



# Senate

General Assembly

January Session, 2003

**File No. 205**

Senate Bill No. 916

*Senate, April 8, 2003*

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT CONCERNING VIATICAL SETTLEMENTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-465 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 As used in [subsection (a) of section 38a-11,] sections 38a-465 to  
4 38a-465m, inclusive, as amended by this act, sections 12 to 15,  
5 inclusive, of this act and subdivision (20) of section 38a-816:

6 [(1) "Certificate" means any certificate of group life insurance.

7 (2) "Commissioner" means the Insurance Commissioner.

8 (3) "Financing entity" means any participant, or any transferee of or  
9 successor to the interest of a participant, in any financing transaction.

10 (4) "Financing transaction" means any transaction in which  
11 financing is obtained for the purchase, acquisition, transfer or other

12 assignment of one or more viatical settlement contracts, viaticated  
13 policies or interests in such contracts or policies, including, but not  
14 limited to, any secured or unsecured financing, any securitization  
15 transaction or any securities offering which is registered or exempt  
16 from registration under federal and applicable state securities law, or  
17 in which one or more viatical settlement contracts, viaticated policies  
18 or interests therein are sold, assigned, transferred, pledged,  
19 hypothecated or otherwise disposed of.

20 (5) "Participant" means an underwriter, placement agent, lender,  
21 purchaser of securities, credit enhancer or other participant, other than  
22 a viatical settlement provider, in any financing transaction.

23 (6) "Person" means any natural or artificial entity, including, but not  
24 limited to, any individual, partnership, association, trust or  
25 corporation.

26 (7) "Viatical settlement agent" means any person who is an  
27 authorized agent of a licensed viatical settlement provider, and any  
28 subagent or other representative of such agent, who acts or aids in any  
29 manner in the solicitation of a viatical settlement on behalf of such  
30 viatical settlement provider. Viatical settlement agent shall not include  
31 (A) a viatical settlement provider, viatical settlement broker or  
32 financing entity, (B) an attorney, accountant, financial planner or any  
33 person exercising a power of attorney granted by a viator, (C) any  
34 person who is retained to represent a viator and whose compensation  
35 is paid by or at the discretion of the viator regardless of whether the  
36 viatical settlement is consummated or (D) a credit union, employer or  
37 association which provides information relating to viatical settlements  
38 to its members or employees. A viatical settlement agent is deemed to  
39 represent only the viatical settlement provider.

40 (8) "Viatical settlement broker" means any person who, for a fee,  
41 commission or other valuable consideration, advertises or advises a  
42 person on the availability of a viatical settlement, introduces viators to  
43 viatical settlement providers, and offers or attempts to negotiate  
44 viatical settlements between a viator and one or more viatical

45 settlement providers. Viatical settlement broker shall not include (A)  
46 an attorney, accountant or financial planner retained to represent a  
47 viator and whose compensation is paid by or at the discretion of the  
48 viator, (B) a viatical settlement provider, viatical settlement agent or  
49 financing entity, or (C) a credit union, employer or association which  
50 provides information relating to viatical settlements to its members or  
51 employees. A viatical settlement broker is deemed to represent only  
52 the viator's interests and shall owe a fiduciary duty to the viator to act  
53 according to the viator's instructions and in the viator's best interests.

54 (9) "Viatical settlement contract" means a written agreement entered  
55 into between a viatical settlement provider and a viator that establishes  
56 the terms under which the viatical settlement provider will pay  
57 compensation or anything of value, which compensation or value is  
58 less than the expected death benefit of the insurance policy or  
59 certificate, in return for the viator's assignment, transfer, sale, devise or  
60 bequest of the death benefit or ownership of all or a portion of the  
61 insurance policy or certificate of insurance to the viatical settlement  
62 provider. "Viatical settlement contract" includes a contract for a loan or  
63 other financial transaction secured primarily by an individual or group  
64 life insurance policy, other than a loan by a life insurance company  
65 pursuant to the terms of a life insurance contract, or a loan secured by  
66 the cash value of the policy.

67 (10) "Viatical settlement provider" means a person, other than a  
68 viator, who (A) enters into one or more viatical settlement contracts or  
69 (B) obtains financing from a financing entity for the purchase,  
70 acquisition, transfer or other assignment of one or more viatical  
71 settlement contracts, viatical policies or interests therein, or otherwise  
72 sells, assigns, transfers, pledges, hypothecates or otherwise disposes of  
73 one or more viatical settlement contracts, viatical policies or interests  
74 therein. Viatical settlement provider shall not include: (i) Any bank, as  
75 defined in section 36a-2, credit union as defined in said section, or  
76 other licensed lending institution which takes an assignment of a life  
77 insurance policy as collateral for a loan; (ii) the issuer of a life  
78 insurance policy providing accelerated benefits pursuant to section

79 38a-457; (iii) a viator's adult family member, including, but not limited  
80 to, a parent, child, spouse, brother, sister, grandfather, grandmother,  
81 uncle, aunt, cousin, mother-in-law, father-in-law, brother-in-law,  
82 sister-in-law, son-in-law or daughter-in-law who has not entered into a  
83 viatical settlement contract during the period of twelve months  
84 immediately preceding the date of the viatical settlement contract in  
85 question.

86 (11) "Viaticated policy" means any life insurance policy or certificate  
87 which has been acquired by a viatical settlement provider pursuant to  
88 a viatical settlement contract.

89 (12) "Viator" means the owner of a life insurance policy, or a holder  
90 of a certificate, which policy or certificate insures the life of an  
91 individual with a catastrophic or life-threatening illness or condition  
92 and who enters or seeks to enter into a viatical settlement contract.  
93 Viator shall not include a viatical settlement provider, viatical  
94 settlement agent, viatical settlement broker or financing entity.

95 (13) "Viatical settlement" means a transaction between a viator and a  
96 viatical settlement provider in which the viatical settlement provider  
97 pays compensation or other value in return for the viator's assignment,  
98 transfer, sale, devise or bequest to the viatical settlement provider of  
99 the ownership of or the death benefit payable under a life insurance  
100 policy or a certificate.]

101 (1) "Accredited investor" means an accredited investor, as defined in  
102 17 CFR Section 230.501(a), as amended from time to time.

103 (2) "Advertising" or "advertisement" means any written, electronic  
104 or printed communication or any communication by means of  
105 recorded telephone messages or transmitted on radio, television, the  
106 Internet or similar communications media, including, but not limited  
107 to, film strips, motion pictures and videos, published, disseminated,  
108 circulated or placed before the public, directly or indirectly, for the  
109 purpose of creating an interest in or inducing a person to purchase or  
110 sell a life insurance policy or an interest in a life insurance policy

111 pursuant to a viatical settlement contract or a viatical settlement  
112 purchase agreement.

113 (3) "Chronically ill" means: (A) Being unable to perform at least two  
114 activities of daily living, including, but are not limited to, eating,  
115 toileting, transferring, bathing, dressing or continence; (B) requiring  
116 substantial supervision to protect from threats to health and safety due  
117 to severe cognitive impairment; or (C) having a level of disability  
118 similar to that described in subparagraph (A) of this subdivision as  
119 determined by the federal Secretary of Health and Human Services.

120 (4) "Commissioner" means the Insurance Commissioner.

121 (5) (A) "Financing entity" means an underwriter, placement agent,  
122 lender, purchaser of securities, purchaser of a policy or certificate from  
123 a viatical settlement provider, credit enhancer, or any entity that has a  
124 direct ownership in a policy or certificate that is the subject of a viatical  
125 settlement contract, but:

126 (i) Whose principal activity related to the transaction is providing  
127 funds to effect the viatical settlement or purchase of one or more  
128 viaticated policies; and

129 (ii) Who has an agreement in writing with one or more licensed  
130 viatical settlement providers to finance the acquisition of viatical  
131 settlement contracts.

132 (B) Financing entity does not include a nonaccredited investor or  
133 viatical settlement purchaser.

134 (6) "Financing transaction" means any transaction in which  
135 financing is obtained for the purchase, acquisition, transfer or other  
136 assignment of one or more viatical settlement contracts, viaticated  
137 policies or interests in such contracts or policies, including, but not  
138 limited to, any secured or unsecured financing, any securitization  
139 transaction or any securities offering which is registered or exempt  
140 from registration under federal or state securities law, or in which one  
141 or more viatical settlement contracts, viaticated policies or interests

142 therein are sold, assigned, transferred, pledged, hypothecated or  
143 otherwise disposed of.

144 (7) "Person" means a natural person or a legal entity, including, but  
145 not limited to, an individual, partnership, limited liability company,  
146 association, trust or corporation.

147 (8) "Nonaccredited investor" means an investor that does not qualify  
148 as an accredited investor.

149 (9) "Policy" means an individual or group policy, group certificate,  
150 contract or arrangement of life insurance affecting the rights of a  
151 resident of the state or bearing a reasonable relation to the state,  
152 regardless of whether delivered or issued for delivery in this state.

153 (10) "Qualified institutional buyer" means a qualified institutional  
154 buyer, as defined in 17 CFR Section 230.144A, as amended from time to  
155 time.

156 (11) "Related provider trust" means a titling trust or other trust  
157 established by a licensed viatical settlement provider or a financing  
158 entity for the sole purpose of holding the ownership or beneficial  
159 interest in purchased policies in connection with a financing  
160 transaction.

161 (12) "Special purpose entity" means a corporation, partnership, trust,  
162 limited liability company or other similar entity formed solely to  
163 provide, either directly or indirectly, access to institutional capital  
164 markets for a financing entity or licensed viatical settlement provider.

165 (13) "Terminally ill" means having an illness or sickness that can  
166 reasonably be expected to result in death in twenty-four months or  
167 less.

168 (14) "Viatical settlement" means a transaction between a viator and a  
169 viatical settlement provider in which the viatical settlement provider  
170 pays compensation or other value in return for the viator's assignment,  
171 transfer, sale, devise or bequest to the viatical settlement provider of

172 the ownership of, or the death benefit payable under, a life insurance  
173 policy or a certificate.

174 (15) "Viatical settlement broker" or "broker" means a person who, on  
175 behalf of a viator and for a fee, commission or other valuable  
176 consideration, offers or attempts to negotiate viatical settlement  
177 contracts between a viator and one or more viatical settlement  
178 providers. "Viatical settlement broker" does not include an attorney,  
179 certified public accountant or a financial planner accredited by a  
180 nationally recognized accreditation agency who is retained to  
181 represent the viator and whose compensation is not paid directly or  
182 indirectly by the viatical settlement provider or viatical settlement  
183 purchaser.

184 (16) "Viatical settlement contract" means a written agreement  
185 establishing the terms under which compensation or anything of value  
186 will be paid, which compensation or value is less than the expected  
187 death benefit of a policy in return for the viator's assignment, transfer,  
188 sale, devise or bequest of the death benefit or ownership of any portion  
189 of the policy. A viatical settlement contract includes, but is not limited  
190 to, (A) a contract for a loan or other financing transaction with a viator  
191 secured primarily by an individual or group life insurance policy,  
192 other than a loan by a life insurance company pursuant to the terms of  
193 the life insurance contract, or a loan secured by the cash value of a  
194 policy, or (B) an agreement with a viator to transfer ownership or  
195 change the beneficiary designation at a later date regardless of the date  
196 that compensation is paid to the viator.

197 (17) "Viatical settlement investment agent" means a person who is  
198 an appointed or contracted agent of a licensed viatical settlement  
199 provider who solicits or arranges the funding for the purchase of a  
200 viatical settlement by a viatical settlement purchaser and who is acting  
201 on behalf of a viatical settlement provider.

202 (18) "Viatical settlement provider" means a person, other than a  
203 viator, who enters into or effectuates a viatical settlement contract.  
204 Viatical settlement provider does not include:

205 (A) A bank, savings bank, savings and loan association, credit union  
206 or other licensed lending institution that takes an assignment of a life  
207 insurance policy as collateral for a loan;

208 (B) The issuer of a life insurance policy providing accelerated  
209 benefits pursuant to section 38a-457 and pursuant to the contract;

210 (C) An authorized or eligible insurer that provides stop loss  
211 coverage to a viatical settlement provider, viatical settlement  
212 purchaser, financing entity, special purpose entity or related provider  
213 trust;

214 (D) A natural person who enters into or effectuates no more than  
215 one agreement in a calendar year for the transfer of a life insurance  
216 policy for any value less than the expected death benefit;

217 (E) A financing entity;

218 (F) A special purpose entity;

219 (G) A related provider trust;

220 (H) A viatical settlement purchaser; or

221 (I) An accredited investor or qualified institutional buyer who  
222 purchases a viaticated policy from a viatical settlement provider.

