

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee
 3 Representative Stevenson offered the following:
 4

Amendment (with title amendment)

Remove lines 248-704 and insert:

7 (b) The creation of a trust or other entity that has the
 8 appearance of an insurable interest to initiate policies for
 9 investors, which violates insurable interest laws and the
 10 prohibition against wagering on life.

11 (12)-(9) "Viatical settlement broker" means a person who,
 12 on behalf of a viator and for a fee, commission, or other
 13 valuable consideration, offers or attempts to negotiate viatical
 14 settlement contracts between a viator resident in this state and
 15 one or more viatical settlement providers. Notwithstanding the
 16 manner in which the viatical settlement broker is compensated, a
 17 viatical settlement broker is deemed to represent only the

Amendment No. 1

18 viator and owes a fiduciary duty to the viator to act according
19 to the viator's instructions and in the best interest of the
20 viator. The term does not include an attorney, licensed
21 Certified Public Accountant, or investment adviser lawfully
22 registered under chapter 517, who is retained to represent the
23 viator and whose compensation is paid directly by or at the
24 direction and on behalf of the viator.

25 ~~(13)-(10)~~ "Viatical settlement contract" means a written
26 agreement entered into between a viatical settlement provider,
27 or its related provider trust, and a viator. The viatical
28 settlement contract includes an agreement to transfer ownership
29 or change the beneficiary designation of a life insurance policy
30 at a later date, regardless of the date that compensation is
31 paid to the viator. The agreement must establish the terms under
32 which the viatical settlement provider will pay compensation or
33 anything of value, which compensation or value is less than the
34 expected death benefit of the insurance policy or certificate,
35 in return for the viator's assignment, transfer, sale, devise,
36 or bequest of the death benefit or ownership of all or a portion
37 of the insurance policy or certificate of insurance to the
38 viatical settlement provider. The term also includes the
39 transfer for compensation or value of an ownership or a
40 beneficial interest in a trust or other entity that owns such
41 policy if the trust or other entity was formed or used for the
42 principal purpose of acquiring one or more life insurance
43 contracts that insure the life of a person residing in this

Amendment No. 1

44 state, and ~~A viatical settlement contract also includes a~~
45 contract for a loan or other financial transaction secured
46 primarily by an individual or group life insurance policy. The
47 term does not include, ~~other than a~~ policy loan by a life
48 insurance company pursuant to the terms of the life insurance
49 contract or accelerated death provisions contained in a life
50 insurance policy, whether issued with the original policy or as
51 a rider, ~~or~~ a loan secured by the cash surrender value of a
52 policy as determined by the policy issuer and the life insurance
53 policy terms, or a loan or advance from the issuer of the policy
54 to the policyowner.

55 ~~(14)-(11)~~ "Viatical settlement investment" has the same
56 meaning as specified in s. 517.021.

57 ~~(15)-(12)~~ "Viatical settlement provider" means a person
58 who, in this state, from this state, or with a resident of this
59 state, effectuates a viatical settlement contract. The term does
60 not include:

61 (a) ~~A~~ Any bank, savings bank, savings and loan
62 association, or credit union, ~~or other licensed lending~~
63 ~~institution~~ that takes an assignment of a life insurance policy
64 as collateral for a loan. (b) A life and health insurer that
65 has lawfully issued a life insurance policy that provides
66 accelerated benefits to terminally ill policyholders or
67 certificateholders.

68 (c) ~~A~~ Any natural person who enters into no more than one
69 viatical settlement contract with a viator in 1 calendar year,

Amendment No. 1

70 unless such natural person has previously been licensed under
71 this act or is currently licensed under this act.

72 (d) A trust that meets the definition of a "related
73 provider trust."

74 (e) A viator in this state.

75 (f) A financing entity.

76 (16)~~(13)~~ "Viaticated policy" means a life insurance
77 policy, or a certificate under a group policy, which is the
78 subject of a viatical settlement contract.

