



General Assembly

February Session, 2008

**Raised Bill No. 316**

LCO No. 1835

\*01835\_\_\_\_\_INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

***AN ACT ADOPTING THE VIATICAL SETTLEMENTS MODEL ACT.***

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 Section 38a-465 of the general statutes is repealed and the  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 July 1, 2008*):

3 As used in sections 38a-465 to [38a-465q] 38a-465p, inclusive, as  
4 amended by this act, and subdivision (20) of section 38a-816:

5 [(1) "Accredited investor" means an accredited investor, as defined  
6 in 17 CFR Section 230.501(a), as amended from time to time.]

7 [(2)] (1) "Advertising" [or "advertisement"] means any written,  
8 electronic or printed communication or any communication by means  
9 of recorded telephone messages or transmitted on radio, television, the  
10 Internet or similar communications media, including, but not limited  
11 to, film strips, motion pictures and videos, published, disseminated,  
12 circulated or placed directly before the public, [directly or indirectly] in  
13 this state, for the purpose of creating an interest in or inducing a  
14 person to [purchase or] sell, assign, devise, bequest or transfer the  
15 death benefit or ownership of a life insurance policy [or an interest in a

16 life insurance policy] pursuant to a viatical settlement contract. [or a  
17 viatical settlement purchase agreement.]

18 (2) "Business of viatical settlements" means an activity involved in,  
19 but not limited to, the offering, soliciting, negotiating, procuring,  
20 effectuating, purchasing, investing, financing, monitoring, tracking,  
21 underwriting, selling, transferring, assigning, pledging, hypothecating  
22 or in any other manner acquiring an interest in a life insurance policy  
23 by means of a viatical settlement contract.

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

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

32 (5) [(A)] "Financing entity" means an underwriter, placement agent,  
33 lender, purchaser of securities, purchaser of a policy or certificate from  
34 a viatical settlement provider, credit enhancer, or any entity that has a  
35 direct ownership in a policy or certificate that is the subject of a viatical  
36 settlement contract; [, but: (i)] (A) Whose principal activity related to  
37 the transaction is providing funds to effect the viatical settlement or  
38 purchase of one or more viaticated policies; and [(ii) Who] (B) who has  
39 an agreement in writing with one or more licensed viatical settlement  
40 providers to finance the acquisition of viatical settlement contracts. [(B)  
41 Financing entity] "Financing entity" does not include a nonaccredited  
42 investor or viatical settlement purchaser.

43 [(6) "Financing transaction" means any transaction in which  
44 financing is obtained for the purchase, acquisition, transfer or other  
45 assignment of one or more viatical settlement contracts, viaticated  
46 policies or interests in such contracts or policies, including, but not

47 limited to, any secured or unsecured financing, any securitization  
48 transaction or any securities offering which is registered or exempt  
49 from registration under federal or state securities law, or in which one  
50 or more viatical settlement contracts, viaticated policies or interests  
51 therein are sold, assigned, transferred, pledged, hypothecated or  
52 otherwise disposed of.]

53 (6) "Fraudulent viatical settlement act" includes, but is not limited  
54 to:

55 (A) Acts or omissions committed by any person who, knowingly or  
56 with intent to defraud for the purpose of depriving another of  
57 property or for pecuniary gain, commits, or permits its employees or  
58 its agents to engage in acts, including, but not limited to:

59 (i) Presenting, causing to be presented or preparing with knowledge  
60 or belief that it will be presented to or by a viatical settlement provider,  
61 viatical settlement broker, viatical settlement purchaser, financing  
62 entity, insurer, insurance producer or any other person, false material  
63 information, or concealing material information, as part of, in support  
64 of or concerning a fact material to one or more of the following: (I) An  
65 application for the issuance of a viatical settlement contract or  
66 insurance policy; (II) the underwriting of a viatical settlement contract  
67 or insurance policy; (III) a claim for payment or benefit pursuant to a  
68 viatical settlement contract or insurance policy; (IV) premiums paid on  
69 an insurance policy; (V) payments and changes in ownership or  
70 beneficiary made in accordance with the terms of a viatical settlement  
71 contract or insurance policy; (VI) the reinstatement or conversion of an  
72 insurance policy; (VII) in the solicitation, offer, effectuation or sale of a  
73 viatical settlement contract or insurance policy; (VIII) the issuance of  
74 written evidence of a viatical settlement contract or insurance; or (IX) a  
75 financing transaction;

76 (ii) Employing any plan, financial structure, device, scheme or  
77 artifice to defraud related to viaticated policies;

78 (iii) Entering into any practice or plan that involves stranger-  
79 originated life insurance; and

80 (iv) Failing to disclose to the insurer when requested by such  
81 insurer that the prospective insured has undergone a life expectancy  
82 evaluation by any person or entity other than the insurer or its  
83 authorized representatives in connection with the issuance of the  
84 policy;