223 (19) "Viatical settlement purchase agreement" means a contract or  
224 agreement, entered into by a viatical settlement purchaser, to which  
225 the viator is not a party, to purchase a life insurance policy or an  
226 interest in a life insurance policy, that is entered into for the purpose of  
227 deriving an economic benefit.

228 (20) "Viatical settlement purchaser" means a person who gives a  
229 sum of money as consideration for a life insurance policy or an interest  
230 in the death benefits of a life insurance policy, or a person who owns  
231 or acquires or is entitled to a beneficial interest in a trust that owns a  
232 viatical settlement contract or is the beneficiary of a life insurance  
233 policy that has been or will be the subject of a viatical settlement

234 contract, for the purpose of deriving an economic benefit. Viatical  
235 settlement purchaser does not include:

236 (A) A licensee under this part;

237 (B) An accredited investor or qualified institutional buyer;

238 (C) A financing entity;

239 (D) A special purpose entity; or

240 (E) A related provider trust.

241 (21) "Viaticated policy" means a life insurance policy or certificate  
242 that has been acquired by a viatical settlement provider pursuant to a  
243 viatical settlement contract.

244 (22) "Viator" means the owner of a life insurance policy or a  
245 certificate holder under a group policy who enters or seeks to enter  
246 into a viatical settlement contract. For the purposes of this part, a  
247 viator shall not be limited to an owner of a life insurance policy or a  
248 certificate holder under a group policy insuring the life of an  
249 individual with a terminal or chronic illness or condition except where  
250 specifically provided. Viator does not include:

251 (A) A licensee under this part;

252 (B) An accredited investor or qualified institutional buyer;

253 (C) A financing entity;

254 (D) A special purpose entity; or

255 (E) A related provider trust.

256 Sec. 2. Section 38a-465a of the general statutes is repealed and the  
257 following is substituted in lieu thereof (*Effective October 1, 2003*):

258 (a) Except as otherwise provided in this part, no person may act as a  
259 viatical settlement provider, [or] viatical settlement broker or viatical

260 settlement investment agent until [he] the person is licensed by the  
261 commissioner pursuant to this section, except that any person who  
262 holds a resident or nonresident insurance producer license pursuant to  
263 chapter 702 may act as a viatical settlement broker, and shall be subject  
264 to the provisions of subsection (a) of section 38a-11, as amended by this  
265 act, sections 38a-465 to 38a-465m, inclusive, as amended by this act,  
266 sections 12 to 15, inclusive, of this act and subdivision (20) of section  
267 38a-816, as if such person is a licensed viatical settlement broker.

268 (b) Any applicant for a license as a viatical settlement provider, [or]  
269 viatical settlement broker or viatical settlement investment agent shall  
270 submit written application to the commissioner. Such applicants shall  
271 provide such information as the commissioner requires. All initial  
272 applications shall be accompanied by a filing fee specified in section  
273 38a-11, as amended by this act.

274 (c) Upon the filing of an application and full payment of the license  
275 fee, the commissioner shall investigate the applicant and shall issue a  
276 license if the commissioner determines that:

277 (1) The applicant has provided a detailed plan of operation;

278 (2) The applicant is competent and trustworthy, and intends to act  
279 in good faith pursuant to the license applied for;

280 (3) The applicant has a good business reputation and adequate  
281 experience, training or education so as to be qualified in the business  
282 for which the license is applied for;

283 (4) If the applicant is a corporation, partnership, limited liability  
284 company or other legal entity, the applicant has provided a certificate  
285 of good standing from its state of domicile and, if such applicant is not  
286 domiciled in this state, a certificate of good standing from this state  
287 dated not more than fifteen days before or after the date of filing of the  
288 application; and

289 (5) Neither the applicant, nor any partner, key manager, director,

290 officer or majority stockholder of the applicant has been convicted of a  
291 felony.

292 [(c)] (d) Any license issued for a viatical settlement provider, [or] a  
293 viatical settlement broker or a viatical settlement investment agent  
294 shall be in force only until the last day of March in each year, but may  
295 be renewed by the commissioner without formality other than proper  
296 application. The fees for such licenses shall be assessed annually as  
297 provided in section 38a-11, as amended by this act. If such broker, [or]  
298 provider or investment agent fails to timely pay the renewal fee, such  
299 license shall be automatically revoked if the license fee is not received  
300 by the commissioner not later than the fifth day after the commissioner  
301 sends by first class mail a written notice of nonrenewal to the principal  
302 office of the broker, [or] provider or investment agent, provided such  
303 notice may only be mailed after said last day of March.

304 [(d)] (e) The commissioner may, at any time, require the applicant to  
305 fully disclose the identity of all of its stockholders, partners, key  
306 management personnel, directors, officers, members and employees,  
307 and the commissioner may deny any application for a license if the  
308 commissioner determines that any partner, key manager, director,  
309 officer, employee stockholder or member thereof who may materially  
310 influence the applicant's conduct fails to meet any of the standards set  
311 forth in sections 38a-465 to 38a-465m, inclusive, as amended by this act  
312 and sections 12 to 15, inclusive, of this act.

313 (f) A viatical settlement provider, viatical settlement broker or  
314 viatical settlement investment agent shall provide to the commissioner  
315 new or revised information about officers, stockholders holding ten  
316 per cent or more of the company's stock, partners, directors, members  
317 or designated employees not later than thirty days after the change in  
318 information.

319 [(e)] (g) A viatical settlement provider [or] license, a viatical  
320 settlement broker license or a viatical settlement investment agent  
321 license issued to a corporation, partnership, limited liability company

322 or other legal entity authorizes all of such legal entity's stockholders,  
323 partners, key managers, directors, officers and employees named in  
324 the application for such license, and any supplements to the  
325 application, to act on such entity's behalf as if such individuals are  
326 licensed. Such authorization shall terminate upon the expiration,  
327 suspension or revocation of the viatical settlement provider license,  
328 [or] a viatical settlement broker license or a viatical settlement  
329 investment agent license.

330 [(f) Upon the filing of an application and full payment of the license  
331 fee, the commissioner shall investigate the applicant and shall issue a  
332 license if the commissioner determines that:

333 (1) The applicant has provided a detailed plan of operation;

334 (2) The applicant is competent and trustworthy, and intends to act  
335 in good faith pursuant to the license;

336 (3) The applicant has a good business reputation and adequate  
337 experience, training or education to conduct viatical settlement  
338 business;

339 (4) If the applicant is a corporation, partnership, limited liability  
340 company or other legal entity, the applicant has provided a certificate  
341 of good standing from its state of domicile and, if such applicant is not  
342 domiciled in this state, a certificate of good standing from this state  
343 dated not more than fifteen days before or after the date of filing of the  
344 application; and

345 (5) Neither the applicant, nor any partner, key manager, director,  
346 officer or majority stockholder of the applicant has been convicted of a  
347 felony.]

348 [(g)] (h) The commissioner shall maintain a complete listing of all  
349 viatical settlement providers, [and] viatical settlement brokers and  
350 viatical settlement investment agents licensed in this state which shall  
351 be available to the general public for inspection.

352 Sec. 3. Section 38a-465b of the general statutes is repealed and the  
353 following is substituted in lieu thereof (*Effective October 1, 2003*):

354 (a) The commissioner may deny a license application, or suspend,  
355 revoke or refuse to renew the license of any viatical settlement  
356 provider, [or] viatical settlement broker or viatical settlement  
357 investment agent if the commissioner determines that:

358 (1) There was a material misrepresentation in the license application  
359 or in other information submitted to the commissioner;

360 (2) The licensee, or any partner, key manager, director, officer or  
361 majority stockholder of the licensee has been convicted of a felony, is  
362 subject to a final administrative action to suspend or revoke a license  
363 granted by the chief insurance regulatory official of another state, or is  
364 otherwise shown to be untrustworthy or incompetent to act as a  
365 viatical settlement provider, [or] viatical settlement broker or viatical  
366 settlement investment agent;

367 (3) The licensee has wilfully violated any of the provisions of this  
368 part;

369 (4) The viatical settlement provider demonstrates a pattern of  
370 unreasonably low payments to viators;

371 (5) The licensee has been found guilty of or has pleaded guilty or  
372 nolo contendere to, any felony, or to a misdemeanor involving fraud or  
373 moral turpitude regardless of whether a judgment or conviction has  
374 been entered by the court;

375 (6) The viatical settlement provider has entered into any viatical  
376 settlement contract that has not been approved pursuant to sections  
377 38a-465 to 38a-465m, inclusive, as amended by this act, and sections 12  
378 to 15, inclusive, of this act;

379 (7) The viatical settlement provider has failed to honor contractual  
380 obligations set out in a viatical settlement contract or a viatical  
381 settlement purchase agreement;

382 (8) The licensee no longer meets the requirements for initial  
383 licensure; or

384 (9) The viatical settlement provider has assigned, transferred or  
385 pledged a viatical policy to a person other than [(A)] a viatical  
386 settlement provider licensed in this state, [or (B) a financing entity] a  
387 viatical settlement purchaser, an accredited investor, a qualified  
388 institutional buyer, a financing entity, special purpose entity or related  
389 provider trust.

390 (b) If the commissioner denies a license application, or suspends,  
391 revokes or refuses to renew the license of a viatical settlement  
392 provider, [or] viatical settlement broker or viatical settlement  
393 investment agent, the applicant or licensee aggrieved by such denial,  
394 suspension, revocation or refusal to renew a license may appeal such  
395 action in accordance with [the provisions of] chapter 54. Hearings may  
396 be held by the commissioner or by any person designated by the  
397 commissioner. Whenever [a person] an individual other than the  
398 commissioner acts as the hearing officer, [he] the individual shall  
399 submit to the commissioner a memorandum of [his] findings and  
400 recommendations upon which the commissioner may base [his] a  
401 decision.

402 (c) In addition to denying a license application, or suspending,  
403 revoking or refusing to renew a license, the commissioner may assess a  
404 fine of up to one thousand dollars against a viatical settlement  
405 provider or viatical settlement investment agent for each wilful  
406 violation by the viatical settlement provider of any provision of this  
407 part or regulations adopted pursuant to this part.

408 (d) In addition to denying a license application, or suspending,  
409 revoking or refusing to renew a license, the commissioner may assess a  
410 fine of up to one thousand dollars against a viatical settlement broker  
411 if:

412 (1) Such viatical settlement broker has knowingly received a  
413 commission or other payment or benefit from a viatical settlement

414 provider who is unlicensed in this state in connection with a viatical  
415 settlement contract entered into with a viator resident in this state;

416 (2) Such viatical settlement broker has defrauded, misled or  
417 mistreated viators; or

418 (3) Such viatical settlement broker has wilfully violated any  
419 provision of sections 38a-465 to 38a-465m, inclusive, as amended by  
420 this act, sections 12 to 15, inclusive, of this act, or regulations adopted  
421 pursuant to said sections.

422 Sec. 4. Section 38a-465c of the general statutes is repealed and the  
423 following is substituted in lieu thereof (*Effective October 1, 2003*):

424 No [viatical settlement provider, viatical settlement broker or  
425 viatical settlement agent] person may use any form of viatical  
426 settlement contract or disclosure statement in this state when dealing  
427 with a viator unless such form has been filed with and approved by  
428 the commissioner. [Any viatical settlement contract or disclosure  
429 statement filed with the commissioner shall be deemed approved by  
430 the commissioner unless, not later than sixty days after filing, the  
431 commissioner sends, by first class mail, a notice of disapproval to the  
432 party that made the filing.] The commissioner may disapprove a  
433 viatical settlement contract or disclosure statement, if [he] the  
434 commissioner finds any provision in said form is unreasonable,  
435 contrary to the interests of the public, fails to comply with the  
436 provisions of sections 38a-465 to 38a-465m, inclusive, as amended by  
437 this act, or sections 12 to 15, inclusive, of this act, or is misleading to  
438 viators or the public.

