accurate copies of such  
7 records must be maintained at the licensee's home office. As  
8 used in this section, the term "home office" means the  
9 principal place of business and any other single storage  
10 facility, the street address of which shall be disclosed to  
11 the department within 20 days after its initial use, or within  
12 20 days of the effective date of this subsection.

13 (4) The originals of records required to be maintained  
14 under this section must be made available to the department  
15 for examination at the department's request.

16 Section 5. Section 626.99236, Florida Statutes, is  
17 created to read:

18 626.99236 Further disclosures to viatical settlement  
19 purchasers.--

20 (1) No later than 5 days prior to the assignment,  
21 transfer, sale, devise, or bequest of the death benefit or  
22 ownership of all or a portion of the insurance policy or  
23 certificate of insurance to the purchaser, the viatical  
24 settlement provider, itself or through another person, shall  
25 provide in writing the following disclosures to any viatical  
26 settlement purchaser:

27 (a) All the life expectancy certifications obtained by  
28 the provider.

29 (b) The name and address of the insurance company, the  
30 policy number, and the date of original issue of the  
31 viaticated policy.

1           (c) The experience and qualifications of the person  
2 issuing the life expectancy certification, and that person's  
3 relationship to the viatical settlement provider, the viatical  
4 settlement broker, the viatical settlement sales agent, and  
5 the viator.

6           (d) The name and address of any person providing  
7 escrow services, and that person's relationship to the  
8 viatical settlement provider, the viatical settlement broker,  
9 the viatical settlement sales agent, and the viator.

10           (e) The type of life insurance policy offered or sold,  
11 including a statement as to whether the policy is whole life,  
12 term life, universal life, or a group policy certificate; a  
13 statement as to whether the policy is in lapse status or has  
14 lapsed in the last two years; and a statement as to whether  
15 the purchaser is entitled to benefits contained in the policy  
16 other than the death benefit of the policy.

17           (f) The procedure to be used by the provider to  
18 provide the status of the health condition of the insured to a  
19 purchaser.

20           (2) The viatical settlement purchase agreement is  
21 voidable by the purchaser at anytime within three days after  
22 the disclosures mandated by this section are received by the  
23 purchaser.

24           (3) At the time the disclosures in subsection (1) are  
25 made, the viatical settlement purchaser shall be advised to  
26 seek independent financial advice from a person not  
27 compensated by the viatical settlement provider or viatical  
28 settlement broker or the viatical settlement sales agent. The  
29 viatical settlement purchaser shall sign an affidavit that he  
30 or she has received the disclosures and understands their  
31 importance.

1           Section 6. Subsection (1) of section 626.9924, Florida  
2 Statutes, is amended, and subsections (7), (8), and (9) are  
3 added to that section to read:

4           626.9924 Viatical settlement contracts; procedures;  
5 rescission.--

6           (1) A viatical settlement provider entering into a  
7 viatical settlement contract with any viator must first obtain  
8 a witnessed document in which the viator consents to the  
9 viatical settlement contract, ~~acknowledges the catastrophic or~~  
10 ~~life-threatening illness,~~ represents that he or she has a full  
11 and complete understanding of the viatical settlement contract  
12 and the benefits of the life insurance policy, releases his or  
13 her medical records, and acknowledges that he or she has  
14 entered into the viatical settlement contract freely and  
15 voluntarily.

16           (7) At any time during the contestable period, within  
17 20 days after a viator executes documents necessary to  
18 transfer rights under an insurance policy or within 20 days of  
19 any agreement, option, promise, or any other form of  
20 understanding, express or implied, to viaticate the policy,  
21 the provider must give notice to the insurer of the policy  
22 that the policy has or will become a viaticated policy. The  
23 notice must be accompanied by the documents required by s.  
24 626.99287(5)(a) in their entirety.

25           (8) If the owner of the insurance policy is not the  
26 insured, the provider shall notify the insured that the policy  
27 has become the subject of a viatical settlement contract  
28 within 20 days after the transfer of rights under the  
29 contract.

30           (9) If the provider transfers ownership or changes the  
31 beneficiary of the insurance policy, the provider must

1 communicate the initial change in ownership or beneficiary to  
2 the insured within 20 days after the change.

3 Section 7. Section 626.99245, Florida Statutes, is  
4 created to read:

5 626.99245 Conflict of regulation of viaticals.--

6 (1) A viatical settlement provider who from this state  
7 enters into a viatical settlement purchase agreement with a  
8 purchaser who is resident of another state that has enacted  
9 statutes or adopted regulations governing viatical settlement  
10 purchase agreements, shall be governed in the effectuation of  
11 that viatical settlement purchase agreement by the statutes  
12 and regulations of the purchaser's state of residence. If the  
13 state in which the purchaser is a resident has not enacted  
14 statutes or regulations governing viatical settlement purchase  
15 agreements, the provider shall give the purchaser notice that  
16 neither Florida nor his or her state regulates the transaction  
17 upon which he or she is entering. For transactions in these  
18 states, however, the viatical settlement provider is to  
19 maintain all records required as if the transactions were  
20 executed in Florida. However, the forms used in those states  
21 need not be approved by the department.