85 (B) In the furtherance of a fraud or to prevent the detection of a  
86 fraud, any person commits or permits its employees or its agents to: (i)  
87 Remove, conceal, alter, destroy or sequester from the commissioner the  
88 assets or records of a licensee or other person engaged in the business  
89 of viatical settlements; (ii) misrepresent or conceal the financial  
90 condition of a licensee, financing entity, insurer or other person; (iii)  
91 transact the business of viatical settlements in violation of laws  
92 requiring a license, certificate of authority or other legal authority for  
93 the transaction of the business of viatical settlements; or (iv) file with  
94 the commissioner or the equivalent chief insurance regulatory official  
95 of another jurisdiction a document containing false information or  
96 otherwise conceals information about a material fact from the  
97 commissioner;

98 (C) Embezzlement, theft, misappropriation or conversion of monies,  
99 funds, premiums, credits or other property of a viatical settlement  
100 provider, insurer, insured, viator, insurance policy owner or any other  
101 person engaged in the business of viatical settlements or insurance;

102 (D) Recklessly entering into, negotiating, brokering or otherwise  
103 dealing in a viatical settlement contract, the subject of which is a life  
104 insurance policy that was obtained by presenting false information  
105 concerning any fact material to the policy or by concealing, for the  
106 purpose of misleading another, information concerning any fact  
107 material to the policy, where the person or the persons intended to  
108 defraud the policy's issuer, the viatical settlement provider or the  
109 viator. For the purpose of this subparagraph, "recklessly" means

110 engaging in the conduct in conscious and clearly unjustifiable  
111 disregard of a substantial likelihood of the existence of the relevant  
112 facts or risks, such disregard involving a gross deviation from  
113 acceptable standards of conduct;

114 (E) Facilitating the change of state of ownership of a policy or  
115 certificate or the state of residency of a viator to a state or jurisdiction  
116 that does not have a law similar to this part for the express purposes of  
117 evading or avoiding the provisions of this part; or

118 (F) Attempting to commit, assisting, aiding or abetting in the  
119 commission of, or conspiracy to commit the acts or omissions specified  
120 in this subdivision.

121 (7) "Life insurance producer" means any person licensed in this state  
122 as a resident or nonresident insurance provider who has received  
123 qualification or authority for life insurance coverage or a life line of  
124 coverage pursuant to sections 38a-702a to 38a-702r, inclusive.

125 [(7)] (8) "Person" means a natural person or a legal entity, including,  
126 but not limited to, an individual, partnership, limited liability  
127 company, association, trust or corporation.

128 [(8) "Nonaccredited investor" means an investor that does not  
129 qualify as an accredited investor.]

130 (9) "Policy" means an individual or group policy, group certificate,  
131 contract or arrangement of life insurance [affecting the rights of]  
132 owned by a resident of the state, [or bearing a reasonable relation to  
133 the state,] regardless of whether delivered or issued for delivery in this  
134 state.

135 [(10) "Qualified institutional buyer" means a qualified institutional  
136 buyer, as defined in 17 CFR Section 230.144A, as amended from time to  
137 time.]

138 [(11)] (10) "Related provider trust" means a titling trust or other trust

139 established by a licensed viatical settlement provider or a financing  
140 entity for the sole purpose of holding the ownership or beneficial  
141 interest in purchased policies in connection with a financing  
142 transaction.

143 [(12)] (11) "Special purpose entity" means a corporation, partnership,  
144 trust, limited liability company or other similar entity formed solely to  
145 provide, either directly or indirectly, access to institutional capital  
146 markets (A) for a financing entity or licensed viatical settlement  
147 provider, or (B) in connection with a transaction in which the securities  
148 in the special purpose entity are acquired by the viator or by a  
149 qualified institutional buyer, as defined in Rule 144A of the Federal  
150 Securities Act of 1933, as amended from time to time, or (C) in  
151 connection with a transaction in which the securities pay a fixed rate of  
152 return commensurate with established asset-backed institutional  
153 capital markets.

154 (12) "Stranger-originated life insurance" means a practice or plan to  
155 initiate a life insurance policy for the benefit of a third-party investor  
156 who, at the time of policy origination, has no insurable interest in the  
157 insured. Such practices include, but are not limited to, cases in which  
158 life insurance is purchased with resources or guarantees from or  
159 through a person or entity who, at the time of policy inception, could  
160 not lawfully initiate the policy himself, and where, at the time of policy  
161 inception, there is an arrangement or agreement, oral or written, to  
162 directly or indirectly transfer the ownership of the policy or the policy  
163 benefits to a third party. Trusts created to give the appearance of  
164 insurable interest and that are used to initiate policies for investors  
165 violate insurable interest laws and the prohibition against wagering on  
166 life. Stranger-originated life insurance arrangements do not include  
167 those practices set forth in subparagraphs (B)(i) to (B)(ix), inclusive, of  
168 subdivision (15) of this section.

169 (13) "Terminally ill" means having an illness or sickness that can  
170 reasonably be expected to result in death in twenty-four months or

171 less.