79 (17)~~(14)~~ "Viator" means the owner of a life insurance
80 policy or a certificateholder under a group policy, which policy
81 is not a previously viaticated policy, who enters or seeks to
82 enter into a viatical settlement contract. This term does not
83 include a viatical settlement provider, ~~or a any~~ a person
84 acquiring a policy or interest in a policy from a viatical
85 settlement provider, ~~or nor does it include~~ an independent
86 third-party trustee or escrow agent. Enter Amending Text Here

87 Section 2. Section 626.9913, Florida Statutes, is amended
88 to read:

89 626.9913 Viatical settlement provider license continuance;
90 annual report; fees; deposit.-

91 (2) (a) Annually, on or before March 1, the viatical
92 settlement provider licensee shall file a statement containing
93 information the commission requires and shall pay to the office
94 a license fee in the amount of \$500.

Amendment No. 1

95 (b) In addition to any other requirements, the annual
96 statement must specify:

97 1. The total number of unsettled viatical settlement
98 contracts and corresponding total amount due to viators under
99 viatical settlement contracts that have been signed by the
100 viator but have not been settled as of December 31 of the
101 preceding calendar year, categorized by the number of days since
102 the viator signed the contract for transactions regulated by
103 this state.

104 2. For each of the most recent 5 years, the total number
105 of policies purchased, total gross amount paid for policies
106 purchased, total commissions or compensation paid for policies
107 purchased, and total face value of policies purchased, allocated
108 by state, territory, and jurisdiction.

109 3. For the most recent calendar year, the total amount of
110 proceeds or compensation paid to policyowners, allocated by
111 state, territory, and jurisdiction.

112 (c) ~~After December 31, 2007,~~ The annual statement shall include
113 an annual audited financial statement of the viatical settlement
114 provider prepared in accordance with generally accepted
115 accounting principles by an independent certified public
116 accountant covering a 12-month period ending on a day occurring
117 ~~within falling during~~ the last 6 months of the preceding
118 calendar year. If the audited financial statement has not been
119 completed, however, the licensee shall include in its annual
120 statement an unaudited financial statement for the preceding

Amendment No. 1

121 calendar year and an affidavit from an officer of the licensee
122 stating that the audit has not been completed. In this event,
123 the licensee shall submit the audited statement on or before
124 June 1. The annual statement, due on or before March 1 each
125 year, shall also provide the office with a report of all life
126 expectancy providers who have provided life expectancies
127 directly or indirectly to the viatical settlement provider for
128 use in connection with a viatical settlement contract or a
129 viatical settlement investment. A viatical settlement provider
130 shall include in all statements filed with the office all
131 information requested by the office regarding a related provider
132 trust established by the viatical settlement provider. The
133 office may require more frequent reporting. Failure to timely
134 file the annual statement or the audited financial statement or
135 to timely pay the license fee is grounds for immediate
136 suspension of the license. The commission may by rule require
137 all or part of the statements or filings required under this
138 section to be submitted by electronic means in a computer-
139 readable form compatible with the electronic data format
140 specified by the commission.

141 (3) To ensure the faithful performance of its obligations
142 to its viators in the event of insolvency or the loss of its
143 license, a viatical settlement provider licensee must deposit
144 and maintain deposited in trust with the department securities
145 eligible for deposit under s. 625.52, having at all times a
146 value of not less than \$250,000.~~\$100,000; however, a viatical~~

Amendment No. 1

147 ~~settlement provider licensed in this state prior to June 1,~~
148 ~~2004, which has deposited and maintains continuously deposited~~
149 ~~in trust with the department securities in the amount of \$25,000~~
150 ~~and which posted and maintains continuously posted a security~~
151 ~~bond acceptable to the department in the amount of \$75,000, has~~
152 ~~until June 1, 2005, to comply with the requirements of this~~
153 ~~subsection.~~

154 (6) The commission may adopt rules implementing the
155 provisions of this section.