22 (2) A viatical settlement provider who from this state  
23 enters into a viatical settlement contract with a viator who  
24 is resident of another state that has enacted statutes or  
25 adopted regulations governing viatical settlement contracts  
26 shall be governed in the effectuation of that viatical  
27 settlement contract by the statutes and regulations of the  
28 viator's state of residence. If the state in which the viator  
29 is a resident has not enacted statutes or regulations  
30 governing viatical settlement agreements, the provider shall  
31 give the viator notice that neither Florida nor his or her

1 state regulates the transaction upon which he or she is  
2 entering. For transactions in those states, however, the  
3 viatical settlement provider is to maintain all records  
4 required as if the transactions were executed in Florida. The  
5 forms used in those states need not be approved by the  
6 department.

7 Section 8. Section 626.9925, Florida Statutes, is  
8 amended to read:

9 626.9925 Rules.--The department may adopt rules to  
10 administer ~~implement~~ this act, including rules establishing  
11 standards for evaluating advertising by licensees; ~~and~~ rules  
12 providing for the collection of data, for disclosures to  
13 viators or purchasers, and for the reporting of life  
14 expectancies; and rules defining terms used in this act and  
15 prescribing recordkeeping requirements relating to executed  
16 viatical settlement contracts and viatical settlement purchase  
17 agreements.

18 Section 9. Section 626.99275, Florida Statutes, is  
19 amended to read:

20 626.99275 Prohibited practices; penalties.--  
21 (1) It is unlawful for any person:  
22 (a)(1) To knowingly enter into, broker, or otherwise  
23 deal in a viatical settlement contract the subject of which is  
24 a life insurance policy, knowing that the policy was obtained  
25 by presenting materially false information concerning any fact  
26 material to the policy or by concealing, for the purpose of  
27 misleading another, information concerning any fact material  
28 to the policy, where the viator or the viator's agent intended  
29 to defraud the policy's issuer ~~that was obtained by means of a~~  
30 ~~false, deceptive, or misleading application for the life~~  
31 ~~insurance policy.~~

1           ~~(b)(2)~~ In the solicitation or sale of a viatical  
2 settlement purchase agreement:

3           1.(a) To employ any device, scheme, or artifice to  
4 defraud;

5           2.(b) To obtain money or property by means of an  
6 untrue statement of a material fact or by any omission to  
7 state a material fact necessary in order to make the  
8 statements made, in light of the circumstances under which  
9 they were made, not misleading; or

10           3.(c) To engage in any transaction, practice, or  
11 course of business which operates or would operate as a fraud  
12 or deceit upon a person.

13           (c) To knowingly engage in any transaction, practice,  
14 or course of business intending thereby to avoid the notice  
15 requirements of s. 626.9924(7).

16           (2) A person who violates any provision of this  
17 section commits:

18           (a) A felony of the third degree, punishable as  
19 provided in s. 775.082, s. 774.083, or s. 775.084, if the  
20 insurance policy involved is valued at any amount less than  
21 \$20,000.

22           (b) A felony of the second degree, punishable as  
23 provided in s. 775.082, s. 774.083, or s. 775.084, if the  
24 insurance policy involved is valued at \$20,000 or more, but  
25 less than \$100,000.

26           (c) A felony of the first degree, punishable as  
27 provided in s. 775.082, s. 774.083, or s. 775.084, if the  
28 insurance policy involved is valued at \$100,000 or more.

29           Section 10. Section 626.99278, Florida Statutes, is  
30 created to read:

31

1           626.99278 Viatical provider anti-fraud plan.--Every  
2 licensed viatical settlement provider and viatical settlement  
3 broker must adopt an anti-fraud plan and file it with the  
4 Division of Insurance Fraud of the department on or before  
5 December 1, 2000. Each anti-fraud plan shall include:

6           (1) A description of the procedures for detecting and  
7 investigating possible fraudulent acts and procedures for  
8 resolving material inconsistencies between medical records and  
9 insurance applications;

10           (2) A description of the procedures for the mandatory  
11 reporting of possible fraudulent insurance acts to the  
12 Division of Insurance Fraud of the department;

13           (3) A description of the plan for anti-fraud education  
14 and training of its underwriters or other personnel; and

15           (4) A written description or chart outlining the  
16 organizational arrangement of the anti-fraud personnel who are  
17 responsible for the investigation and reporting of possible  
18 fraudulent insurance acts, and investigating unresolved  
19 material inconsistencies between medical records and insurance  
20 applications.

