

By Senator Geller

29-1255-01

1 A bill to be entitled
2 An act relating to viaticals; amending s.
3 626.9911, F.S.; redefining the term "viatical
4 settlement provider"; amending s. 626.9924,
5 F.S.; specifying the responsibility of a
6 viatical settlement provider to track the
7 insured; amending s. 626.99245, F.S.; providing
8 that the laws relating to conflict of
9 regulation of viaticals does not affect the
10 requirement to obtain a license from the
11 Department of Insurance; creating s. 626.99297,
12 F.S.; providing a grace period for unlicensed
13 viatical settlement providers; amending s.
14 627.601, F.S.; providing that the laws relating
15 to viaticals do not apply to specified life,
16 endowment, or annuity contracts that provide at
17 no additional costs the right to accelerate
18 death benefits of a life insurance contract;
19 providing an effective date.

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

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23 Section 1. Subsection (6) of section 626.9911(6),
24 Florida Statutes, is amended to read:
25 626.9911 Definitions.--As used in this act, the term:
26 (6) "Viatical settlement provider" means a person who,
27 in this state, from this state, or with a resident of this
28 state, effectuates a viatical settlement contract, or who
29 engages in the business of purchasing, securing, or otherwise
30 acquiring viaticated policies or interests in viaticated

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1 policies which ultimately become the subject of viatical
2 settlement purchase agreements. The term does not include:

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

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

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

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

16 (e) A viator in this state.

17 (f) A viatical settlement purchaser.

18 (g) A financing entity.

19 Section 2. Subsection (10) is added to section
20 626.9924, Florida Statutes, to read:

21 626.9924 Viatical settlement contracts; procedures;
22 rescission.--

23 (10) The viatical settlement provider who effectuated
24 the viatical settlement contract with the viator is
25 responsible for tracking the insured, including keeping track
26 of the insured's whereabouts and health status, submission of
27 death claims, and the status of the payment of premiums until
28 the death of the insured. This responsibility may be
29 contracted out to a third party; however, the ultimate
30 responsibility remains with the initial provider. This
31 responsibility continues with the initial provider,

1 notwithstanding any transfers of the viaticated policy in the
2 secondary market.

3 Section 3. Subsection (3) is added to section
4 626.99245, Florida Statutes, to read:

5 626.99245 Conflict of regulation of viaticals.--

6 (3) This section does not affect the requirement of
7 ss. 626.9911(6) and 626.9912(1) that a viatical settlement
8 provider doing business from this state obtain a viatical
9 settlement license from the department. As used in this
10 subsection, the term "doing business from this state" includes
11 effectuating viatical settlement contracts and effectuating
12 viatical settlement purchase agreements from offices in this
13 state, regardless of the state of residence of the viator or
14 the viatical settlement purchaser.

15 Section 4. Section 626.99297, Florida Statutes, is
16 created to read:

17 626.99297 Grace period for unlicensed viatical
18 settlement provider.--An unlicensed viatical settlement
19 provider that was legally transacting business in this state
20 on June 30, 2001, may continue to transact such business, in
21 the absence of any orders by the department to the contrary,
22 until the department approves or disapproves the viatical
23 settlement provider's application for licensure, if the
24 viatical settlement provider files with the department an
25 application for licensure by August 1, 2001, and if the
26 viatical settlement provider complies with all other
27 provisions of this act.

28 Section 5. Paragraph (c) is added to subsection (3) of
29 section 627.601, Florida Statutes, to read:

30 627.601 Scope of this part.--Nothing in this part
31 applies to or affects:

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

4 (c) Provide, at no additional cost, the right to
5 accelerate death benefits of a life insurance contract, based
6 upon health conditions as defined in the contract.

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

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10 SENATE SUMMARY

11 Modifies the definition of the term "viatical settlement
12 provider." Provides responsibility of a viatical
13 settlement provider to track the insured. Provides that
14 the laws relating to conflict of regulation of viaticals
15 does not affect the requirements to obtain a valid
16 license from the Department of Insurance. Provides a
17 grace period for unlicensed viatical settlement
18 providers. Provides that the laws relating to viaticals
19 do not apply to specified life, endowment, or annuity
20 contracts that provide at no additional costs the right
21 to accelerate death benefits of a life insurance
22 contract.
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