172 [(14) "Viatical settlement" means a transaction between a viator and  
173 a viatical settlement provider in which the viatical settlement provider  
174 pays compensation or other value in return for the viator's assignment,  
175 transfer, sale, devise or bequest to the viatical settlement provider of  
176 the ownership of, or the death benefit payable under, a life insurance  
177 policy or a certificate.]

178 [(15)] ~~(14)~~ "Viatical settlement broker" [or "broker"] means a person,  
179 including a life insurance producer, as provided in section 38a-465a, as  
180 amended by this act, who, working exclusively on behalf of a viator  
181 and for a fee, commission or other valuable consideration, offers or  
182 attempts to negotiate viatical settlement contracts between a viator and  
183 one or more viatical settlement providers or one or more viatical  
184 settlement brokers. "Viatical settlement broker" does not include an  
185 attorney, certified public accountant or a financial planner accredited  
186 by a nationally recognized accreditation agency, who is retained to  
187 represent the viator and whose compensation is not paid directly or  
188 indirectly by the viatical settlement provider or viatical settlement  
189 purchaser.

190 [(16)] ~~(15)~~ (A) "Viatical settlement contract" means a written  
191 agreement between a viator and a viatical settlement provider or any  
192 affiliate of the viatical settlement provider establishing the terms under  
193 which compensation or anything of value will be paid, which  
194 compensation or value is less than the expected death benefit of a  
195 policy, in return for the viator's present or future assignment, transfer,  
196 sale, devise or bequest of the death benefit or ownership of any portion  
197 of the policy or certificate of insurance. A viatical settlement contract  
198 includes, but is not limited to, [(A) a contract for a] (i) the transfer for  
199 compensation or value of ownership or beneficial interest in a trust or  
200 other entity that owns such policy if the trust or other entity was  
201 formed or availed of for the principal purpose of acquiring one or  
202 more life insurance contracts, which life insurance contract insures the

203 life of a person residing in this state, or (ii) a premium finance loan [or  
204 other financing transaction with a viator secured primarily by an  
205 individual or group life insurance policy, other than a loan by a life  
206 insurance company pursuant to the terms of the life insurance contract,  
207 or a loan secured by the cash value of a policy, or (B) an agreement  
208 with a viator to transfer ownership or change the beneficiary  
209 designation at a later date regardless of the date that compensation is  
210 paid to the viator.] made for a life insurance policy by a lender to a  
211 viator on, before or after the date of issuance of the policy where (i) the  
212 viator or the insured receives on the date of the premium finance loan  
213 a guarantee of a future viatical settlement value of the policy, or (ii) the  
214 viator or the insured agrees on the date of the premium finance loan to  
215 sell the policy or any portion of its death benefit on any date following  
216 the issuance of the policy.

217 (B) "Viatical settlement contract" does not include (i) a policy loan or  
218 accelerated death benefit made by the insurer pursuant to the policy's  
219 terms, (ii) loan proceeds that are used solely to pay premiums for the  
220 policy and the costs of the loan, including, but not limited to, interest,  
221 arrangement fees, utilization fees and similar fees, closing costs, legal  
222 fees and expenses, trustee fees and expenses, and third party collateral  
223 provider fees and expenses, including fees payable to letter of credit  
224 issuers, (iii) a loan made by a bank or other licensed financial  
225 institution in which the lender takes an interest in a life insurance  
226 policy solely to secure repayment of a loan, or if there is a default on  
227 such loan and the policy is transferred, the transfer of such policy by  
228 the lender, provided that neither the default itself nor the transfer of  
229 the policy in connection with such default is pursuant to an agreement  
230 or understanding with any other person for the purpose of evading  
231 regulation under this part, (iv) a loan made by a lender that does not  
232 violate section 38a-167 et seq., provided that such loan is not a  
233 premium finance loan as specified in subparagraph (A)(ii) of this  
234 subdivision, (v) an agreement where all the parties are closely related  
235 to the insured by blood or law, or have a lawful substantial economic  
236 interest in the continued life, health and bodily safety of the person

237 insured, or are trusts established primarily for the benefit of such  
238 parties, (vi) any designation, consent or agreement by an insured who  
239 is an employee of an employer, in connection with the purchase by the  
240 employer or trust established by the employer of life insurance on the  
241 life of such employee, (vii) a bona fide business succession planning  
242 arrangement between: (I) One or more shareholders in a corporation,  
243 or between a corporation and one or more of its shareholders or one or  
244 more trusts established by its partners; (II) one or more partners in a  
245 partnership, or between a partnership and one or more of its partners  
246 or one or more trusts established by its partners; or (III) one or more  
247 members in a limited liability company, or between a limited liability  
248 company and one or more of its members or one or more trusts  
249 established by its members, (viii) an agreement entered into by a  
250 service recipient or a trust established by the service recipient, and a  
251 service provider or a trust established by the service provider, that  
252 performs significant services for the service recipient's trade or  
253 business, or (ix) any other contract, transaction or arrangement  
254 exempted from the definition of "viatical settlement contract" by the  
255 commissioner based on a determination that such contract, transaction  
256 or arrangement is not of the type intended to be regulated by this part.