156 Section 3. Subsections (1) and (2) of section 626.9914,
157 Florida Statutes, are amended to read:

158 626.9914 Suspension, revocation, denial, or nonrenewal of
159 viatical settlement provider license; grounds; administrative
160 fine.—

161 (1) The office shall suspend, revoke, deny, or refuse to
162 renew the license of any viatical settlement provider if the
163 office finds that the licensee has committed any of the
164 following acts:

165 (a) Has made a misrepresentation in the application for
166 the license.†

167 (b) Has engaged in fraudulent or dishonest practices, or
168 otherwise has been shown to be untrustworthy or incompetent to
169 act as a viatical settlement provider.†

170 (c) Demonstrates a pattern of unreasonable payments to
171 viators.† (d) Has been found guilty of, or has pleaded guilty
172 or nolo contendere to, any felony, or a misdemeanor involving

Amendment No. 1

173 fraud or moral turpitude, regardless of whether a judgment of
174 conviction has been entered by the court.†

175 (e) Has issued viatical settlement contracts that have not
176 been approved pursuant to this act.†

177 (f) Has failed to honor contractual obligations related to
178 the business of viatical settlement contracts.†

179 (g) Deals in bad faith with viators.†

180 (h) Has violated any provision of the insurance code or of
181 this act.†

182 (i) Employs or contracts with a ~~any~~ person who materially
183 influences the licensee's conduct and who fails to meet the
184 requirements of this act.†

185 (j) No longer meets the requirements for initial
186 licensure.†~~or~~

187 (k) Obtains or utilizes life expectancies from life
188 expectancy providers who are not registered with the office
189 pursuant to this act.

190 (l) Has engaged in a fraudulent viatical settlement act.

191 (2) The office may, in lieu of or in addition to any
192 suspension or revocation, assess an administrative fine not to
193 exceed \$10,000 ~~\$2,500~~ for each nonwillful violation or \$25,000
194 ~~\$10,000~~ for each willful violation by a viatical settlement
195 provider licensee. The office may also place a viatical
196 settlement provider licensee on probation for a period not to
197 exceed 2 years.

Amendment No. 1

198 Section 4. Subsection (1) of section 626.99175, Florida
199 Statutes, is amended to read:

200 626.99175 Life expectancy providers; registration
201 required; denial, suspension, revocation.—

202 (1) ~~After July 1, 2006,~~ A person may not perform the
203 functions of a life expectancy provider without first having
204 registered as a life expectancy provider, ~~except as provided in~~
205 ~~subsection (6).~~

206 Section 5. Section 626.99185, Florida Statutes, is created
207 to read:

208 626.99185 Disclosures to viator of disbursement.—

209 (1) Before or concurrently with a viator's execution of a
210 viatical settlement contract, the viatical settlement provider
211 shall provide to the viator, in duplicate, a disclosure
212 statement in legible written form disclosing:

213 (a) The name of each viatical settlement broker who
214 receives or will receive compensation and the amount of each
215 broker's compensation related to that transaction. For the
216 purpose of this section, compensation includes anything of value
217 paid or given by or at the direction of a viatical settlement
218 provider or person acquiring an interest in one or more life
219 insurance policies to a viatical settlement broker in connection
220 with the viatical settlement contract.

221 (b) A complete reconciliation of the gross offer or bid by
222 the viatical settlement provider to the net amount of proceeds
223 or value to be received by the viator related to that

Amendment No. 1

224 transaction. As used in this section, the term "gross offer" or
225 "bid" means the total amount or value offered by the viatical
226 settlement provider for the purchase of an interest in one or
227 more life insurance policies, including commissions,
228 compensation, or other proceeds or value being deducted from the
229 gross offer or bid.

230 (2) The viator shall sign and date the disclosure
231 statement before or concurrently with the viator's execution of
232 a viatical settlement contract, with the viator retaining the
233 duplicate copy of the disclosure statement.

234 (3) If a viatical settlement contract is entered into and
235 the contract is subsequently amended or if there is a change in
236 the viatical settlement provider's gross offer or bid amount, a
237 change in the net amount of proceeds or value to be received by
238 the viator, or a change in the information provided in the
239 disclosure statement to the viator, the viatical settlement
240 provider shall provide, in duplicate, an amended disclosure
241 statement to the viator containing the information in subsection
242 (1). The viator shall sign and date the amended disclosure
243 statement, with the viator retaining the duplicate copy of the
244 amended disclosure statement.