439 Sec. 5. Section 38a-465d of the general statutes is repealed and the  
440 following is substituted in lieu thereof (*Effective October 1, 2003*):

441 (a) Except as provided in subsection (b) of this section, on or before  
442 the last day of March of each year, each viatical settlement provider  
443 shall file with the commissioner an annual statement containing such  
444 information as the commissioner may prescribe. The commissioner

445 shall adopt regulations, in accordance with [the provisions of] chapter  
446 54, to prescribe the contents of such annual statements.

447 (b) Notwithstanding the provisions of subsection (a) of this section,  
448 no licensee may submit to the commissioner information which  
449 identifies any viator except with the express written permission of  
450 such viator or the viator's estate or representative.

451 (c) Except as otherwise required or permitted by law, no person,  
452 including, but not limited to, any viatical settlement provider, viatical  
453 settlement investment agent, viatical settlement broker, insurance  
454 company, insurance producer, information bureau, rating agency or  
455 company, or any other person with actual knowledge of [a viator's] an  
456 insured's identity, may disclose such identity to any other person  
457 unless such disclosure: (1) Is necessary to effect a viatical settlement  
458 between the viator and a viatical settlement provider and the viator  
459 has provided prior written consent to such disclosure; (2) is provided  
460 in response to an investigation by the commissioner or any other  
461 governmental office or agency; [or (3) is a term of or condition to a  
462 financing transaction or to the transfer by one viatical settlement  
463 provider to another viatical settlement provider in a single transaction  
464 of two or more viaticated policies] (3) is necessary to effect a viatical  
465 settlement purchase agreement between the viatical settlement  
466 purchaser and a viatical settlement provider and the viator and  
467 insured have provided prior written consent to the disclosure; (4) is a  
468 term of or condition to the transfer of a policy by one viatical  
469 settlement provider to another viatical settlement provider; (5) is  
470 necessary to permit a financing entity, related provider trust or special  
471 purpose entity to finance the purchase of policies by a viatical  
472 settlement provider and the viator and insured have provided prior  
473 written consent to the disclosure; (6) is necessary to allow the viatical  
474 settlement provider or viatical settlement broker or their authorized  
475 representatives to make contacts for the purpose of determining health  
476 status; or (7) is required to purchase stop loss coverage.

477 (d) The commissioner shall not disclose the names of or other data

478 identifying viators unless such disclosure is required by law.

479 Sec. 6. Section 38a-465f of the general statutes is repealed and the  
480 following is substituted in lieu thereof (*Effective October 1, 2003*):

481 [Each viatical settlement provider and viatical settlement broker  
482 shall disclose in writing the following information to each viator prior  
483 to the date all parties execute a viatical settlement contract:]

484 (a) With each application for a viatical settlement, a viatical  
485 settlement provider or viatical settlement broker shall provide the  
486 viator with at least the following disclosures not later than at the time  
487 the application for the viatical settlement contract is signed by all  
488 parties. Disclosure to a viator shall include distribution of a brochure  
489 developed or authorized by the commissioner describing the process  
490 of viatical settlements. The disclosure document shall contain the  
491 following language: "All medical, financial or personal information  
492 solicited or obtained by a viatical settlement provider or viatical  
493 settlement broker about an insured, including the insured's identity or  
494 the identity of family members, a spouse or a significant other may be  
495 disclosed as necessary to effect the viatical settlement between the  
496 viator and the viatical settlement provider. If you are asked to provide  
497 this information, you will be asked to consent to the disclosure. The  
498 information may be provided to someone who buys the policy or  
499 provides funds for the purchase. You may be asked to renew your  
500 permission to share information every two years." The disclosure shall  
501 be provided in a separate document that is signed by the viator and  
502 the viatical settlement provider or viatical settlement broker and shall  
503 provide at least the following disclosures:

504 [(1) The possible alternatives to, or options that may be exercised in  
505 conjunction with, the viatical settlement contract, including, but not  
506 limited to, accelerated death benefits offered by the insurer of such  
507 viator's life insurance policy or group life insurance policy to which the  
508 viator's certificate relates;]

509 (1) There are possible alternatives to viatical settlement contracts

510 including any accelerated death benefits or policy loans offered under  
511 the viator's life insurance policy;

512 [(2) That some or all of the proceeds of the viatical settlement may  
513 be free from federal income tax or from state tax, and shall advise  
514 parties to seek assistance from a professional tax advisor;]

515 (2) Some or all of the proceeds of the viatical settlement may be  
516 taxable under federal income tax, and assistance should be sought  
517 from a professional tax advisor;

518 (3) [That receipt] Receipt of the viatical settlement proceeds may  
519 adversely affect the viator's eligibility for Medicaid or other  
520 government benefits or entitlements, and advice should be obtained  
521 from the appropriate governmental agencies or advisors;

522 (4) [That the] The viatical settlement provider may assign or  
523 otherwise transfer its interests in the viaticated policy to a third party;

524 [(5) That the viator may rescind the viatical settlement contract  
525 within fifteen days after the viator's receipt of the viatical settlement  
526 proceeds;]

527 (5) The viator has the right to rescind a viatical settlement contract  
528 for fifteen calendar days after the receipt of the viatical settlement  
529 proceeds by the viator, as provided in subsection (c) of section 38a-  
530 465g, as amended by this act. If the insured dies during the rescission  
531 period, the settlement contract shall be deemed to have been  
532 rescinded, subject to repayment of all viatical settlement proceeds and  
533 any premiums, loans and loan interest to the viatical settlement  
534 provider or viatical settlement purchaser;

535 [(6) That the viatical settlement proceeds may be subject to the  
536 claims of creditors;]

537 (6) Proceeds of the viatical settlement may be subject to the claims of  
538 general creditors;

539 (7) [That funds] Funds will be sent to the viator within two business  
540 days after the viatical settlement provider has received the insurer or  
541 group administrator's acknowledgment that ownership of the viatical  
542 policy or interest in the certificate has been transferred and the  
543 beneficiary has been designated pursuant to sections 38a-465 to 38a-  
544 465m, inclusive, as amended by this act, and sections 12 to 15,  
545 inclusive, of this act; [and]

546 (8) [That entering] Entering into the viatical settlement contract may  
547 cause other rights or benefits, including conversion rights [, a] and  
548 waiver of premium benefits that may exist under the policy or  
549 certificate, to be forfeited by the viator and that assistance should be  
550 sought from a financial advisor;

551 (9) The insured may be contacted by either the viatical settlement  
552 provider or broker or its authorized representative for the purpose of  
553 determining the insured's health status. This contact is limited to once  
554 every three months following the date the viatical settlement proceeds  
555 are released to the viator if the insured has a life expectancy of more  
556 than one year, and no more than once per month following such date if  
557 the insured has a life expectancy of one year or less.

558 (b) A viatical settlement provider shall provide the viator with at  
559 least the following disclosures not later than the date the viatical  
560 settlement contract is signed by all parties. The disclosures shall be  
561 conspicuously displayed in the viatical settlement contract or in a  
562 separate document signed by the viator and the viatical settlement  
563 provider or viatical settlement broker, and shall provide at least the  
564 following disclosures:

565 (1) The affiliation, if any, between the viatical settlement provider  
566 and the issuer of the insurance policy to be viaticated;

567 (2) The name, address and telephone number of the viatical  
568 settlement provider;

569 (3) If an insurance policy to be viaticated has been issued as a joint

570 policy or involves family riders or any coverage of a life other than the  
571 insured under the policy to be viaticated, the viator shall be informed  
572 of the possible loss of coverage on the other lives under the policy and  
573 shall be advised to consult with the viator's insurance producer or the  
574 insurer issuing the policy for advice on the proposed viatical  
575 settlement;

576 (4) The dollar amount of the current death benefit payable to the  
577 viatical settlement provider under the policy or certificate. If known,  
578 the viatical settlement provider shall also disclose the availability of  
579 any additional guaranteed insurance benefits, the dollar amount of any  
580 accidental death and dismemberment benefits under the policy or  
581 certificate and the viatical settlement provider's interest in those  
582 benefits;

583 (5) The name, business address, and telephone number of the  
584 independent third party escrow agent, and the fact that the viator or  
585 owner may inspect or receive copies of the relevant escrow or trust  
586 agreements or documents.

587 (c) If the viatical settlement provider transfers ownership or changes  
588 the beneficiary of the insurance policy, the viatical settlement provider  
589 shall communicate the change in ownership or beneficiary to the  
590 insured not later than twenty days after the change.

591 (d) A viatical settlement provider or its viatical settlement  
592 investment agent shall provide the viatical settlement purchaser with  
593 at least the following disclosures prior to the date the viatical  
594 settlement purchase agreement is signed by all parties. The disclosures  
595 shall be conspicuously displayed in any viatical settlement purchase  
596 agreement or in a separate document signed by the viatical settlement  
597 purchaser and viatical settlement provider or viatical settlement  
598 investment agent and shall provide at least the following disclosures:

599 (1) The purchaser will receive no returns, including, but not limited  
600 to, dividends and interest, until the insured dies;

601     (2) The actual annual rate of return on a viatical settlement contract  
602 is dependent upon an accurate projection of the insured's life  
603 expectancy, and the actual date of the insured's death. An annual  
604 guaranteed rate of return is not determinable;

605     (3) The viaticated life insurance contract should not be considered a  
606 liquid purchase because it is impossible to predict the exact timing of  
607 the contract's maturity and the funds may not be available until the  
608 death of the insured. There is no established secondary market for  
609 resale of these contracts by the purchaser;

610     (4) The purchaser may lose all benefits or may receive substantially  
611 reduced benefits if the insurer goes out of business during the term of  
612 the viatical investment;

613     (5) The purchaser is responsible for payment of the insurance  
614 premium or other costs related to the policy if required by the terms of  
615 the viatical settlement purchase agreement. Such payments may  
616 reduce the purchaser's return. If a party other than the purchaser is  
617 responsible for the payment, the name and address of that party shall  
618 be disclosed;

619     (6) The purchaser is responsible for payment of the insurance  
620 premiums or other costs related to the policy if the insured returns to  
621 good health. The amount of such premiums shall be disclosed, if  
622 applicable;

623     (7) The name and address of any person providing escrow services  
624 and the person's relationship to the broker;

625     (8) The amount of any trust fees or other expenses to be charged to  
626 the viatical settlement purchaser;

627     (9) Whether the purchaser is entitled to a refund of all or part of the  
628 purchaser's investment under the viatical settlement contract if the  
629 policy is later determined to be null and void;

630     (10) That group policies may contain limitations or caps in the

631 conversion rights, additional premiums may be required to be paid if  
632 the policy is converted, the party responsible for the payment of the  
633 additional premiums shall be named and, if a group policy is  
634 terminated and replaced by another group policy, that there may be no  
635 right to convert the original coverage;

636 (11) The risks associated with policy contestability, including, but  
637 not limited to, the risk that the purchaser will have no claim or only a  
638 partial claim to death benefits if the insurer rescinds the policy within  
639 the contestability period;

640 (12) Whether the purchaser will be the owner of the policy in  
641 addition to being the beneficiary, and if the purchaser is the  
642 beneficiary only and not also the owner, the special risks associated  
643 with that status, including, but not limited to, the risk that the  
644 beneficiary may be changed or the premium may not be paid;

645 (13) (A) The experience and qualifications of the person who  
646 determines the life expectancy of the insured, such as in-house staff,  
647 independent physicians and specialty firms that weigh medical and  
648 actuarial data; (B) the information the determination of life expectancy  
649 is based on; and (C) the relationship of the person making the  
650 determination to the viatical settlement provider, if any;

651 (14) Disclosure to an investor shall include distribution of a  
652 brochure, developed or authorized by the commissioner, describing  
653 the process of investment in viatical settlements.