257 [(17) "Viatical settlement investment agent" means a person who is  
258 an appointed or contracted agent of a licensed viatical settlement  
259 provider who solicits or arranges the funding for the purchase of a  
260 viatical settlement by a viatical settlement purchaser and who is acting  
261 on behalf of a viatical settlement provider.]

262 [(18)] (16) "Viatical settlement provider" means a person, other than  
263 a viator, who enters into or effectuates a viatical settlement contract  
264 with a viator resident in this state. [Viatical settlement provider]  
265 "Viatical settlement provider" does not include: (A) A bank, savings  
266 bank, savings and loan association, credit union or other licensed  
267 lending institution that takes an assignment of a life insurance policy  
268 solely as collateral for a loan; (B) [The] a premium finance company  
269 making premium finance loans and exempted by the commissioner

270 from the licensing requirement under premium financing laws that  
 271 takes an assignment of a life insurance policy solely as collateral for a  
 272 loan; (C) the issuer of a life insurance policy; [providing accelerated  
 273 benefits pursuant to section 38a-457 and pursuant to the contract; (C)  
 274 An] (D) an authorized or eligible insurer that provides stop loss  
 275 coverage or financial guaranty insurance to a viatical settlement  
 276 provider, viatical settlement purchaser, financing entity, special  
 277 purpose entity or related provider trust; [(D) A] (E) a natural person  
 278 who enters into or effectuates no more than one agreement in a  
 279 calendar year for the transfer of a life insurance policy for any value  
 280 less than the expected death benefit; [(E) A] (F) a financing entity; [(F)  
 281 A] (G) a special purpose entity; [(G) A] (H) a related provider trust;  
 282 [(H) A] (I) a viatical settlement purchaser; or [(I) An accredited investor  
 283 or qualified institutional buyer who purchases a viaticated policy from  
 284 a viatical settlement provider] (J) any other person that the  
 285 commissioner determines is not the type of person intended to be  
 286 covered by the definition of "viatical settlement provider".

287 [(19) "Viatical settlement purchase agreement" means a contract or  
 288 agreement, entered into by a viatical settlement purchaser, to which  
 289 the viator is not a party, to purchase a life insurance policy or an  
 290 interest in a life insurance policy, that is entered into for the purpose of  
 291 deriving an economic benefit.]

292 [(20)] (17) "Viatical settlement purchaser" means a person who  
 293 [gives] provides a sum of money as consideration for a life insurance  
 294 policy or an interest in the death benefits of a life insurance policy, or a  
 295 person who owns or acquires or is entitled to a beneficial interest in a  
 296 trust that owns a viatical settlement contract or is the beneficiary of a  
 297 life insurance policy that has been or will be the subject of a viatical  
 298 settlement contract, for the purpose of deriving an economic benefit.  
 299 [Viatical settlement purchaser] "Viatical settlement purchaser" does not  
 300 include: (A) A licensee under this part; (B) [An accredited investor or  
 301 qualified institutional buyer; (C) A] a financing entity; [(D) A] (C) a  
 302 special purpose entity; or [(E) A] (D) a related provider trust.

303 [(21)] (18) "Viaticated policy" means a life insurance policy or  
304 certificate that has been acquired by a viatical settlement provider  
305 pursuant to a viatical settlement contract.

306 [(22)] (19) "Viator" means the owner of a life insurance policy or a  
307 certificate holder under a group policy who resides in this state who  
308 enters or seeks to enter into a viatical settlement contract. For the  
309 purposes of this part, a viator shall not be limited to an owner of a life  
310 insurance policy or a certificate holder under a group policy insuring  
311 the life of an individual with a terminal or chronic illness or condition  
312 except where specifically provided. [Viator] If there is more than one  
313 viator on a single policy and the viators are residents of different  
314 states, the transaction shall be governed by the law of the state in  
315 which the viator having the largest percentage of ownership resides or,  
316 if the viators have equal percentage of ownership, the state of  
317 residence of one viator agreed upon in writing by all viators. Viator  
318 does not include: (A) A licensee under this part, including a life  
319 insurance producer acting as a viatical settlement broker pursuant to  
320 this part; (B) [An accredited investor or] a qualified institutional buyer,  
321 as defined in Rule 144A of the Federal Securities Act of 1933, as  
322 amended from time to time; (C) [A] a financing entity; (D) [A] a special  
323 purpose entity; or (E) [A] a related provider trust.

324 Sec. 2. Section 38a-465a of the general statutes is repealed and the  
325 following is substituted in lieu thereof (*Effective July 1, 2008*):

326 (a) Except as otherwise provided in this part, no person may act as a  
327 viatical settlement provider [,] or viatical settlement broker [or viatical  
328 settlement investment agent] until the person is licensed by the  
329 commissioner pursuant to this section, except that any person who  
330 holds a resident or nonresident insurance producer license pursuant to  
331 chapter 702 for not less than one year may act as a viatical settlement  
332 broker, and shall be subject to the provisions of subsection (a) of  
333 section 38a-11 of the 2008 supplement to the general statutes, as  
334 amended by this act, sections 38a-465 to [38a-465q] 38a-465p, inclusive,

335 as amended by this act, and subdivision (20) of section 38a-816, as if  
336 such person is a licensed viatical settlement broker.

