

Bill No. CS for SB 2412

Barcode 684410

CHAMBER ACTION

Senate

House

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Senator Garcia moved the following amendment:

**Senate Amendment**

On page 16, line 24, through  
page 20, line 7, delete those lines

and insert:

(4) "Life expectancy provider" means a person who determines, or holds himself or herself out as determining, life expectancies or mortality ratings used to determine life expectancies:

(a) On behalf of a viatical settlement provider, viatical settlement broker, life agent, or person engaged in the business of viatical settlements;

(b) In connection with a viatical settlement investment, pursuant to s. 517.021(22); or

(c) On residents of this state in connection with a viatical settlement contract or viatical settlement investment.

~~(5)(2)~~ "Person" has the meaning specified in s. 1.01.

~~(6)(12)~~ "Related form" means any form, created by or

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1 on behalf of a licensee, which a viator ~~or viatical settlement~~  
 2 ~~purchaser~~ is required to sign or initial. The forms include,  
 3 but are not limited to, a power of attorney, a release of  
 4 medical information form, a suitability questionnaire, a  
 5 disclosure document, or any addendum, schedule, or amendment  
 6 to a viatical settlement contract ~~or viatical settlement~~  
 7 ~~purchase agreement~~ considered necessary by a provider to  
 8 effectuate a viatical settlement transaction.

9 (7) "Related provider trust" means a titling trust or  
 10 other trust established by a licensed viatical settlement  
 11 provider or financing entity for the sole purpose of holding  
 12 the ownership or beneficial interest in purchased policies in  
 13 connection with a financing transaction. The trust must have a  
 14 written agreement with a licensed viatical settlement provider  
 15 or financing entity under which the licensed viatical  
 16 settlement provider or financing entity is responsible for  
 17 insuring compliance with all statutory and regulatory  
 18 requirements and under which the trust agrees to make all  
 19 records and files relating to viatical settlement transactions  
 20 available to the office as if those records and files were  
 21 maintained directly by the licensed viatical settlement  
 22 provider. This term does not include an independent  
 23 third-party trustee or escrow agent or a trust that does not  
 24 enter into agreements with a viator. A related provider trust  
 25 shall be subject to all provisions of this act that apply to  
 26 the viatical settlement provider who established the related  
 27 provider trust, except s. 626.9912, which shall not be  
 28 applicable. A viatical settlement provider may establish no  
 29 more than one related provider trust, and the sole trustee of  
 30 such related provider trust shall be the viatical settlement  
 31 provider licensed under s. 626.9912. The name of the licensed

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1 viatical settlement provider shall be included within the name  
2 of the related provider trust.

3 ~~(8)(13)~~ "Special purpose entity" means an entity  
4 established by a licensed viatical settlement provider or by a  
5 financing entity, which may be a corporation, partnership,  
6 trust, limited liability company, or other similar entity  
7 formed solely to provide, either directly or indirectly,  
8 access to institutional capital markets to a viatical  
9 settlement provider or financing entity. A special purpose  
10 entity may not obtain capital from any natural person or  
11 entity with less than \$50 million in assets and may ~~shall~~ not  
12 enter into a viatical settlement contract ~~or a viatical~~  
13 ~~settlement purchase agreement.~~

14 ~~(9)(3)~~ "Viatical settlement broker" means a person  
15 who, on behalf of a viator and for a fee, commission, or other  
16 valuable consideration, offers or attempts to negotiate  
17 viatical settlement contracts between a viator resident in  
18 this state and one or more viatical settlement providers.  
19 Notwithstanding the manner in which the viatical settlement  
20 broker is compensated, a viatical settlement broker is deemed  
21 to represent only the viator and owes a fiduciary duty to the  
22 viator to act according to the viator's instructions and in  
23 the best interest of the viator. The term does not include an  
24 attorney, licensed Certified Public Accountant, or investment  
25 adviser lawfully registered under chapter 517, who is retained  
26 to represent the viator and whose compensation is paid  
27 directly by or at the direction and on behalf of the viator.

28 ~~(10)(4)~~ "Viatical settlement contract" means a written  
29 agreement entered into between a viatical settlement provider,  
30 or its related provider trust, and a viator. The viatical  
31 settlement contract includes an agreement to transfer

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1 ownership or change the beneficiary designation of a life  
2 insurance policy at a later date, regardless of the date that  
3 compensation is paid to the viator. The agreement must  
4 establish the terms under which the viatical settlement  
5 provider will pay compensation or anything of value, which  
6 compensation or value is less than the expected death benefit  
7 of the insurance policy or certificate, in return for the  
8 viator's assignment, transfer, sale, devise, or bequest of the  
9 death benefit or ownership of all or a portion of the  
10 insurance policy or certificate of insurance to the viatical  
11 settlement provider. A viatical settlement contract also  
12 includes a contract for a loan or other financial transaction  
13 secured primarily by an individual or group life insurance  
14 policy, other than a loan by a life insurance company pursuant  
15 to the terms of the life insurance contract, or a loan secured  
16 by the cash value of a policy.

17 (11) "Viatical settlement investment" has the same  
18 meaning as specified in s. 517.021.

19 (12)(5) "Viatical settlement provider" means a person  
20 who, in this state, from this state, or with a resident of  
21 this state, effectuates a viatical settlement contract. The  
22 term does not include:

23 (a) Any bank, savings bank, savings and loan  
24 association, credit union, or other licensed lending  
25 institution that takes an assignment of a life insurance  
26 policy as collateral for a loan.

27 (b) A life and health insurer that has lawfully issued  
28 a life insurance policy that provides accelerated benefits to  
29 terminally ill policyholders or certificateholders.

30 (c) Any natural person who enters into no more than  
31 one viatical settlement contract with a viator in 1 calendar

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1 year, unless such natural person has previously been licensed  
2 under this act or is currently licensed under this act.

3 (d) A trust that meets the definition of a "related  
4 provider trust."

5 (e) A viator in this state.

6 ~~(f) A viatical settlement purchaser.~~

7 ~~(f)(g)~~ A financing entity.

8 ~~(13)(11)~~ "Viaticated policy" means a life insurance  
9 policy, or a certificate under a group policy, which is the  
10 subject of a viatical settlement contract.

11 ~~(14)(6)~~ "Viator" means the owner of a life insurance  
12 policy or a certificateholder under a group policy, which  
13 policy is not a previously viaticated policy, who enters or  
14 seeks to

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