245 (4) Before a viatical settlement provider's execution of a
246 viatical settlement contract or an amendment to such contract,
247 the viatical settlement provider must obtain the signed and
248 dated disclosure statement and any amended disclosure statement
249 required by this section. In transactions for which a broker is

Amendment No. 1

250 not used, the viatical settlement provider must obtain the
251 signed and dated disclosure statement from the viator.

252 (5) The viatical settlement provider shall maintain the
253 documentation required by this section pursuant to s.
254 626.9922(2) and shall make such documentation available to the
255 office at any time for copying and inspection upon reasonable
256 notice by the office to the viatical settlement provider.

257 Section 6. Subsection (7) of section 626.9924, Florida
258 Statutes, is amended to read:

259 626.9924 Viatical settlement contracts; procedures;
260 rescission.—

261 (7) At any time during the contestable period, within 20
262 days after a viator executes documents necessary to transfer
263 rights under an insurance policy or within 20 days of any
264 agreement, option, promise, or any other form of understanding,
265 express or implied, to viaticate the policy, the provider must
266 give notice to the insurer of the policy that the policy has or
267 will become a viaticated policy. The notice must be accompanied
268 by the documents required by s. 626.99287~~(5)(a)~~ and s. 626.99276
269 in their entirety.

270 Section 7. Subsection (2) of section 626.99245, Florida
271 Statutes, is amended to read:

272 626.99245 Conflict of regulation of viaticals.— (2) This
273 section does not affect the requirement of ss. 626.9911~~(15)~~~~(12)~~
274 and 626.9912(1) that a viatical settlement provider doing
275 business from this state must obtain a viatical settlement

Amendment No. 1

276 license from the office. As used in this subsection, the term
277 "doing business from this state" includes effectuating viatical
278 settlement contracts from offices in this state, regardless of
279 the state of residence of the viator.

280 Section 8. Section 626.99273, Florida Statutes, is created
281 to read:

282 626.99273 Prohibited practices and conflicts of interest.-

283 (1) With respect to a viatical settlement contract or an
284 insurance policy, a viatical settlement broker may not knowingly
285 solicit an offer from, effectuate a viatical settlement with, or
286 make a sale to any viatical settlement provider, financing
287 entity, or related provider trust that is controlling,
288 controlled by, or under common control with such viatical
289 settlement broker.

290 (2) With respect to a viatical settlement contract or an
291 insurance policy, a viatical settlement provider may not
292 knowingly enter into a viatical settlement contract with a
293 viator if, in connection with such viatical settlement contract,
294 anything of value will be paid to a viatical settlement broker
295 that is controlling, controlled by, or under common control with
296 such viatical settlement provider, financing entity, or related
297 provider trust that is involved in such viatical settlement
298 contract.

299 (3) A viatical settlement provider may not enter into a
300 viatical settlement contract unless the viatical settlement
301 promotional, advertising, and marketing materials, as may be

Amendment No. 1

302 prescribed by rule, have been filed with the office. Such
303 materials may not expressly indicate, or include any reference
304 that would cause a viator to reasonably believe, that the life
305 insurance is free for any period of time.

306 (4) A life insurance agent, insurer, viatical settlement
307 broker, or viatical settlement provider may not make a statement
308 or representation to an applicant or policyholder in connection
309 with the sale of a life insurance policy to the effect that the
310 insurance is free or without cost to the policyholder for any
311 period of time.

312 (5) The commission may adopt rules implementing the
313 provisions of this section.

314 Section 9. Section 626.99275, Florida Statutes, is amended
315 to read:

316 626.99275 Prohibited practices; penalties.—

317 (1) It is unlawful for a any person to:

318 (a) ~~¶~~ Knowingly enter into, broker, or otherwise deal in
319 a viatical settlement contract the subject of which is a life
320 insurance policy, knowing that the policy was obtained by
321 presenting materially false information concerning any fact
322 material to the policy or by concealing, for the purpose of
323 misleading another, information concerning any fact material to
324 the policy, where the viator or the viator's agent intended to
325 defraud the policy's issuer.