337 (b) Any applicant for a license as a viatical settlement provider [.] or  
338 viatical settlement broker [or viatical settlement investment agent]  
339 shall submit written application to the commissioner. Such applicants  
340 shall provide such information as the commissioner requires. All initial  
341 applications shall be accompanied by a filing fee specified in section  
342 38a-11 of the 2008 supplement to the general statutes, as amended by  
343 this act.

344 [(c) Upon the filing of an application and full payment of the license  
345 fee, the commissioner shall investigate the applicant and shall issue a  
346 license if the commissioner determines that:

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

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

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

353 (4) If the applicant is a corporation, partnership, limited liability  
354 company or other legal entity, the applicant has provided a certificate  
355 of good standing from its state of domicile and, if such applicant is not  
356 domiciled in this state, a certificate of good standing from this state  
357 dated not more than fifteen days before or after the date of filing of the  
358 application; and

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

362 (c) The insurer issuing the viaticated policy shall not be responsible  
363 for any act or omission of a viatical settlement provider or viatical

364 settlement broker arising out of or in connection with a viatical  
365 settlement transaction, unless such insurer receives compensation for  
366 the placement of a viatical settlement contract from the viatical  
367 settlement provider or viatical settlement broker in connection with  
368 such viatical settlement contract.

369 (d) A person licensed as an attorney, certified public accountant or  
370 financial planner accredited by a nationally recognized accreditation  
371 agency, who is retained to represent the viator, whose compensation is  
372 not paid directly or indirectly by the viatical settlement provider, may  
373 negotiate viatical settlement contracts on behalf of the viator without  
374 having to obtain a license as a viatical settlement broker.

375 [(d)] (e) Any license issued for a viatical settlement provider [,] or a  
376 viatical settlement broker [or a viatical settlement investment agent  
377 shall be in force only until the last day of March in each year, but may  
378 be renewed by the commissioner without formality other than proper  
379 application. The fees for such licenses shall be assessed annually as  
380 provided in section 38a-11. If such broker, provider or investment  
381 agent fails to timely pay the renewal fee, such license shall be  
382 automatically revoked if the license fee is not received by the  
383 commissioner not later than the fifth day after the commissioner sends  
384 by first class mail a written notice of nonrenewal to the principal office  
385 of the broker, provider or investment agent, provided such notice may  
386 only be mailed after said last day of March] may be renewed from year  
387 to year on the anniversary date upon payment of the annual renewal  
388 fees specified in section 38a-11 of the 2008 supplement to the general  
389 statutes, as amended by this act. Failure to pay the fee by the renewal  
390 date shall result in expiration of the license.

391 [(e)] (f) The commissioner may, at any time, require the applicant to  
392 fully disclose the identity of all of its stockholders, partners, key  
393 management personnel, directors, officers, members and employees,  
394 and the commissioner may deny any application for a license if the  
395 commissioner determines that any partner, key manager, director,

396 officer, employee stockholder or member thereof who may materially  
397 influence the applicant's conduct fails to meet any of the standards set  
398 forth in sections 38a-465 to 38a-465q, inclusive.

399 [(f) A viatical settlement provider, viatical settlement broker or  
400 viatical settlement investment agent shall provide to the commissioner  
401 new or revised information about officers, stockholders holding ten  
402 per cent or more of the company's stock, partners, directors, members  
403 or designated employees not later than thirty days after the change in  
404 information.]

405 (g) A viatical settlement provider license [,] or a viatical settlement  
406 broker license [or a viatical settlement investment agent license] issued  
407 to a corporation, partnership, limited liability company or other legal  
408 entity authorizes all of such legal entity's stockholders, partners, [key  
409 managers,] directors, officers and designated employees named in the  
410 application for such license, and any supplements to the application, to  
411 act on such entity's behalf as if such individuals are licensed. Such  
412 authorization shall terminate upon the expiration, suspension or  
413 revocation of the viatical settlement provider license [,] or a viatical  
414 settlement broker license. [or a viatical settlement investment agent  
415 license.]