654 (e) A viatical settlement provider or its viatical settlement  
655 investment agent shall provide the viatical settlement purchaser with  
656 at least the following disclosures not later than at the time of the  
657 assignment, transfer or sale of all or a portion of an insurance policy.  
658 The disclosures shall be contained in a document signed by the viatical  
659 settlement purchaser and viatical settlement provider or viatical  
660 settlement investment agent and shall provide at least the following  
661 disclosures:

662 (1) All life expectancy certifications obtained by the provider in the  
663 process of determining the price paid to the viator;

664 (2) Whether premium payments or other costs related to the policy  
665 have been escrowed. If such costs have been escrowed, disclosure is  
666 required regarding the date upon which the escrowed funds will be  
667 depleted and whether the purchaser will be responsible for payment of  
668 premiums after that date, and, if so, the amount of the premiums;

669 (3) Whether premium payments or other costs related to the policy  
670 have been waived. If such costs have been waived, disclosure is  
671 required regarding whether the investor will be responsible for  
672 payment of the premiums if the insurer that wrote the policy  
673 terminates the waiver after purchase and the amount of those  
674 premiums;

675 (4) The type of policy offered or sold, such as, whole life, term life,  
676 universal life or a group policy certificate, any additional benefits  
677 contained in the policy, and the current status of the policy;

678 (5) If the policy is term insurance, the special risks associated with  
679 term insurance, including, but not limited to, the purchaser's  
680 responsibility for additional premiums if the viator continues the term  
681 policy at the end of the current term;

682 (6) Whether the policy is contestable;

683 (7) Whether the insurer that wrote the policy has any additional  
684 rights that could negatively affect or extinguish the purchaser's rights  
685 under the viatical settlement contract, what the rights are, and under  
686 what conditions the rights are activated;

687 (8) The name and address of the person responsible for monitoring  
688 the insured's condition, a description of how often the monitoring of  
689 the insured's condition is done, how the date of death is determined,  
690 and how and when this information will be transmitted to the  
691 purchaser.

692 (f) A viatical settlement broker shall disclose to a prospective viator  
693 the amount and method of calculating the broker's compensation.  
694 "Compensation" includes anything of value paid or given to a viatical  
695 settlement broker for the placement of a policy. The disclosure shall be  
696 provided not later than the date the viatical settlement contract is  
697 signed by all parties and shall be conspicuously displayed in the  
698 viatical settlement contract or in a separate document signed by the  
699 viator and the viatical settlement provider or viatical settlement  
700 broker.

701 (g) The viatical settlement purchase agreement may be voided by  
702 the purchaser at any time before the end of the third day after the  
703 disclosures required by subsections (d) and (e) of this section are  
704 received by the purchaser.

705 Sec. 7. Section 38a-465g of the general statutes is repealed and the  
706 following is substituted in lieu thereof (*Effective October 1, 2003*):

707 (a) (1) Before entering into a viatical settlement contract, a viatical  
708 settlement provider shall obtain:

709 [(1)] (A) If the viator is the individual whose life is insured by the  
710 viator's life insurance policy or certificate, a written statement from a  
711 licensed physician that the viator is of sound mind and under no  
712 undue influence to enter into the viatical settlement contract; and

713 [(2)] (B) If the viator is not the individual whose life is insured by  
714 the viator's life insurance policy or certificate, a witnessed document  
715 executed by the insured person in which the person consents to the  
716 release of [his] the person's medical records to a viatical settlement  
717 provider, viatical settlement broker and the insurance company that  
718 issued the life insurance policy covering the life of the insured. [; and]

719 [(3) A witnessed document executed by the viator in which he (A)  
720 consents to the viatical settlement contract; (B) acknowledges that the  
721 person whose life is insured by the viator's life insurance policy or  
722 certificate has a catastrophic or life threatening illness; (C) represents

723 that the viator has a full and complete understanding of the viatical  
724 settlement contract and that the viator has a full and complete  
725 understanding of the insurance coverage under the life insurance  
726 policy or certificate; (D) consents to the release of the viator's medical  
727 records if the viator is the person whose life is insured; and (E)  
728 acknowledges that the viator has entered into the viatical settlement  
729 contract freely and voluntarily.]

730 (2) Not later than twenty days after a viator executes the documents  
731 necessary to transfer any rights under a policy or not later than twenty  
732 days after entering any agreement, option, promise or any other form  
733 of understanding, expressed or implied, to viaticate the policy, the  
734 viatical settlement provider shall give written notice to the insurer that  
735 issued the policy that the policy has or will become a viaticated policy.  
736 The notice shall be accompanied by the documents required by  
737 subdivision (3) of this subsection.

738 (3) The viatical settlement provider shall deliver a copy of the  
739 medical release required under subparagraph (B) of subdivision (1) of  
740 this subsection, a copy of the viator's application for the viatical  
741 settlement contract, the notice required under subdivision (2) of this  
742 subsection and a request for verification of coverage to the insurer that  
743 issued the policy that is the subject of the viatical transaction. The  
744 commissioner may adopt regulations, in accordance with chapter 54,  
745 to prescribe the form or forms to be used for verification of coverage.

746 (4) The insurer shall respond to a request for verification of coverage  
747 submitted on an approved form by a viatical settlement provider not  
748 later than thirty calendar days after the date the request was received  
749 and shall indicate whether, based on the medical evidence and  
750 documents provided, the insurer intends, at the time of the response,  
751 to pursue an investigation regarding the validity of the policy.

752 (5) Prior to or at the time of execution of the viatical settlement  
753 contract, the viatical settlement provider shall obtain a witnessed  
754 document in which the viator consents to the viatical settlement  
755 contract, represents that the viator has a full and complete

756 understanding of the viatical settlement contract, that the viator has a  
757 full and complete understanding of the benefits of the life insurance  
758 policy, acknowledges that the viator is entering into the viatical  
759 settlement contract freely and voluntarily and, for persons with a  
760 terminal or chronic illness or condition, acknowledges that the insured  
761 has a terminal or chronic illness and that the terminal or chronic illness  
762 or condition was diagnosed after the life insurance policy was issued.

763 (6) If a viatical settlement broker performs any of the activities  
764 required of the viatical settlement provider under this section, the  
765 provider shall be deemed to have fulfilled the requirements of this  
766 section.

767 (b) All medical information solicited or obtained by any person  
768 licensed pursuant to this part shall be subject to applicable provisions  
769 of law relating to the confidentiality of medical information.

770 [(b)] (c) Each viatical settlement contract entered into in this state or  
771 entered into with residents of this state shall provide that the viator  
772 may rescind the viatical settlement contract within fifteen days from  
773 the viator's receipt of the viatical settlement proceeds. Such rescission  
774 shall be effective only if both notice of rescission is delivered by the  
775 viator to the viatical settlement provider and a full return of funds to  
776 the viatical settlement provider is made before the expiration of the  
777 applicable rescission period. If the insured dies during the rescission  
778 period, the viatical settlement contract shall be deemed to have been  
779 rescinded, subject to repayment to the viatical settlement provider or  
780 viatical settlement purchaser of all viatical settlement proceeds, and  
781 any premiums, loans and loan interest that has been paid by the  
782 viatical settlement provider or viatical settlement purchaser.

783 (d) The viatical settlement purchaser shall have the right to rescind a  
784 viatical settlement contract until the end of the third day after the  
785 disclosures required by subsections (d) and (e) of section 38a-465f, as  
786 amended by this act, are received by the purchaser.

787 [(c) Immediately following execution of a viatical settlement

788 contract, the viator shall deposit documents effecting the transfer of the  
789 viator's life insurance policy or certificate, and the viatical settlement  
790 provider shall pay the viatical settlement proceeds into an escrow  
791 account. The proceeds shall be held in an escrow account in a bank, as  
792 defined in section 36a-2, pending acknowledgment by the issuer of the  
793 policy of the transfer of ownership of the insurance policy or certificate  
794 to the viatical settlement provider.

795 (d) A viatical settlement contract shall be null and void if the viatical  
796 settlement proceeds payable pursuant to said contract are not received  
797 by the viator or the viator's designee strictly in accordance with the  
798 terms of the viatical settlement contract and the provisions of sections  
799 38a-465 to 38a-465m, inclusive.]

800 (e) The viatical settlement provider shall instruct the viator to send  
801 the executed documents required to effect the change in ownership,  
802 assignment or change in beneficiary directly to the independent  
803 escrow agent. Not later than two business days after the date the  
804 escrow agent receives the document, or not later than two business  
805 days after the date the viatical settlement provider receives the  
806 documents if the viator erroneously provides the documents directly  
807 to the provider, the provider shall pay or transfer the proceeds of the  
808 viatical settlement into an escrow or trust account maintained in a state  
809 or federally-chartered financial institution whose deposits are insured  
810 by the Federal Deposit Insurance Corporation. Upon payment of the  
811 settlement proceeds into the escrow account, the escrow agent shall  
812 deliver the original change in ownership, assignment or change in  
813 beneficiary forms to the viatical settlement provider or related  
814 provider trust. Upon the escrow agent's receipt of the  
815 acknowledgment of the properly completed transfer of ownership,  
816 assignment or designation of beneficiary from the insurance company,  
817 the escrow agent shall pay the settlement proceeds to the viator.

818 (f) Failure to tender consideration to the viator for the viatical  
819 settlement contract within the time set forth in section 38a-465f, as  
820 amended by this act, shall render the viatical settlement contract

821 voidable by the viator for lack of consideration until the time such  
822 consideration is tendered to, and accepted by, the viator.

823 [(e)] (g) No viatical settlement broker [or viatical settlement agent]  
824 shall receive from a viatical settlement provider a fee, commission or  
825 other valuable consideration for services rendered to or in connection  
826 with viators resident in this state unless such viatical settlement  
827 provider is licensed in this state.

828 [(f)] (h) Viatical settlement proceeds received by a viator from a  
829 licensed viatical settlement provider pursuant to a viatical settlement  
830 contract shall not be subject to state taxation under title 12.

831 [(g)] (i) Following the consummation of a viatical settlement, no  
832 person may initiate contact with the insured under the viaticated  
833 policy for purposes of determining the insured's health status (1) more  
834 than one time during each consecutive three-month period following  
835 the date the viatical settlement proceeds are released to the viator if the  
836 insured has an estimated life expectancy of more than one year from  
837 such date, or (2) more than one time during each month following such  
838 date if the insured has an estimated life expectancy of one year or less.  
839 The viatical settlement provider shall notify the viator of said  
840 limitations on contacts with the insured prior to the consummation of  
841 the viatical settlement in accordance with section 38a-465f, as amended  
842 by this act. The limitations set forth in this subsection shall not apply to  
843 any contacts with an insured under a viaticated policy for reasons  
844 other than determining the insured's health status. Viatical settlement  
845 providers and viatical settlement brokers shall be responsible for the  
846 actions of their authorized representatives.

847 [(h)] Nothing in sections 38a-465 to 38a-465m, inclusive, shall be  
848 construed to authorize the commissioner to determine or authorize the  
849 amount to be paid by a licensed viatical settlement provider to a viator,  
850 viatical settlement broker or viatical settlement agent pursuant to or in  
851 connection with a viatical settlement contract.]

852 [(i)] (j) An insured shall have the right, where permitted under the

853 life insurance policy or certificate, to assign, transfer, sell or bequest the  
854 net death benefit payable under or ownership of a life insurance policy  
855 or certificate for any remaining portion of such coverage. An insured  
856 shall also have the right, where permitted under the life insurance  
857 policy or certificate, to assign, transfer, sell or bequest the net death  
858 benefit payable under or ownership of a life insurance policy or  
859 certificate at any time such coverage is on disability waiver of  
860 premium.

861 [(j)] (k) Unless otherwise agreed to in writing by the viator and the  
862 viatical settlement provider, the amount payable to a viatical  
863 settlement provider upon the insured's death shall be the amount (1)  
864 which would have been payable to the viatical settlement provider if  
865 the insured had died on the first day following the date of the viatical  
866 settlement contract, less (2) (A) any double or additional indemnity  
867 amount, if any, payable under the viaticated policy if the insured's  
868 death is accidental, and (B) all other amounts required to be deducted  
869 from the death benefit. Any other additional amounts shall remain  
870 payable to the beneficiary last named by the viator prior to entering  
871 into the viatical settlement contract, or to such other beneficiary, other  
872 than the viatical settlement provider, as the viator may designate after  
873 entering into the viatical settlement contract, or in the absence of a  
874 designation, to the estate of the viator.

875 Sec. 8. Section 38a-465i of the general statutes is repealed and the  
876 following is substituted in lieu thereof (*Effective October 1, 2003*):

877 (a) Each life insurance company licensed in this state shall promptly  
878 respond to reasonable requests for policy or certificate information  
879 following the receipt of the following documents by the insurer or its  
880 agent:

881 (1) An instruction executed by the viator requiring the insurer to  
882 release specified information regarding the policy or certificate to a  
883 named viatical settlement provider [, viatical settlement agent] or  
884 viatical settlement broker; and

885 (2) A written request for such information from the named viatical  
886 settlement provider [, viatical settlement agent] or viatical settlement  
887 broker.