326 (b) ~~¶~~ Knowingly or with the intent to defraud, for the
327 purpose of depriving another of property or for pecuniary gain,

Amendment No. 1

328 issue or use a pattern of false, misleading, or deceptive life
329 expectancies. (c) ~~¶~~ Knowingly engage in any transaction,
330 practice, or course of business intending thereby to avoid the
331 notice requirements of s. 626.9924(7).

332 (d) ~~¶~~ Knowingly or intentionally facilitate the change of
333 state of residency of a viator to avoid the provisions of this
334 chapter.

335 (e) Knowingly enter into a viatical settlement contract
336 before the application for or issuance of a life insurance
337 policy that is the subject of a viatical settlement contract or
338 within a 5-year period commencing with the date of issuance of
339 the policy or certificate, unless the viator provides a sworn
340 affidavit and accompanying documentation in accordance with s.
341 626.9987.

342 (f) Knowingly issue, solicit, market, or otherwise promote
343 the purchase of a life insurance policy for the purpose of or
344 with an emphasis on selling the policy.

345 (g) Engage in a fraudulent viatical settlement act.

346 (2) A person who violates any provision of this section
347 commits:

348 (a) A felony of the third degree, punishable as provided
349 in s. 775.082, s. 775.083, or s. 775.084, if the insurance
350 policy involved is valued at any amount less than \$20,000.

351 (b) A felony of the second degree, punishable as provided
352 in s. 775.082, s. 775.083, or s. 775.084, if the insurance

Amendment No. 1

353 policy involved is valued at \$20,000 or more, but less than
354 \$100,000.

355 (c) A felony of the first degree, punishable as provided
356 in s. 775.082, s. 775.083, or s. 775.084, if the insurance
357 policy involved is valued at \$100,000 or more.

358 Section 10. Section 626.99276, Florida Statutes, is
359 created to read:

360 626.99276 Notification to insurer required.—

361 (1) A copy of the sworn affidavit and the documentation
362 required in s. 626.99287 must be submitted to the insurer if the
363 viatical settlement provider or other party entering into a
364 viatical settlement contract with a viator submits a request to
365 the insurer for verification of coverage or if the viatical
366 settlement provider submits a request to transfer the policy or
367 certificate to the provider. If the request is made by a
368 viatical settlement provider, the copy shall be accompanied by a
369 sworn affidavit from the viatical settlement provider affirming
370 that the copy is a true and correct copy of the documentation
371 received by the provider.

372 (2) An insurer may not require, as a condition of
373 responding to a request for verification of coverage or
374 effecting the transfer of a policy pursuant to a viatical
375 settlement contract, that the viator, insured, viatical
376 settlement provider, or viatical settlement broker sign any
377 disclosures, consent form, waiver form, or other form that has
378 not been approved by the office for use in connection with

Amendment No. 1

379 viatical settlement contracts in this state. (3) Upon receipt
380 of a properly completed request for change of ownership or
381 beneficiary of a policy, the insurer shall respond in writing
382 within 30 calendar days confirming that the change has been
383 effectuated or specifying the reasons why the requested change
384 cannot be processed. The insurer may not unreasonably delay
385 effectuating a change of ownership or beneficiary and may not
386 otherwise seek to interfere with any viatical settlement
387 contract lawfully entered into in this state.

388 Section 11. Section 626.99278, Florida Statutes, is
389 amended to read:

390 626.99278 Viatical provider anti-fraud plan.—

391 (1) Each ~~Every~~ licensed viatical settlement provider and
392 registered life expectancy provider must adopt an anti-fraud
393 plan and file it with the Division of Insurance Fraud of the
394 department. Each anti-fraud plan shall include:

395 (a) ~~(1)~~ A description of the procedures for detecting and
396 investigating possible fraudulent acts and procedures for
397 resolving material inconsistencies between medical records and
398 insurance applications.