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

420 (h) Upon the filing of an application and full payment of the license  
421 fee, the commissioner shall investigate the applicant and shall issue a  
422 license if the commissioner determines that:

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

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

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

429 (4) (A) If a viatical settlement provider or viatical settlement broker,  
430 the applicant has demonstrated evidence of financial responsibility in a  
431 format prescribed by the commissioner through either a surety bond  
432 executed and issued by an insurer authorized to issue surety bonds in  
433 this state or a deposit of cash, certificates of deposit or securities or any  
434 combination thereof in the amount of two hundred fifty thousand  
435 dollars;

436 (B) The commissioner may ask for evidence of financial  
437 responsibility at any time the commissioner deems necessary.  
438 Notwithstanding any provisions of this section, the commissioner shall  
439 accept, as evidence of financial responsibility, proof that financial  
440 instruments in accordance with the requirements of this subsection  
441 have been filed with a state where the applicant is licensed as a viatical  
442 settlement provider or viatical settlement broker;

443 (C) Any surety bond issued pursuant to this subdivision shall be in  
444 the favor of this state and shall specifically authorize recovery by the  
445 commissioner on behalf of any person in this state who sustained  
446 damages as the result of erroneous acts, failure to act, conviction of  
447 fraud or conviction of unfair practices by the viatical settlement  
448 provider or viatical settlement broker;

449 (5) If the applicant is a legal entity, the applicant has provided a  
450 certificate of good standing from its state of domicile; and

451 (6) If a viatical settlement provider or viatical settlement broker, has  
452 provided an antifraud plan that meets the requirements of subsection  
453 (g) of section 38a-465j, as amended by this act.

454 (i) The commissioner shall not issue a license to a nonresident  
455 applicant unless a written designation of an agent for service of

456 process is filed and maintained with the commissioner or the applicant  
457 has filed with the commissioner the applicant's written irrevocable  
458 consent that any action against the applicant may be commenced  
459 against the applicant by service of process on the commissioner.

460 (j) A viatical settlement provider or viatical settlement broker shall  
461 provide to the commissioner new or revised information about  
462 officers, stockholders holding ten per cent or more of the company's  
463 stock, partners, directors, members or designated employees not later  
464 than thirty days after the change in information.

465 (k) An individual licensed as a viatical settlement broker shall  
466 complete, on a biennial basis, fifteen hours of training related to  
467 viatical settlements and viatical settlement transactions, as required by  
468 the commissioner, except that a life insurance producer who is  
469 operating as a viatical settlement broker pursuant to subsection (a) of  
470 this section shall not be subject to the requirement of this subsection.  
471 Any person failing to meet the requirement of this subsection shall be  
472 subject to the penalties imposed by the commissioner.

473 Sec. 3. Section 38a-465b of the general statutes is repealed and the  
474 following is substituted in lieu thereof (*Effective July 1, 2008*):

475 (a) The commissioner may deny a license application, or suspend,  
476 revoke or refuse to renew the license of any viatical settlement  
477 provider [ ] or viatical settlement broker [or viatical settlement  
478 investment agent] if the commissioner determines that:

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

481 (2) The licensee, or any partner, key [manager] management  
482 personnel, director [ ] or officer [or majority stockholder] of the  
483 licensee has been convicted of [a felony] fraudulent or dishonest  
484 practices, is subject to a final administrative action [to suspend or  
485 revoke a license granted by the chief insurance regulatory official of

486 another state,] or is otherwise shown to be untrustworthy or  
487 incompetent; [to act as a viatical settlement provider, viatical  
488 settlement broker or viatical settlement investment agent;]

489 [(3) The licensee has wilfully violated any of the provisions of this  
490 part;]

491 [(4)] (3) The viatical settlement provider demonstrates a pattern of  
492 [unreasonably low] unreasonable payments to viators;

493 [(5)] (4) The licensee or any officer, partner, member or key  
494 management personnel has been found guilty of or has pleaded guilty  
495 or nolo contendere to, any felony, or to a misdemeanor involving fraud  
496 or moral turpitude regardless of whether a judgment or conviction has  
497 been entered by the court;

498 [(6)] (5) The viatical settlement provider has entered into any  
499 viatical settlement contract that has not been approved pursuant to  
500 sections 38a-465 to [38a-465q] 38a-465p, inclusive, as amended by this  
501 act;

502 [(7)] (6) The viatical settlement provider has failed to honor  
503 contractual obligations set out in a viatical settlement contract; [or a  
504 viatical settlement purchase agreement;]

505 [(8)] (7) The licensee no longer meets the requirements for initial  
506 licensure; [or]

507 [(9)] (8) The viatical settlement provider has assigned, transferred or  
508 pledged a [viatical] viaticated policy to a person other than a viatical  
509 settlement provider licensed in this state, a viatical settlement  
510 purchaser, an accredited investor [ , a] or qualified institutional buyer,  
511 as defined respectively in Rule 501(a) or Rule 144A of the Federal  
512 Securities Act of 1933, as amended from time to time, a financing  
513 entity, special purpose entity or related provider trust; [.] or

514 (9) The licensee or any officer, partner, member or key management

515 personnel has violated any provision of this part.

516 (b) The commissioner may suspend, revoke or refuse to renew the  
517 license of a life insurance producer operating as a viatical settlement  
518 broker pursuant to this part if the commissioner finds that such viatical  
519 settlement broker or life insurance producer has violated the  
520 provisions of this part or has otherwise engaged in bad faith conduct  
521 with one or more viators.

