

By Representative Bennett

1 A bill to be entitled
2 An act relating to viatical settlement
3 contracts; amending s. 626.9911, F.S.; revising
4 a definition; amending s. 626.9924, F.S.;
5 providing additional responsibilities of a
6 viatical settlement provider; amending s.
7 626.99245, F.S.; clarifying application of
8 licensing requirements to viatical settlement
9 providers; creating s. 626.99297, F.S.;
10 providing a grace period for certain unlicensed
11 viatical settlement providers under certain
12 circumstances; amending s. 627.601, F.S.;
13 excluding from application certain contracts
14 providing for accelerating death benefits under
15 certain circumstances; providing an effective
16 date.

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

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20 Section 1. Subsection (6) of section 626.9911, Florida
21 Statutes, is amended to read:

22 626.9911 Definitions.--As used in this act, the term:
23 (6) "Viatical settlement provider" means a person who,
24 in this state, from this state, or with a resident of this
25 state, effectuates a viatical settlement contract or who
26 engages in the business of purchasing, securing, or otherwise
27 acquiring viaticated policies or interests in viaticated
28 policies which ultimately become the subject of viatical
29 settlement purchase agreements. The term does not include:

30 (a) Any bank, savings bank, savings and loan
31 association, credit union, or other licensed lending

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 that meets the definition of a "related
11 provider trust."

12 (e) A viator in this state.

13 (f) A viatical settlement purchaser.

14 (g) A financing entity.

15 Section 2. Subsection (10) is added to section
16 626.9924, Florida Statutes, to read:

17 626.9924 Viatical settlement contracts; procedures;
18 rescission.--

19 (10) The viatical settlement provider who effectuated
20 the viatical settlement contract with the viator is
21 responsible for tracking the insured, which, for purposes of
22 this subsection, means keeping track of the insured's
23 whereabouts and health status, submission of death claims, and
24 payment of premiums until the death of the insured. This
25 responsibility may be contracted out to a third party;
26 however, the ultimate responsibility remains with the viatical
27 settlement provider. This responsibility continues with the
28 initial viatical settlement provider, notwithstanding any
29 transfers of the viaticated policy in the secondary market.

30 Section 3. Subsection (3) is added to section
31 626.99245, Florida Statutes, to read:

1 626.99245 Conflict of regulation of viaticals.--
2 (3) This section does not impact the requirement of
3 ss. 626.9911(6) and 626.9912(1) that a viatical settlement
4 provider doing business from this state must obtain a viatical
5 settlement license from the department. For purposes of this
6 subsection, "doing business from this state" means
7 effectuating viatical settlement contracts and effectuating
8 viatical settlement purchase agreements from offices in this
9 state, regardless of the state of residence of the viator or
10 the viatical settlement purchaser.

11 Section 4. Section 626.99297, Florida Statutes, is
12 created to read:

13 626.99297 Grace period for unlicensed viatical
14 settlement provider.--An unlicensed viatical settlement
15 provider that was legally transacting business in this state
16 on June 30, 2001, may continue to transact such business, in
17 the absence of any orders by the department to the contrary,
18 until the department approves or disapproves the viatical
19 settlement provider's application for licensure if the
20 viatical settlement provider files with the department an
21 application for licensure no later than August 1, 2001, and if
22 the viatical settlement provider complies with all other
23 provisions of this part.

24 Section 5. Subsection (3) of section 627.601, Florida
25 Statutes, is amended to read:

26 627.601 Scope of this part.--Nothing in this part
27 applies to or affects:

28 (3) Life insurance, endowment, or annuity contracts,
29 or contracts supplemental thereto, which contain only
30 provisions relating to health insurance that:

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- 1 (a) Provide additional benefits in case of death or
2 dismemberment or loss of sight by accident or accidental
3 means; ~~or~~
4 (b) Operate to safeguard the contract against lapse,
5 or to give a special surrender value or special benefit or an
6 annuity if the insured or annuitant becomes totally and
7 permanently disabled, as defined by the contract or
8 supplemental contract; or
9 (c) Provide, at no additional cost, the right to
10 accelerate death benefits of a life insurance contract, based
11 upon health conditions as defined in the contract.

12 Section 6. This act shall take effect July 1, 2001.

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15 HOUSE SUMMARY

16 Makes the viatical settlement provider who effectuates a
17 contract responsible for keeping track of an insured.
18 Clarifies licensing requirements for viatical settlement
19 providers and provides a grace period for unlicensed
20 viatical settlement providers legally transacting
21 business in this state for becoming licensed. Excludes
22 from provisions of the Insurance Code relating to health
23 insurance, life insurance, endowment, or annuity
24 contracts containing only health insurance provisions
25 providing a right to accelerate death benefits. See bill
26 for details.
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