399 (b) ~~(2)~~ A description of the procedures for the mandatory
400 reporting of possible fraudulent insurance acts and prohibited
401 practices specified ~~set forth~~ in s. 626.99275 to the Division of
402 Insurance Fraud ~~of the department~~.

403 (c) ~~(3)~~ A description of the plan for anti-fraud education
404 and training of its underwriters or other personnel.

Amendment No. 1

405 (d)~~(4)~~ A written description or chart outlining the
406 organizational arrangement of the anti-fraud personnel who are
407 responsible for the investigation and reporting of possible
408 fraudulent insurance acts and for the investigation of
409 unresolved material inconsistencies between medical records and
410 insurance applications.

411 (e)~~(5)~~ For viatical settlement providers, a description of
412 the procedures used to perform initial and continuing review of
413 the accuracy of life expectancies used in connection with a
414 viatical settlement contract or viatical settlement investment.

415 (2) Each licensed viatical settlement provider shall
416 maintain in accordance with s. 626.9922:

417 (a) Documentation of compliance with its anti-fraud plan
418 and procedures filed in accordance with this section.

419 (b) Documentation pertaining to resolved and unresolved
420 material inconsistencies between medical records and insurance
421 applications.

422 (c) Documentation of its mandatory reporting of the
423 possible fraudulent acts and prohibited practices specified in
424 s. 626.99275 to the Division of Insurance Fraud.

425 Section 12. Section 626.99287, Florida Statutes, is
426 amended to read:

427 626.99287 Contestability of viaticated policies.—Except as
428 hereinafter provided, if a viatical settlement contract is
429 entered into within the 5-year period commencing with the date
430 of issuance of the insurance policy or certificate to be

Amendment No. 1

431 acquired, the viatical settlement contract is void and
432 unenforceable by either party. Notwithstanding this limitation,
433 such a viatical settlement contract is not void and
434 unenforceable if the viator provides a sworn affidavit and
435 accompanying documentation that certifies to the viatical
436 settlement provider that one or more of the following conditions
437 have been met within the 5-year period:

438 (1) The policy was issued upon the owner's exercise of
439 conversion rights arising out of a group or term policy,
440 provided the total of the time covered under the prior policy is
441 at least 60 months. The time covered under a group policy shall
442 be calculated without regard to any change in insurance
443 carriers, provided the coverage has been continuous and under
444 the same group sponsorship;

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

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

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

450 (2) ~~(5)~~—The viator certifies by producing independent
451 evidence to the viatical settlement provider that one or more of
452 the following conditions have been met within the 5-year period:

453 (a) ~~1.~~ The viator or insured is terminally or chronically
454 ill; ~~diagnosed with an illness or condition that is either:~~

455 a. ~~Catastrophic or life threatening; or~~

Amendment No. 1

456 ~~b. Requires a course of treatment for a period of at least~~
457 ~~3 years of long term care or home health care; and~~

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

460 (b) The viator's spouse dies;

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

462 (d) The viator retires from full-time employment;

463 (e) The viator becomes physically or mentally disabled and
464 a physician determines that the disability prevents the viator
465 from maintaining full-time employment; or

466 (f) The owner of the policy was the insured's employer at
467 the time the policy or certificate was issued and the employment
468 relationship terminated;

469 (g) A final order, judgment, or decree is entered by a
470 court of competent jurisdiction, on the application of a
471 creditor of the viator, adjudicating the viator bankrupt or
472 insolvent, or approving a petition seeking reorganization of the
473 viator or appointing a receiver, trustee, or liquidator to all
474 or a substantial part of the viator's assets. ~~;~~ ~~or~~

475 (h) The viator experiences a significant decrease in income
476 which is unexpected by the viator and which impairs his or her
477 reasonable ability to pay the policy premium.

