



General Assembly

January Session, 2003

Raised Bill No. 916

LCO No. 3224

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

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 Section 38a-465 of the general statutes is repealed and the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, in accordance with [the provisions of] chapter
895 54, 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*

GL *Joint Favorable*

JUD *Joint Favorable*

FIN *Joint Favorable*