522 ~~[(b)]~~ (c) If the commissioner denies a license application, or  
523 suspends, revokes or refuses to renew the license of a viatical  
524 settlement provider, viatical settlement broker or [viatical settlement  
525 investment agent,] life insurance producer operating as a viatical  
526 settlement broker pursuant to this part, the applicant or licensee  
527 aggrieved by such denial, suspension, revocation or refusal to renew a  
528 license may appeal such action in accordance with chapter 54.  
529 Hearings may be held by the commissioner or by any person  
530 designated by the commissioner. Whenever an individual other than  
531 the commissioner acts as the hearing officer, the individual shall  
532 submit to the commissioner a memorandum of findings and  
533 recommendations upon which the commissioner may base a decision.

534 ~~[(c)]~~ In addition to denying a license application, or suspending,  
535 revoking or refusing to renew a license, the commissioner may assess a  
536 fine of up to one thousand dollars against a viatical settlement  
537 provider or viatical settlement investment agent for each wilful  
538 violation by the viatical settlement provider of any provision of this  
539 part or regulations adopted pursuant to this part.

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

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

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

548 (2) Such viatical settlement broker has defrauded, misled or  
549 mistreated viators; or

550 (3) Such viatical settlement broker has wilfully violated any  
551 provision of sections 38a-465 to 38a-465q, inclusive, or regulations  
552 adopted pursuant to said sections.]

553 Sec. 4. Section 38a-465c of the general statutes is repealed and the  
554 following is substituted in lieu thereof (*Effective July 1, 2008*):

555 No person [may] shall use [any form of] a viatical settlement  
556 contract form or provide to a viator a disclosure statement form in this  
557 state [when dealing with a viator] unless such form has been filed with  
558 and approved by the commissioner. The commissioner [may] shall  
559 disapprove a viatical settlement contract form or disclosure statement  
560 [.] form if the commissioner finds any provision in said form is  
561 unreasonable, contrary to the interests of the public, fails to comply  
562 with the provisions of sections 38a-465 to [38a-465q] 38a-465p,  
563 inclusive, as amended by this act, or is otherwise misleading or unfair  
564 to viators. [or the public.] The commissioner may require the  
565 submission of advertising material.

566 Sec. 5. Section 38a-465d of the general statutes is repealed and the  
567 following is substituted in lieu thereof (*Effective July 1, 2008*):

568 (a) Except as provided in subsection (b) of this section, for any  
569 policy settled within five years of policy issuance, on or before [the last  
570 day of] March first of each year, each viatical settlement provider shall  
571 file with the commissioner an annual statement containing such  
572 information as the commissioner may prescribe by regulation. The  
573 commissioner shall adopt regulations, in accordance with chapter 54,  
574 to prescribe the contents of such annual [statements] statement, which  
575 shall include, but not be limited to, the total number, aggregate face

576 amount and life settlement proceeds of policies settled during the  
577 calendar year immediately preceding, a breakdown of the information  
578 by policy issue year, the names of the insurance companies whose  
579 policies have been settled and the names of the viatical settlement  
580 brokers who have settled such policies. Such information shall be  
581 limited to only those transactions where the viator is a resident of this  
582 state. Individual transaction data regarding the business of viatical  
583 settlements or data that could compromise the privacy of personal,  
584 financial or health information of the viator or the insured shall be  
585 filed with the commissioner on a confidential basis.

586 [(b) Notwithstanding the provisions of subsection (a) of this section,  
587 no licensee may submit to the commissioner information which  
588 identifies any viator except with the express written permission of  
589 such viator or the viator's estate or representative.]

590 [(c)] (b) Except as otherwise required or permitted by law, no  
591 person, including, but not limited to, any viatical settlement provider,  
592 [viatical settlement investment agent,] viatical settlement broker,  
593 insurance company, insurance producer, information bureau, rating  
594 agency or company, or any other person with actual knowledge of an  
595 insured's identity, [may] shall disclose such identity to any other  
596 person unless such disclosure: (1) Is necessary to effect a viatical  
597 settlement between the viator and a viatical settlement provider and  
598 the viator has provided prior written consent to such disclosure; (2) is  
599 provided in response to an investigation by the commissioner or any  
600 other governmental office or agency or pursuant to the requirements  
601 of subsection (c) of section 38a-465j, as amended by this act; [(3) is  
602 necessary to effect a viatical settlement purchase agreement between  
603 the viatical settlement purchaser and a viatical settlement provider and  
604 the viator and insured have provided prior written consent to the  
605 disclosure; (4)] (3) is a term of or condition to the transfer of a policy by  
606 one viatical settlement provider to another viatical settlement  
607 provider; [(5)] (4) is necessary to permit a financing entity, related  
608 provider trust or special purpose entity to finance the purchase of

609 policies by a viatical settlement provider and the viator and insured  
610 have provided prior written consent to the disclosure; ~~[(6)]~~ (5) is  
611 necessary to allow the viatical settlement provider or viatical  
612 settlement broker or their authorized representatives to make contacts  
613 for the purpose of determining health status; or ~~[(7)]~~ (6) is required to  
614 purchase stop loss coverage or financial guaranty insurance.