888 (b) Requests for the following items are deemed to be reasonable: (1)  
889 Ownership of and death benefits payable under the viaticated policy;  
890 (2) premium information on the viaticated policy; (3) liens on and  
891 assignments and additional benefits of the viaticated policy; (4) waiver  
892 of premium of the viaticated policy; and (5) ownership of and  
893 assignment provisions under the viaticated policy. The commissioner  
894 may adopt regulations<sub>2</sub> in accordance with [the provisions of] chapter  
895 54<sub>2</sub> to identify additional requests for information which shall also be  
896 deemed reasonable.

897 (c) An insurer or third party administrator of a group life insurance  
898 policy shall promptly issue an individual conversion policy if the  
899 conversion is being requested for the purpose of entering into a viatical  
900 settlement contract.

901 (d) Nothing in this section shall be construed to prohibit a policy  
902 owner or certificate holder, pursuant to the provisions of the policy or  
903 certificate, from assigning [his] rights or benefits under the policy or  
904 certificate to a viatical settlement provider or from converting such  
905 coverage to an individual life insurance policy.

906 (e) No person may enter into a viatical settlement contract within a  
907 two-year period from the date of issuance of an insurance policy or  
908 certificate unless the viator certifies to the viatical settlement provider  
909 that one or more of the following conditions have been met within the  
910 two-year period:

911 (1) The policy was issued upon the viator's exercise of conversion  
912 rights arising out of a group or individual policy, provided the total of  
913 the time covered under the conversion policy plus the time covered  
914 under the prior policy is at least twenty-four months. The time covered  
915 under a group policy shall be calculated without regard to any change  
916 in insurance carriers, provided the coverage has been continuous and

917 under the same group sponsorship;

918 (2) The viator is a charitable organization exempt from taxation  
919 under 26 USC 501(c)(3);

920 (3) The viator is not a natural person;

921 (4) (A) The viator submits independent evidence to the viatical  
922 settlement provider that one or more of the following conditions have  
923 been met within the two-year period:

924 (i) The viator or insured is terminally or chronically ill;

925 (ii) The viator's spouse dies;

926 (iii) The viator divorces a spouse;

927 (iv) The viator retires from full-time employment;

928 (v) The viator becomes physically or mentally disabled and a  
929 physician determines that the disability prevents the viator from  
930 maintaining full-time employment;

931 (vi) The viator was the insured's employer at the time the policy or  
932 certificate was issued and the employment relationship has  
933 terminated;

934 (vii) A final order, judgment or decree is entered by a court of  
935 competent jurisdiction, on the application of a creditor of the viator,  
936 adjudicating the viator bankrupt or insolvent, or approving a petition  
937 seeking reorganization of the viator or appointing a receiver, trustee or  
938 liquidator to all or a substantial part of the viator's assets;

939 (viii) The viator experiences a significant decrease in income that is  
940 unexpected and that impairs the viator's reasonable ability to pay the  
941 policy premium; or

942 (ix) The viator or insured disposes of ownership interests in a  
943 closely held corporation;

944 (B) Copies of the independent evidence described in subparagraph  
945 (A) of this subdivision and documents required by subsection (a) of  
946 section 38a-465g, as amended by this act, shall be submitted to the  
947 insurer when the viatical settlement provider submits a request to the  
948 insurer for verification of coverage. The copies shall be accompanied  
949 by a letter from the viatical settlement provider that the copies are true  
950 and correct copies of the documents received by the viatical settlement  
951 provider;

952 (f) If the viatical settlement provider submits to the insurer a copy of  
953 the owner or insured's certification described in subdivision (4) of  
954 subsection (e) of this section when the provider submits a request to  
955 the insurer to effect the transfer of the policy or certificate to the  
956 viatical settlement provider, the copy shall be deemed to conclusively  
957 establish that the viatical settlement contract satisfies the requirements  
958 of this section and the insurer shall timely respond to the request.

959 Sec. 9. Section 38a-465m of the general statutes is repealed and the  
960 following is substituted in lieu thereof (*Effective October 1, 2003*):

961 (a) The commissioner may adopt regulations, in accordance with the  
962 provisions of chapter 54, to implement the provisions of sections  
963 38a-465 to 38a-465l, inclusive, as amended by this act, and sections 12  
964 to 15, inclusive, of this act.

965 (b) Such regulations may establish standards for evaluating  
966 reasonableness of payments under viatical settlement contracts for  
967 persons who are terminally or chronically ill. Such regulations may  
968 include, but are not limited to, the regulation of discount rates used to  
969 determine the amount paid in exchange for assignment, transfer, sale,  
970 devise or bequest of a benefit under a life insurance policy.

971 (c) Such regulations may establish appropriate licensing  
972 requirements and standards for continued licensure for viatical  
973 settlement providers, viatical settlement brokers and viatical  
974 settlement investment agents.

975 (d) The commissioner may require a bond or other mechanism for  
976 financial accountability for viatical settlement providers and brokers.

977 (e) Such regulations may adopt rules governing the relationship and  
978 responsibilities of both insurers and viatical settlement providers,  
979 viatical settlement brokers and viatical settlement investment agents  
980 during the viatication of a life insurance policy or certificate.

981 Sec. 10. Subsection (a) of section 38a-11 of the general statutes is  
982 repealed and the following is substituted in lieu thereof (*Effective*  
983 *October 1, 2003*):

984 (a) The commissioner shall demand and receive the following fees:  
985 (1) For the annual fee for each license issued to a domestic insurance  
986 company, one hundred dollars; (2) for receiving and filing annual  
987 reports of domestic insurance companies, twenty-five dollars; (3) for  
988 filing all documents prerequisite to the issuance of a license to an  
989 insurance company, one hundred seventy-five dollars, except that the  
990 fee for such filings by any health care center, as defined in section 38a-  
991 175, shall be one thousand one hundred dollars; (4) for filing any  
992 additional paper required by law, fifteen dollars; (5) for each certificate  
993 of valuation, organization, reciprocity or compliance, twenty dollars;  
994 (6) for each certified copy of a license to a company, twenty dollars; (7)  
995 for each certified copy of a report or certificate of condition of a  
996 company to be filed in any other state, twenty dollars; (8) for  
997 amending a certificate of authority, one hundred dollars; (9) for each  
998 license issued to a rating organization, one hundred dollars. In  
999 addition, insurance companies shall pay any fees imposed under  
1000 section 12-211; (10) a filing fee of twenty-five dollars for each initial  
1001 application for a license made pursuant to section 38a-769; (11) with  
1002 respect to insurance agents appointments: (A) A filing fee of twenty-  
1003 five dollars for each request for any agent appointment; (B) a fee of  
1004 forty dollars for each appointment issued to an agent of a domestic  
1005 insurance company or for each appointment continued; and (C) a fee  
1006 of twenty dollars for each appointment issued to an agent of any other  
1007 insurance company or for each appointment continued, except that no

1008 fee shall be payable for an appointment issued to an agent of an  
1009 insurance company domiciled in a state or foreign country which does  
1010 not require any fee for an appointment issued to an agent of a  
1011 Connecticut insurance company; (12) with respect to insurance  
1012 producers: (A) An examination fee of seven dollars for each  
1013 examination taken, except when a testing service is used, the testing  
1014 service shall pay a fee of seven dollars to the commissioner for each  
1015 examination taken by an applicant; (B) a fee of forty dollars for each  
1016 license issued; and (C) a fee of forty dollars for each license renewed;  
1017 (13) with respect to public adjusters: (A) An examination fee of seven  
1018 dollars for each examination taken, except when a testing service is  
1019 used, the testing service shall pay a fee of seven dollars to the  
1020 commissioner for each examination taken by an applicant; and (B) a fee  
1021 of one hundred twenty-five dollars for each license issued or renewed;  
1022 (14) with respect to casualty adjusters: (A) An examination fee of ten  
1023 dollars for each examination taken, except when a testing service is  
1024 used, the testing service shall pay a fee of ten dollars to the  
1025 commissioner for each examination taken by an applicant; (B) a fee of  
1026 forty dollars for each license issued or renewed; and (C) the expense of  
1027 any examination administered outside the state shall be the  
1028 responsibility of the entity making the request and such entity shall  
1029 pay to the commissioner one hundred dollars for such examination  
1030 and the actual traveling expenses of the examination administrator to  
1031 administer such examination; (15) with respect to motor vehicle  
1032 physical damage appraisers: (A) An examination fee of forty dollars  
1033 for each examination taken, except when a testing service is used, the  
1034 testing service shall pay a fee of forty dollars to the commissioner for  
1035 each examination taken by an applicant; (B) a fee of forty dollars for  
1036 each license issued or renewed; and (C) the expense of any  
1037 examination administered outside the state shall be the responsibility  
1038 of the entity making the request and such entity shall pay to the  
1039 commissioner one hundred dollars for such examination and the  
1040 actual traveling expenses of the examination administrator to  
1041 administer such examination; (16) with respect to certified insurance  
1042 consultants: (A) An examination fee of thirteen dollars for each

1043 examination taken, except when a testing service is used, the testing  
1044 service shall pay a fee of thirteen dollars to the commissioner for each  
1045 examination taken by an applicant; (B) a fee of two hundred dollars for  
1046 each license issued; and (C) a fee of one hundred twenty-five dollars  
1047 for each license renewed; (17) with respect to surplus lines brokers: (A)  
1048 An examination fee of ten dollars for each examination taken, except  
1049 when a testing service is used, the testing service shall pay a fee of ten  
1050 dollars to the commissioner for each examination taken by an  
1051 applicant; and (B) a fee of five hundred dollars for each license issued  
1052 or renewed; (18) with respect to fraternal agents, a fee of forty dollars  
1053 for each license issued or renewed; (19) a fee of thirteen dollars for  
1054 each license certificate requested, whether or not a license has been  
1055 issued; (20) with respect to domestic and foreign benefit societies shall  
1056 pay: (A) For service of process, twenty-five dollars for each person or  
1057 insurer to be served; (B) for filing a certified copy of its charter or  
1058 articles of association, five dollars; (C) for filing the annual report, ten  
1059 dollars; and (D) for filing any additional paper required by law, three  
1060 dollars; (21) with respect to foreign benefit societies: (A) For each  
1061 certificate of organization or compliance, four dollars; (B) for each  
1062 certified copy of permit, two dollars; and (C) for each copy of a report  
1063 or certificate of condition of a society to be filed in any other state, four  
1064 dollars; (22) with respect to reinsurance intermediaries: A fee of five  
1065 hundred dollars for each license issued or renewed; (23) with respect  
1066 to viatical settlement providers: (A) A filing fee of thirteen dollars for  
1067 each initial application for a license made pursuant to section 38a-465a,  
1068 as amended by this act; and (B) a fee of twenty dollars for each license  
1069 issued or renewed; (24) with respect to viatical settlement brokers: (A)  
1070 A filing fee of thirteen dollars for each initial application for a license  
1071 made pursuant to section 38a-465a, as amended by this act; and (B) a  
1072 fee of twenty dollars for each license issued or renewed; (25) with  
1073 respect to viatical settlement investment agents: (A) A filing fee of  
1074 thirteen dollars for each initial application for a license made pursuant  
1075 to section 38a-465a, as amended by this act; and (B) a fee of twenty  
1076 dollars for each license issued or renewed; (26) with respect to rental  
1077 companies, as defined in section 38a-799, a fee of forty dollars for each

1078 permit issued or renewed; and [(26)] (27) with respect to each  
1079 duplicate license issued a fee of twenty-five dollars for each license  
1080 issued.

1081 Sec. 11. Subdivision (11) of section 38a-25 of the general statutes is  
1082 repealed and the following is substituted in lieu thereof (*Effective*  
1083 *October 1, 2003*):

1084 (11) Viatical settlement providers, [and] viatical settlement brokers,  
1085 and viatical settlement investment agents licensed by the  
1086 commissioner.

1087 Sec. 12. (NEW) (*Effective October 1, 2003*) (a) This section shall apply  
1088 to the advertising of viatical settlement contracts, viatical settlement  
1089 purchase agreements or related products or services. Where disclosure  
1090 requirements are established pursuant to federal law, this section shall  
1091 be interpreted to minimize or eliminate conflict with the federal law.