478 (3) The viator enters into a viatical settlement contract
479 more than 2 years after a policy's issuance date and, with
480 respect to the policy, at all times before such date each of the
481 following conditions is met:

Amendment No. 1

482 a. Policy premiums have been funded exclusively with
483 unencumbered assets, including an interest in the life insurance
484 policy being financed only to the extent of its net cash
485 surrender provided by, or full recourse liability by, the
486 insured;

487 b. An agreement or understanding with another person has
488 not been entered to guarantee any such liability or to purchase,
489 or be ready to purchase, the policy, including through an
490 assumption or forgiveness of the loan;

491 c. The insured and the policy have not been evaluated for
492 settlement.

493 ~~If the viatical settlement provider submits to the insurer a~~
494 ~~copy of the viator's or owner's certification described above,~~
495 ~~then the provider submits a request to the insurer to effect the~~
496 ~~transfer of the policy or certificate to the viatical settlement~~
497 ~~provider, the viatical settlement agreement shall not be void or~~
498 ~~unenforceable by operation of this section. The insurer shall~~
499 ~~timely respond to such request. Nothing in this section shall~~
500 ~~prohibit an insurer from exercising its right during the~~
501 ~~contestability period to contest the validity of any policy on~~
502 ~~grounds of fraud.~~

503
504 -----

T I T L E A M E N D M E N T

505
506 Remove lines 9-63 and insert:

Amendment No. 1

507 | licensees; increasing deposit requirement; deleting an obsolete
508 | provision regarding a deposit requirement; authorizing the
509 | commission to adopt rules; amending s. 626.9914, F.S.; adding an
510 | act that warrants the imposition of administrative penalties
511 | against viatical settlement provider licensees; increasing the
512 | amount of administrative fines that may be imposed by the Office
513 | of Insurance Regulation against licensees for certain
514 | violations; amending s. 626.99175, F.S.; deleting an obsolete
515 | provision; deleting an exception from registration requirements
516 | for life expectancy providers; creating s. 626.99185, F.S.;
517 | requiring viatical settlement providers to provide viators with
518 | a disclosure statement before or concurrently with a viator's
519 | execution of a viatical settlement contract; providing
520 | requirements and procedures for such disclosure statements;
521 | amending s. 626.9924, F.S.; amending cross-references to a
522 | requirement to provide specified documents with a notice that a
523 | policy has or willEnter Amending Text Here become a viaticated
524 | policy; amending s. 626.99245, F.S.; conforming a cross-
525 | reference; creating s. 626.99273, F.S.; prohibiting certain
526 | practices and conflicts of interest relating to viatical
527 | settlement contracts or insurance policies; requiring a viatical
528 | settlement provider to file certain promotional, advertising,
529 | and marketing materials with the office before entering into
530 | viatical settlement contracts; prohibiting certain references
531 | relating to the cost of life insurance policies in such
532 | materials and other specified statements and representations;

039889 - h0445-line 248.docx

Published On: 1/12/2016 8:04:07 PM

Amendment No. 1

533 authorizing the commission to adopt rules; amending s.
534 626.99275, F.S.; prohibiting a person from entering into a
535 viatical settlement contract before a specified date except
536 under specified circumstances, from issuing, soliciting,
537 marketing, or otherwise promoting the purchase of a policy under
538 certain circumstances, and from engaging in a fraudulent
539 viatical settlement act; providing criminal penalties for a
540 violation of such prohibitions; creating s. 626.99276, F.S.;
541 requiring specified affidavits and other documentation to be
542 provided to an insurer for requests to verify coverage and to
543 transfer a policy or certificate to a viatical settlement
544 provider; prohibiting insurers from requiring certain forms that
545 have not been approved by the office to be signed as a condition
546 of responding to such requests; requiring insurers to respond in
547 writing within a specified period to properly completed requests
548 to change the ownership or beneficiary of a policy; amending s.
549 626.99278, F.S.; providing requirements for licensed viatical
550 settlement providers to maintain specified documentation
551 relating to anti-fraud plans and procedures, material
552 inconsistencies between medical records and insurance
553 applications, and reporting of specified fraudulent acts and
554 prohibited practices; amending s. 626.99287, F.S., increasing
555 the incontestability period; revising exceptions to
556 incontestability; creating s.