21           Section 11. Section 626.99285, Florida Statutes, is  
22 created to read:

23           626.99285 Applicability of Insurance Code.--In  
24 addition to other applicable provisions cited in the Insurance  
25 Code, the department has the authority granted under ss.  
26 624.310, 626.901, and 626.989 to regulate viatical settlement  
27 providers, viatical settlement brokers, viatical settlement  
28 sales agents, viatical settlement contracts, viatical  
29 settlement purchase agreements, and viatical settlement  
30 transactions.

31



1           Section 12. Section 626.99287, Florida Statutes, is  
2 created to read:

3           626.99287 Contestability of viaticated  
4 policies.--Except as hereinafter provided, if a viatical  
5 settlement contract is entered into within the 2-year period  
6 commencing with the date of issuance of the insurance policy  
7 or certificate to be acquired, the viatical settlement  
8 contract is void and unenforceable by either party.  
9 Notwithstanding this limitation, such a viatical settlement  
10 contract is not void and unenforceable if:

11           (1) The policy was issued upon the owner's exercise of  
12 conversion rights arising out of a group or term policy;

13           (2) The owner of the policy is a charitable  
14 organization exempt from taxation under 26 U.S.C. s.  
15 501(c)(3);

16           (3) The owner of the policy is not a natural person;

17           (4) The viatical settlement contract was entered into  
18 before July 1, 2000;

19           (5) The viator certifies by producing independent  
20 evidence to the viatical settlement provider that one or more  
21 of the following conditions have been met within the 2-year  
22 period;

23           (a)1. The viator or insured is diagnosed with an  
24 illness or condition that is either;

25           a. Catastrophic or life threatening; or

26           b. Requires a course of treatment for a period of at  
27 least 3 years of long-term care or home-health care; and

28           2. The condition was not known to the insured at the  
29 time the life insurance contract was entered into.

30           (b) The viator's spouse dies;

31           (c) The viator divorces his or her spouse;

- 1           (d) The viator retires from full-time employment;  
2           (e) The viator becomes physically or mentally disabled  
3 and a physician determines that the disability prevents the  
4 viator from maintaining full-time employment;  
5           (f) The owner of the policy was that the insured's  
6 employer at the time the policy or certificate was issued and  
7 the employment relationship terminated;  
8           (g) A final order, judgment, or decree is entered by a  
9 court of competent jurisdiction, on the application of a  
10 creditor of the viator, adjudicating the viator bankrupt or  
11 insolvent, or approving a petition seeking reorganization of  
12 the viator or appointing a receiver, trustee, or liquidator to  
13 all or a substantial part of the viator's assets; or  
14           (h) The viator experiences a significant decrease in  
15 income which is unexpected by the viator and which impairs his  
16 or her reasonable ability to pay the policy premium.

17  
18 If the viatical settlement provider submits to the insurer a  
19 copy of the viator's or owner's certification described above  
20 then the provider submits a request to the insurer to effect  
21 the transfer of the policy or certificate to the viatical  
22 settlement provider, the viatical settlement agreement shall  
23 not be void or unenforceable by operation of this section. The  
24 insurer shall timely respond to such request. Nothing in this  
25 section shall prohibit an insurer from exercising its right  
26 during the contestability period to contest the validity of  
27 any policy on grounds of fraud.

28           Section 13. Section 626.99295, Florida Statutes, is  
29 created to read:

30           626.99295 Grace period.--An unlicensed viatical  
31 settlement provider or viatical settlement broker that was

1 legally transacting business in this state on June 30, 2000,  
2 may continue to transact such business, in the absence of any  
3 orders by the department to the contrary, until the department  
4 approves or disapproves the viatical settlement provider's  
5 application for licensure if the viatical settlement provider  
6 or viatical settlement broker files with the department an  
7 application for licensure no later than August 1, 2000, and if  
8 the viatical settlement provider or viatical settlement broker  
9 complies with all other provisions of this act. Any form for  
10 which department approval is required under this part must be  
11 filed by August 1, 2000, and may continue to be used until  
12 disapproved by the department.

13 Section 14. Subsection (1) of section 626.9915,  
14 Florida Statutes, is amended to read:

15 626.9915 Effect of suspension or revocation of  
16 viatical settlement provider license; duration of suspension;  
17 reinstatement.--

18 (1) When its license is suspended or revoked, the  
19 provider must proceed, immediately following the effective  
20 date of the suspension or revocation, to conclude the affairs  
21 it is transacting under its license. The provider may not  
22 solicit, negotiate, advertise, or effectuate new contracts.  
23 The department retains jurisdiction over the provider until  
24 all contracts have been fulfilled or canceled or have expired.  
25 A provider whose license is suspended or revoked may continue  
26 to maintain and service viaticated policies subject to the  
27 approval of the department.

28 Section 15. Effective July 1, 2000, the sum of  
29 \$250,000 is appropriated for the 2000-2001 fiscal year from  
30 the Insurance Commissioner's Regulatory Trust Fund to the

31

1 Department of Insurance to fund four positions for the purpose  
2 of carrying out the provisions of this act.

3           Section 16. This act shall take effect July 1, 2000.  
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