1092 (b) Each person licensed pursuant to part III of chapter 700b of the  
1093 general statutes shall establish and at all times maintain a system of  
1094 control over the content, form and method of dissemination of all  
1095 advertisements of its contracts, products and services. Each  
1096 advertisement, regardless of by whom written, created, designed or  
1097 presented, shall be the responsibility of the viatical settlement licensee,  
1098 as well as the individual who created or presented the advertisement.  
1099 A system of control shall include regular routine notification, at least  
1100 once a year, to agents and others authorized by the licensee who  
1101 disseminate advertisements of the requirements and procedures for  
1102 approval prior to the use of any advertisements not furnished by the  
1103 licensee.

1104 (c) Advertisements shall be truthful and not misleading in fact or by  
1105 implication. The form and content of an advertisement of a viatical  
1106 settlement contract or viatical settlement purchase agreement, product  
1107 or service shall be sufficiently complete and clear so as to avoid  
1108 deception. The advertisement shall not have the capacity or tendency  
1109 to mislead or deceive. Whether an advertisement has the capacity or

1110 tendency to mislead or deceive shall be determined by the  
1111 commissioner from the overall impression that the advertisement may  
1112 be reasonably expected to create upon a person of average education  
1113 or intelligence within the segment of the public to which it is directed.

1114 (d) Certain viatical settlement advertisements are deemed false and  
1115 misleading on their face and are prohibited. False and misleading  
1116 viatical settlement advertisements include, but are not limited to,  
1117 advertisements that include the following representations:

1118 (1) "Guaranteed", "fully secured", "100 per cent secured", "fully  
1119 insured", "secure", "safe", "backed by rated insurance companies",  
1120 "backed by federal law", "backed by state law", "state guaranty funds"  
1121 or similar representations;

1122 (2) "No risk", "minimal risk", "low risk", "no speculation", "no  
1123 fluctuation" or similar representations;

1124 (3) Qualified or approved for individual retirement accounts, Roth  
1125 IRAs, 401(k) plans, simplified employee pensions, 403(b) plans, Keogh  
1126 plans, TSA or other retirement account rollovers, "tax deferred" or  
1127 similar representations;

1128 (4) Utilization of the word "guaranteed" to describe the fixed return,  
1129 annual return, principal, earnings, profits, investment or similar  
1130 representations;

1131 (5) "No sales charges or fees" or similar representations;

1132 (6) "High yield", "superior return", "excellent return", "high return",  
1133 "quick profit" or similar representations;

1134 (7) Purported favorable representations or testimonials about the  
1135 benefits of viatical settlement contracts or viatical settlement purchase  
1136 agreements as an investment, taken out of context from newspapers,  
1137 trade papers, journals, radio and television programs, and all other  
1138 forms of print or electronic media.

1139 (e) The information required to be disclosed under this section shall  
1140 not be minimized, rendered obscure or presented in an ambiguous  
1141 fashion or intermingled with the text of the advertisement so as to be  
1142 confusing or misleading. An advertisement shall not:

1143 (1) Omit material information or use words, phrases, statements,  
1144 references or illustrations if the omission or use has the capacity,  
1145 tendency or effect of misleading or deceiving viators, purchasers or  
1146 prospective purchasers as to the nature or extent of any benefit, loss  
1147 covered, premium payable, or state or federal tax consequence. The  
1148 fact that the viatical settlement contract or viatical settlement purchase  
1149 agreement offered is made available for inspection prior to  
1150 consummation of the sale, or an offer is made to refund the payment if  
1151 the viator is not satisfied or that the viatical settlement contract or  
1152 viatical settlement purchase agreement includes a "free look" period  
1153 that satisfies or exceeds legal requirements shall not remedy  
1154 misleading statements;

1155 (2) Use the name or title of a life insurance company or a life  
1156 insurance policy unless the advertisement has been approved by the  
1157 insurance company;

1158 (3) Represent that premium payments will not be required to be  
1159 paid on the life insurance policy that is the subject of a viatical  
1160 settlement contract or viatical settlement purchase agreement in order  
1161 to maintain that policy unless that is the fact;

1162 (4) State or imply that interest charged on an accelerated death  
1163 benefit or a policy loan is unfair, inequitable or in any manner an  
1164 incorrect or improper practice;

1165 (5) Include the words "free", "no cost", "without cost", "no additional  
1166 cost", "at no extra cost" or words of similar meaning with respect to  
1167 any benefit or service unless true. An advertisement may specify the  
1168 charge for a benefit or a service or may state that a charge is included  
1169 in the payment or use other appropriate language;

1170 (6) Include testimonials, appraisals or analysis that are not genuine.  
1171 Testimonials, appraisals and analysis shall (A) represent the current  
1172 opinion of the author; (B) be applicable to the viatical settlement  
1173 contract or viatical settlement purchase agreement, product or service  
1174 advertised, if any; and (C) be accurately reproduced with sufficient  
1175 completeness to avoid misleading or deceiving prospective viators or  
1176 purchasers as to the nature or scope of the testimonials, appraisals,  
1177 analysis or endorsement. In using testimonials, appraisals or analysis,  
1178 the licensee makes as its own all the statements contained therein, and  
1179 the statements shall be subject to the provisions of this subdivision.

1180 (i) If the individual making a testimonial, appraisal, analysis or an  
1181 endorsement has a financial interest in the viatical settlement provider  
1182 or related entity as a stockholder, director, officer, employee or  
1183 otherwise, or receives any benefit directly or indirectly other than  
1184 required union scale wages, that fact shall be prominently disclosed in  
1185 the advertisement.

1186 (ii) An advertisement shall not state or imply that a viatical  
1187 settlement contract or viatical settlement purchase agreement, benefit  
1188 or service has been approved or endorsed by a group of individuals,  
1189 society, association or other organization unless that is the fact and  
1190 unless any relationship between an organization and the viatical  
1191 settlement licensee is disclosed. If the entity making the endorsement  
1192 or testimonial is owned, controlled or managed by the viatical  
1193 settlement licensee, or receives any payment or other consideration  
1194 from the viatical settlement licensee for making an endorsement or  
1195 testimonial, that fact shall be disclosed in the advertisement.

1196 (iii) When an endorsement refers to benefits received under a  
1197 viatical settlement contract or viatical settlement purchase agreement  
1198 all pertinent information shall be retained for a period of five years  
1199 after its use.

1200 (f) An advertisement shall not contain statistical information unless  
1201 the information accurately reflects recent and relevant facts. The source  
1202 of all statistics used in an advertisement shall be identified.

1203 (g) An advertisement shall not disparage insurers, viatical  
1204 settlement providers, viatical settlement brokers, viatical settlement  
1205 investment agents, insurance producers, policies, services or methods  
1206 of marketing.

1207 (h) The name of the licensee shall be clearly identified in all  
1208 advertisements about the licensee or its viatical settlement contract or  
1209 viatical settlement purchase agreements, products or services, and if  
1210 any specific viatical settlement contract or viatical settlement purchase  
1211 agreement is advertised, the viatical settlement contract or viatical  
1212 settlement purchase agreement shall be identified either by form  
1213 number or some other appropriate description. If an application is part  
1214 of the advertisement, the name of the viatical settlement provider shall  
1215 be shown on the application.

1216 (i) An advertisement shall not use a trade name, group designation,  
1217 name of the parent company of a licensee, name of a particular  
1218 division of the licensee, service mark, slogan, symbol or other device or  
1219 reference without disclosing the name of the licensee, if the  
1220 advertisement would have the capacity or tendency to mislead or  
1221 deceive as to the true identity of the licensee, or to create the  
1222 impression that a company other than the licensee would have any  
1223 responsibility for the financial obligation under a viatical settlement  
1224 contract or viatical settlement purchase agreement.

1225 (j) An advertisement shall not use any combination of words,  
1226 symbols or physical materials that by their content, phraseology,  
1227 shape, color or other characteristics are so similar to a combination of  
1228 words, symbols or physical materials used by a government program  
1229 or agency or otherwise appear to be of such a nature that they tend to  
1230 mislead prospective viators or purchasers into believing that the  
1231 solicitation is in some manner connected with a government program  
1232 or agency.

1233 (k) An advertisement may state that a licensee is licensed in the state  
1234 where the advertisement appears, provided it does not exaggerate that  
1235 fact or suggest or imply that competing licensees may not be so

1236 licensed. The advertisement may ask the audience to consult the  
1237 licensee's web site or contact the Insurance Department to find out if  
1238 the state requires licensing and, if so, whether the viatical settlement  
1239 provider, viatical settlement broker or viatical settlement investment  
1240 agent is licensed.

1241 (l) An advertisement shall not create the impression that the viatical  
1242 settlement provider, its financial condition or status, the payment of its  
1243 claims or the merits, desirability, or advisability of its viatical  
1244 settlement contracts or viatical settlement purchase agreement forms  
1245 are recommended or endorsed by any government entity.

1246 (m) The name of the licensee shall be stated in all of the licensee's  
1247 advertisements. An advertisement shall not use a trade name, any  
1248 group designation, name of any affiliate or controlling entity of the  
1249 licensee, service mark, slogan, symbol or other device in a manner that  
1250 would have the capacity or tendency to mislead or deceive as to the  
1251 true identity of the licensee or create the false impression that an  
1252 affiliate or controlling entity would have any responsibility for the  
1253 financial obligation of the licensee.

1254 (n) An advertisement shall not directly or indirectly create the  
1255 impression that any division or agency of the state or of the United  
1256 States government endorses, approves or favors:

1257 (1) Any licensee or its business practices or methods of operation;

1258 (2) The merits, desirability or advisability of any viatical settlement  
1259 contract or viatical settlement purchase agreement;

1260 (3) Any viatical settlement contract or viatical settlement purchase  
1261 agreement; or

1262 (4) Any life insurance policy or life insurance company.

1263 (o) If the advertisement emphasizes the speed with which the  
1264 viatication will occur, the advertisement shall disclose the average time  
1265 frame from completed application to the date of offer and from

1266 acceptance of the offer to receipt of the funds by the viator.

1267 (p) If the advertisement emphasizes the dollar amounts available to  
 1268 viators, the advertisement shall disclose the average purchase price as  
 1269 a per cent of face value obtained by viators contracting with the  
 1270 licensee during the past six months.

1271 Sec. 13. (NEW) (*Effective October 1, 2003*) Notwithstanding the  
 1272 manner in which the viatical settlement broker is compensated, a  
 1273 viatical settlement broker is deemed to represent only the viator and  
 1274 owes a fiduciary duty to the viator to act according to the viator's  
 1275 instructions and in the best interest of the viator.

1276 Sec. 14. (NEW) (*Effective October 1, 2003*) (a) A viatical settlement  
 1277 investment agent shall not have any contact directly or indirectly with  
 1278 the viator or have knowledge of the identity of the viator.

1279 (b) A viatical settlement investment agent is deemed to represent  
 1280 the viatical settlement provider for whom the viatical settlement  
 1281 investment agent is an appointed or contracted agent.

1282 Sec. 15. (NEW) (*Effective October 1, 2003*) A related provider trust  
 1283 shall have a written agreement with the licensed viatical settlement  
 1284 provider under which the licensed viatical settlement provider is  
 1285 responsible for ensuring compliance with all statutory and regulatory  
 1286 requirements and under which the trust agrees to make all records and  
 1287 files related to viatical settlement transactions available to the  
 1288 commissioner as if those records and files were maintained directly by  
 1289 the licensed viatical settlement provider.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>

Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>

**INS**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Insurance Dept.	GF - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill would result in a minimal revenue gain by establishing an application fee (\$13) and a license fee (\$20) for viatical settlement agents. Currently, the Department of Insurance (DOI) collects less than \$500 in fees from less than 20 viatical settlement brokers and providers.<sup>1</sup>

The various review and appeal provisions in the bill would not result in a fiscal impact on DOI.

<sup>1</sup> According to FY 02 statistics.

**OLR Bill Analysis**

SB 916

**AN ACT CONCERNING VIATICAL SETTLEMENTS****SUMMARY:**

A viatical settlement transaction involves a life insurance policy owner with a catastrophic or life-threatening illness who assigns or otherwise transfers the policy's death benefit to a third party in return for the immediate payment of a percentage of the policy's death benefit.

This bill strengthens the viatical settlement law and broadens its scope to regulate life insurance settlement transactions involving the sale of a life insurance policy's death benefit by healthy individuals to a purchaser. In such a transaction, the viator or insured is the owner of the policy who enters into a viatical settlement contract for its sale or other disposition.

The bill expands the current licensing requirements applicable to viatical settlement providers (provider) (people who enter into or arrange a viatical settlement contract) and viatical settlement brokers (broker) (people who represent the viator and negotiate a contract between a viator and a provider for a fee), to include viatical settlement investment agents (agent) (people appointed or contracted by a provider who acts on behalf of a provider to solicit or arrange funding for a viatical settlement purchaser to invest in a viatical settlement. A viatical settlement purchaser (purchaser) is a person who (1) gives a sum of money as consideration for a life insurance policy or interest in the death benefit, (2) owns or acquires beneficial interest in a trust that owns a viatical settlement contract, (3) or is a beneficiary of a policy that is the subject of a viatical settlement contract. It applies to agents the same standards used to determine the qualifications for issuing a license to providers and brokers.

The bill broadens the prohibition against using certain forms without satisfying filing and approval requirements and adds authority for the commissioner to disapprove them. It also broadens contractual rescission rights, adds exceptions to the prohibition against revealing a viator's personal identity, and expands disclosure obligations for providers, brokers, and agents. The bill establishes advertising

requirements, including content rules and restrictions when making viatical settlement offers to the public.

Finally, the bill authorizes the insurance commissioner to adopt implementing regulations and establish bonding or other financial accountability requirements for providers and brokers. It also designates the commissioner as agent for service of process for providers, brokers, or agents.

EFFECTIVE DATE: October 1, 2003

**VIATICAL SETTLEMENT INVESTMENT AGENT LICENSING  
(SECS. 2, 3 AND 10)**

***Licensing Requirement***

The bill expands to agents licensing requirements that currently apply to providers and brokers. Specifically, the bill prohibits any person from acting as an agent without a license and requires applicants for an agent's license to file a written application with the insurance commissioner along with a \$13 filing and \$20 license fee.

The commissioner must investigate applicants and issue a license if she determines that the applicant has satisfied certain requirements. Applicants must show:

1. a detailed plan of operation;
2. competence and trustworthiness, and an intention to act in good faith;
3. adequate experience, training, or education and a good business reputation;
4. a certificate of good standing from its state of domicile if a business or other legal entity, or if domiciled in Connecticut, a Connecticut certificate that is dated no more than 15 days before or after the application filing date; and
5. no felony conviction for any partner, key manager, director, officer, or majority stockholder.

An agent's license issued to a business entity entitles all of the entity's

stockholders, partners, key managers, directors, officers, and employees named in the license application to act on the entity's behalf as if such individuals were licensed. This authorization terminates upon expiration, revocation, or suspension of the license. Licenses expire on March 31 annually and may be renewed by payment of a \$20 renewal fee. Failure to make timely payment within 15 days after notice of nonrenewal automatically revokes the license. The commissioner may deny an application for a license if, upon request, the applicant fails to disclose the identity of stockholders, partners, key managers, directors, officers, members, or employees, and the commissioner determines that such persons, who may materially influence the applicant's conduct, fail to meet statutory standards for a license. It adds (1) authority for the commissioner to deny any licensing application for violation of the bill's advertising rules and (2) agents to the list of licensees she must maintain and make available to the public.

The bill requires all providers, brokers, and agents to provide the commissioner, no later than 30 days after a change in information, new or revised information about officers, stockholders holding 10% or more of the company's shares, partners, directors, members, and designated employees.

***License Denial, Suspension, Revocation, or Refusal to Renew, and Fine***

The bill expands to agents the commissioner's authority to deny, suspend, revoke, or refuse to renew their license if she determines that the:

1. license application or other information filed with her contained a material misrepresentation;
2. agent, or his partner, key manager, director, officer, or majority stockholder has been convicted of a felony, is subject to a final administrative action to suspend or revoke an insurance license from another state, or is otherwise untrustworthy or incompetent;
3. agent has willfully violated a provision of the bill or no longer meets the requirements for initial licensing;
4. agent has been found guilty of, or has pleaded guilty or no contest

to, any felony, or to a misdemeanor involving fraud or moral turpitude;

5. agent entered into an unapproved contract;
6. agent fails to honor obligations under a contract or purchase agreement; or
7. agent assigns, transfers or pledges a policy to someone other than another licensed provider, purchaser, accredited investor, qualified institutional buyer, financing entity, special purpose entity, or related provider trust.

The bill expands to agents the commissioner's authority to assess a fine of up to \$1,000 for each willful violation of the bill's provisions or related regulations concerning providers.

### ***Appeal and Hearing***

The bill extends to agents the right that providers and brokers have to appeal the denial, suspension, revocation, or refusal to renew a license in accordance with the Uniform Administrative Procedures Act. It specifies that the commissioner or her designee may act as the hearing officer, and if the designee acts in that capacity, a designee must submit a memorandum of findings and recommendations to the commissioner upon which she may base her decision.

### **CONTRACTUAL REQUIREMENTS (SECS. 4, 6(A)(5) AND 7(D))**

Under the bill, a contract is a written agreement establishing the terms under which compensation or anything of value is paid, such compensation or value being less than the expected death benefit of a policy, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the policy. It includes (1) contracts for a loan or other financing transaction with a viator that is secured by an individual or group life insurance policy, but excluding a loan by the life insurer under the terms of the policy or a loan secured by the policy's cash value, or (2) agreements with a viator to transfer ownership or change the beneficiary at a later date regardless of the date compensation is paid.

### ***Contract Form Approval and Right to Rescind***

Current law prohibits licensees from using any contract form or disclosure statement unless it is filed with and approved by the commissioner. The bill broadens the restriction to prohibit any person from using any forms or disclosure statements that have not been filed with or approved by the commissioner. Contracts that are filed are deemed approved unless within 60 days after filing, the commissioner sends notice of disapproval by first class mail.

The bill eliminates the “deemer” provision (i.e., automatic approval after passage of time) for contract and disclosure form approval and broadens the commissioner’s disapproval authority. If she determines the forms are not in the public interest, she can disapprove them. Under current law, she may only disapprove if the provisions are unreasonable, fail to comply with statutory requirements, or misleading to the viator or the public

Current law also requires each contract to provide the viator with the right to rescind the contract within 15 days from the viator’s receipt of the proceeds. Rescission is effective only if notice of rescission is delivered to the provider and a full return of funds to the provider is made before the expiration of the rescission period.

The bill adds the requirement that, in the event an insured dies during the rescission period, that the contract be deemed to have been rescinded, subject to repayment to the provider or purchaser of the proceeds, premiums, loans or loan interest they have paid. It also adds the right of a purchaser to rescind the contract until the end of the third day after the purchaser receives certain disclosures.

## **DISCLOSURE REQUIREMENTS**

### ***Disclosures By Provider and Broker To Viator (Secs. 6(a) and 6(a)(9))***

The bill expands the disclosures that providers and brokers must make to viators, and specifies that the disclosures must be made not later than the time the parties sign the contract. It also requires them to distribute a brochure authorized by the commissioner describing the viatical settlement process. The document must contain the following language:

All medical, financial or personal information solicited  
or obtained by a provider or broker about an insured,

including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.

The bill adds the following disclosure and requires that it be provided in a separate document that the provider or broker and viator sign:

*Either the provider or broker or their authorized representative may contact the insured to determine his health status. This contact is limited to once every three months following the date the viatical settlement proceeds are released to the viator if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less.*

#### **Disclosure By Provider To Viator (Sec. 6(b))**

The bill requires the provider to disclose certain information to the viator no later than the date the parties sign the contract. The provider or broker and viator must sign the disclosure, which must conspicuously display in the contract itself or in a separate document:

1. the affiliation, if any, between the provider and the issuer of the insurance policy to be viaticated;
2. the provider's name, address, and telephone number;
3. if the insurance policy to be viaticated is a joint policy or involves family riders or coverage on a life other than the insured, the viator must be informed of the possible loss of coverage on the other lives and be advised to consult with his insurance producer or the issuing insurer for advice on the proposed settlement;
4. the dollar amount of the death benefit paid to the provider and, if known, the availability of any additional guaranteed insurance benefit, the dollar amount of any accidental death and dismemberment benefit, and the provider's interest in those benefits; and

5. the name, business address, and telephone number of the independent third-party escrow agent, and the right of the viator or owner to inspect or receive copies of the escrow or trust document.

The bill requires the provider to inform the viator no later than 20 days after any transfer of ownership or change in the beneficiary he makes.

***Disclosures By Provider or His Agent To Purchaser (Sec. 6(d))***

A purchase agreement is a contract, entered into by a buyer, to purchase a life insurance policy or an interest in a policy to derive an economic benefit. A viator is not a party to the contract.

The bill requires, before the date the parties sign an agreement, the provider or his agent make the following disclosures to the purchaser either conspicuously displayed in the agreement itself or in a separate document signed by them:

1. Purchaser will receive no return, including, but not limited to, dividends and interest, until the insured dies.
2. Actual annual rate of return on a contract depends on an accurate projection of the insured's life expectancy, and actual date of the insured's death. An annual guaranteed rate of return is can not be determined.
3. Viaticated life insurance contracts should not be considered a liquid asset because it is impossible to predict the exact timing of the contract's maturity and the funds may not be available until the death of the insured. There is no established secondary market for resale of these contract by the purchaser.
4. If the insurer goes out of business during the term of the investment, purchaser may lose all benefits or may receive substantially reduced benefits.
5. Purchaser is responsible for payment of the premiums or other costs related to the policy if required under the agreement and such payments may reduce the purchaser's return. If a party other than the purchaser is responsible for the payment, the name and address of that party must be disclosed.

6. The purchaser is responsible for the payment of the premiums or other costs if the insured returns to good health. The amount of such premiums must be disclosed, if applicable.
7. Name and address of any person providing escrow services and the person's relationship to the broker.
8. The amount of any trust fees or other expenses charged to the purchaser.
9. If the policy is later null and void, whether the purchaser is entitled to a refund of all or part of his investment.
10. Group policies may contain limitations or caps on conversion rights, additional premiums may be required if converted, the party responsible for the payment of additional premium must be named and, if a group policy is terminated and replaced, there may be no right to convert the original policy.
11. Risks associated with policy contestability, including the risk that the purchaser will have no or only a partial claim to death benefits if the insurer rescinds the policy within the contestability period.
12. Whether the purchaser will be the owner of the policy in addition to being the beneficiary, and if the purchaser is the beneficiary only, the special risks associated with that status, including, but not limited to, the risk that the beneficiary may be changed or premiums may not be paid;
13. The (a) experience and qualifications of the person who determines the life expectancy of the insured, such as in-house staff, independent doctors or specialty firms that weigh medical and actuarial data; (b) information life expectancy is based on; and (c) relationship of the person making the determination to the provider, if any.

***Additional Disclosures By Provider or Agent To Purchaser (Sec. 6(e))***

The bill requires the provider or his agent to disclose to the purchaser, in a document signed by them, no later than the time of assignment, transfer, or sale of all or a portion of an insurance policy, the following:

1. All life expectancy certifications obtained by the provider in the process of determining the price paid to the viator.
2. Whether premium payments or other costs related to the policy have been escrowed, and if so, disclose the date the escrowed funds will be depleted and whether the purchaser will be responsible for payment of premiums after that date and in what amount, if applicable.
3. Whether premium payments or other costs related to the policy have been waived, and if so, whether the investor will be responsible for paying premiums and the amount if the insurer that wrote the policy terminates the waiver after purchase.
4. Type of policy offered or sold, such as whole life, term life, universal life, or group policy certificate, any additional benefits contained in the policy, and its current status.
5. If the policy is term insurance, the special risks associated with it, including the purchaser's responsibility for additional premiums if the viator continues the policy at the end of the current term.
6. Whether the policy is contestable.
7. Whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the purchaser's rights, what rights are they, and under what conditions are they activated.
8. Name and address of the person responsible for monitoring the insured's condition, a description of how often the monitoring is done, how the date of death is determined, and how and when this information will be transmitted to the purchaser.

The bill gives a purchaser the right to void the agreement at any time before the end of the third day after the disclosures required by the provider or his agent are received.

***Disclosure By Broker To Viator (Sec. 6(f))***

The bill requires the broker to disclose to the viator no later than the date the contract is signed by the parties, the amount and method of

calculating his compensation. The disclosure must be conspicuously displayed either in the contract itself or in a separate document signed by the provider or broker and the viator.

### **EXCEPTIONS TO DISCLOSURE OF INSURED'S IDENTITY (SECS. 5(C) AND 7(B))**

The bill extends to agents the prohibition against disclosing the identity of the insured and adds several exceptions to the rule against disclosure.

The bill authorizes disclosure of the insured's identity when it is (1) necessary to effect an agreement between the purchaser and provider and the viator and insured have provided prior written consent to the disclosure; (2) a term of or condition to the transfer of the policy by one provider to another; (3) necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a provider, and the viator and insured have provided prior written consent to the disclosure; (4) necessary to allow the provider or broker or their representatives to make contact with the insured to determine health status; or (5) required to purchase stop-loss coverage.

The bill specifies that all medical information a licensee solicits or obtains is subject to the law relating to the confidentiality of medical information.

### **NOTICE, DOCUMENT DELIVERY, COVERAGE VERIFICATION, AND CONSENT (SECS. 7(A)(2), (A)(4), (A)(5) AND (6) AND (E))**

#### ***Notice***

The bill requires a provider to give written notice to the insurer that issued the policy that the policy has or will become viaticated within 20 days after a viator executes documents that transfer rights under it, or no later than 20 days after entering into an agreement, option, promise, or other expressed or implied understanding to viaticate the policy. Notice must be accompanied by the delivery of the following documents: (1) a copy of the medical release, (2) a copy of the viator's application for the contract, (3) notice of rights transfer, and (4) a request to the issuing insurer for coverage verification.

#### ***Document and Proceeds Delivery***

The bill requires the provider to instruct the viator to send executed documents necessary to effect the change in ownership, assignment, or change in the beneficiary directly to the independent escrow agent. Within two business days after the date the escrow agent receives the documents, or within two business days after the date the provider receives them, the provider, even if the viator erroneously sent the document directly to the provider, must pay or transfer the proceeds of the settlement into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. The escrow agent must deliver the original change of ownership, assignment, or change in the beneficiary forms to the provider or provider trust when the proceeds are paid into the escrow account. Upon the escrow agent's receipt of the acknowledgment of transfer of ownership, assignment, or designation of beneficiary from the insurer, the escrow agent must pay the settlement proceeds to the viator. Failure to pay the proceeds within the time specified renders the contract voidable by the viator for lack of consideration until the time the consideration is paid to, and accepted by, the viator.

### ***Coverage Verification***

The bill requires the insurer to respond to a verification request submitted on a form approved by the provider within 30 calendar days after the date the request was received and indicate whether, based on the medical evidence and documents provided, it intends to pursue an investigation into the policy's validity.

### ***Consent***

Under current law, before or at the time of execution of the contract, the viator had to (1) acknowledge that the person whose life is insured by the viator's policy has a catastrophic or life-threatening illness and (2) consent to the release of his medical records if he was the insured under the policy. The bill eliminates these requirements and instead requires the viator to acknowledge any illness or chronic condition the insured has and acknowledge that the illness or condition was diagnosed after the life insurance policy was issued.

The bill specifies that (1) if a broker performs any of the activities required of the provider, the provider is deemed to have fulfilled the requirements of the bill and (2) provider and broker are responsible for

the actions of their representatives.

**EXCEPTION TO TWO-YEAR RESTRICTION ON VIATICAL SETTLEMENT CONTRACTS (SEC. 8(E))**

The bill prohibits anyone from entering into a contract within the first two years after the policy is issued, unless the viator certifies to the provider that one or more of the following conditions have been satisfied within the two-year period:

1. The policy was issued on the viator's exercise of conversion rights from a group or individual policy, provided the total time covered under the conversion policy and the previous policy is at least 24 months. If the coverage has been continuous and under the same group sponsorship, the time covered under a group policy must be calculated without regard to any change in insurance carrier.
2. The viator is a charitable organization exempt from taxes under federal law for nonprofit organizations (26 USC 501(c)(3)) or is not a natural person.
3. The viator submits to the provider independent evidence that one or more of the following conditions have been satisfied within the two-year period:
  - (a) the viator or insured is terminally or chronically ill, the viator's spouse died, or the viator divorced or retired from full-time employment;
  - (b) the viator has become physically or mentally disabled and a doctor determines that the disability prevents him from maintaining full-time employment;
  - (c) the viator was the insured's employer at the time the policy was issued and the employment relationship has terminated;
  - (d) a final order, judgment, or decree was entered by a court, on the application of a creditor, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization or appointing a receiver, trustee, or liquidator to all, or a substantial part, of his assets; or

- (e) the viator experienced a significant decrease in income that is unexpected and impairs his ability to pay premiums, or he or the insured disposed of ownership in a closely held corporation.

### ***Independent Evidence***

The bill specifies that copies of the independent evidence and related documents must be filed with the insurer when the provider files a request for coverage verification. A letter must accompany the copies attesting that they are true and correct copies of the document received by the provider.

The bill specifies that if the provider files with the insurer a copy of the owner's or insured's independent evidence when the provider files a request with the insurer to effect the transfer of the policy, the copy is conclusively deemed to establish that the contract satisfies the two-year restriction and the insurers must timely respond to the request.

### **ADVERTISING VIATICAL SETTLEMENT CONTRACTS (SEC. 12)**

The bill requires viatical settlement licensees to establish and maintain a system of control over the content, form, and method of advertising its contract, products, and services. It specifies that each ad is the responsibility of the licensee and the person who created or presents it, regardless of who wrote, created, or designed it.

The system of control must include regular routine notification, at least once a year, to agents and other authorized people who disseminate ads of the requirements and approval procedures before the use of any ads not furnished by the licensee.

The bill requires ads to be truthful and not misleading in fact or by implication. The form and content of an ad for a contract or agreement, product, or service must be sufficiently complete and clear so as to avoid deception. The ad must not have the capacity or tendency to mislead or deceive. Whether an ad does so is determined by the commissioner from the overall impression it is reasonably expected to create on a person of average education or intelligence within the segment of the public to which it is directed.

### ***False and Misleading Ads***

The bill specifies that certain ads are deemed false and misleading on

their face and are prohibited. False and misleading ads include those that contain the following representations:

1. guaranteed, fully secured, 100% secured, fully insured, secure, safe, backed by rated insurance companies, backed by federal law, backed by state law or state guaranty funds, or similar representations;
2. no risk, minimal risk, low risk, no speculation, no fluctuation or similar representations;
3. qualified or approved for individual retirement accounts, Roth IRAs, 401(k) plans, simplified employee pensions, 403(b) plans, Keogh plans, TSA or other retirement account rollovers, tax deferred, or similar representations;
4. utilization of the word “guaranteed” to describe the fixed return, annual return principal, earnings, profits, investment or similar representations;
5. no sales charges or fees, or similar representations;
6. high-yield, superior return, excellent return, high-return, quick profit or similar representations; or
7. purported favorable representations or testimonials about the benefits of a contract or purchase agreements as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print or electronic media.

### ***Prohibited Advertising Content***

The bill requires the disclosure of certain information in ads and prohibits minimization, rendering them obscure, presenting them in an ambiguous fashion, or intermingling the text to confuse or mislead.

The bill specifies that an ad may not do any of the following:

1. Omit material information or use words, phrases, statements, references, or illustrations if it has the capacity, tendency, or effect of misleading or deceiving viators, purchasers, or prospective

purchasers as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the contract or purchase agreement offered is made available for inspection before the sale, or an offer is made to refund the payment if the viator is not satisfied, or that the contract or purchase agreement includes a "free look" period that satisfies or exceeds legal requirements does not remedy misleading statements.

2. Use the name or title of a life insurance company or a life insurance policy unless the company has approved the ad.
3. Represent that premium payments will not be required to be paid on the policy that is the basis of a contract or purchase agreement in order to maintain the policy, unless it is the fact.
4. State or imply that interest charged on an accelerated death benefit or policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.
5. Include the words free, no cost, without cost, no additional cost, at no extra cost, or words of similar meaning with respect to any benefit or service unless true. An ad may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.
6. Include testimonials, appraisals, or analysis that are not genuine. Testimonials, appraisals and analysis must (a) represent the current opinion of the author; (b) be applicable to the contract or purchase agreement, product, or service advertised, and (c) be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators or purchasers as to the scope of the testimonial, appraisal, analysis, or endorsement. Licensees, in using testimonials, appraisals, analyses, or endorsements make them their own statements and are subject to the ad requirements specified in the bill.

### ***Testimonials and Endorsements***

The bill requires (1) individuals making testimonials, appraisals, analyses, or endorsements who have a financial interest in the provider or related entity as a stockholder, director, officer, employee,

or otherwise, or who receive any benefit other than union scale wages, to prominently disclose it in the ad; (2) any entity making an endorsement or testimonial that is owned, controlled, or managed by a licensee, or receives any payment or other consideration from the licensee for making the endorsement or testimonial to disclose it in the ad; (3) the retention of all pertinent information for five years when an endorsement refers to benefits received under a contract or purchase agreement; (4) the name of the licensee to be clearly identified in all ads about the licensee or its contracts or purchase agreements, products, or services, and if any specific contract or purchase agreement is advertised, that the contract or purchase agreement must be identified either by form number or some other description; and (5) the licensee's name to appear in all of their ads.

### ***Prohibited Advertising Practices***

The bill prohibits ads:

1. containing statistical information unless it accurately reflects recent and relevant facts and identifies in the ad the source of all statistics used, and ads that disparage insurers, providers, brokers, agents, insurance producers, policies, services, or methods of marketing;
2. using a trade name, group designation, name of the licensee's parent company, name of a particular division of the licensee, service mark, slogan, symbol, or other device, or reference in an ad without disclosing the licensee's name, if the ad would have the capacity or tendency to mislead or deceive with respect to the licensee's true identity, or to create the impression that a company other than the licensee would have any responsibility for the financial obligation under a contract or purchase agreement;
3. stating or implying that a contract or purchase agreement, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless it is true and the relationship between the organization and the licensee is disclosed;
4. creating the impression that the provider, its financial condition or status, the payment of its claims or the merits, desirability, or

advisability of its contract or purchase agreement forms are recommended or endorsed by any government entity;

5. creating the impression that any division or agency of the state or the United States government endorses, approves, or favors
  - (a) any licensee or its business practices or methods of operation,
  - (b) the merits, desirability, or advisability of any contract or purchase agreement,
  - (c) any contract or purchase agreement,
  - (d) any life insurance policy or company.

The bill specifies that an ad may state that a licensee is licensed in the state where the ad appears without exaggeration implying that competing licensees may not be so licensed. The ad may ask the audience to consult the licensee's web site or contact the Insurance Department to find out if the state requires licensing and, if so, whether the provider, broker or agent is licensed.

The bill requires ads to disclose the average time between a complete application to the offer date and between offer acceptance to the receipt of funds by the viator, if the ad emphasizes the speed with which viatication occurs. It also requires ads to disclose the average purchase price as a percent of the face value that was obtained by the viator during the past six months, if the ad emphasizes the dollar amount available to viators.

#### **LICENSEE REPRESENTATION (SECS. 13 AND 14)**

The bill specifies that a broker is deemed to represent the viator and has a fiduciary duty to act according to viator's instructions and in the viator's best interest, regardless of the manner in which the broker is compensated. It also specifies that an agent is deemed to represent the provider for whom he is appointed or under contract. Agents are prohibited from having any contact with the viator or knowledge of his identity, either directly or indirectly.

#### **PROVIDER TRUST (SEC. 15)**

A "related provider trust" is a titling or other trust established by the provider or a financing entity for the purpose of holding the ownership or beneficial interest in policies purchased in connection with a financing transaction.

The bill requires related provider trusts to have a written agreement with a provider under which the provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the commissioner as if they were maintained directly by the provider.

### **REGULATIONS (SECS. 7(A)(3) AND 9)**

The bill authorizes the commissioner to adopt regulations prescribing the form or forms to be used for verification of coverage. It also authorizes her to adopt regulations to implement the viatical settlement law, including (1) establishing standards for evaluating the reasonableness of payments under contracts for people who are terminally or chronically ill; (2) regulating the discount rate used to determine the amount paid in exchange for the assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy; (3) establishing appropriate licensing requirements and standards for continued licensing of providers, brokers, and agents; and (4) establishing rules governing the relationship and responsibilities of insurers, providers, brokers, and agents during the viatication of a life insurance policy.

The bill also gives the commissioner authority to require providers and brokers to post a bond or other instrument for financial accountability.

### **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Report

Yea 17      Nay 0