615 ~~[(d)]~~ (c) The commissioner shall not disclose the names of or other  
616 data identifying viators unless such disclosure is required by law.

617 Sec. 6. Section 38a-465e of the general statutes is repealed and the  
618 following is substituted in lieu thereof (*Effective July 1, 2008*):

619 (a) (1) When the commissioner deems it reasonably necessary to  
620 protect the interests of the public, the commissioner may examine the  
621 business and affairs of any licensee or applicant for a license.

622 [(b) Licensees shall maintain records of each viatical settlement and,  
623 subject to the provisions of section 38a-465d, such records shall be  
624 available, during reasonable business hours, to the commissioner for  
625 inspection for the five-year period following the insured's death.  
626 Subject to the provisions of said section, the commissioner shall also  
627 have the authority to order any licensee or applicant to produce any  
628 records, books, files or other information reasonably necessary to  
629 ascertain whether the licensee or applicant is acting or has acted in  
630 violation of any provision of sections 38a-465 to 38a-465m, inclusive, or  
631 of any regulations adopted pursuant to said sections. The licensee or  
632 applicant shall pay all expenses incurred by the commissioner in  
633 conducting any inspection or examination.]

634 (2) In scheduling and determining the nature, scope and frequency  
635 of such examinations, the commissioner shall consider such matters as  
636 consumer complaints, results of financial statement analyses and  
637 ratios, changes in management or ownership, actuarial opinions,  
638 reports of independent certified public accountants and other criteria  
639 deemed relevant by the commissioner.

640 (b) For purposes of completing an examination of a licensee under  
641 this section, the commissioner may examine or investigate any person  
642 or the business of any person that is necessary or material, as  
643 determined by the commissioner, to the examination or investigation  
644 of the licensee.

645 (c) (1) In lieu of an examination under this section of any foreign or  
646 alien licensee licensed in this state, the commissioner may accept an  
647 examination report on the licensee as prepared by the commissioner  
648 for the licensee's state of domicile or port-of-entry state.

649 (2) As far as is practical, the examination of a foreign or alien  
650 licensee shall be made in cooperation with the insurance supervisory  
651 officials of other states in which the licensee transacts business.

652 (d) (1) A person required to be licensed by this part shall retain, for  
653 five years, copies of all: (A) Proposed, offered or executed contracts,  
654 purchase agreements, underwriting documents, policy forms and  
655 applications from the date of the proposal, offer or execution of the  
656 contract or purchase agreement, whichever is later; (B) all checks,  
657 drafts or other evidence and documentation related to the payment,  
658 transfer, deposit or release of funds from the date of the transaction;  
659 and (C) all other records and documents related to the requirements of  
660 this part. A person shall not be relieved of the obligation to produce  
661 these documents to the commissioner after the retention period has  
662 expired if the person has retained the documents.

663 (2) Records required to be retained by subdivision (1) of this  
664 subsection shall be legible and complete and may be retained in paper,  
665 photograph, microprocess, magnetic, mechanical or electronic media,  
666 or by any process that accurately reproduces or forms a durable  
667 medium for the reproduction of a record.

668 (e) Upon determining that an examination should be conducted, the  
669 commissioner shall issue an examination warrant appointing one or  
670 more examiners to perform the examination and instructing them as to

671 the scope of the examination. In conducting the examination, the  
672 examiner shall observe those guidelines and procedures set forth in the  
673 Examiners Handbook adopted by the National Association of  
674 Insurance Commissioners. The commissioner may also employ such  
675 other guidelines or procedures as the commissioner deems  
676 appropriate.

677 (f) Every licensee or person from whom information is sought, its  
678 officers, directors and agents shall provide to the examiners timely,  
679 convenient and free access at all reasonable hours at its offices to all  
680 books, records, accounts, papers, documents, assets and computer or  
681 other recordings relating to the property, assets, business and affairs of  
682 the licensee being examined. The officers, directors, employees and  
683 agents of the licensee or person shall facilitate the examination and aid  
684 in the examination so far as it is in their power to do so. The refusal of  
685 a licensee, by its officers, directors, employees or agents, to submit to  
686 examination or to comply with any reasonable written request of the  
687 commissioner shall be grounds for suspension or refusal of, or  
688 nonrenewal of, any license or authority held by the licensee to engage  
689 in the viatical settlement business or other business subject to the  
690 commissioner's jurisdiction. Any proceedings for suspension,  
691 revocation or refusal of any license or authority shall be conducted in  
692 accordance with the provisions of sections 38a-17 to 38a-19, inclusive.

693 (g) The commissioner shall have the power to issue subpoenas,  
694 administer oaths and examine under oath any person as to any matter  
695 pertinent to the examination. Upon the failure or refusal of a person to  
696 obey a subpoena, the commissioner may petition a court of competent  
697 jurisdiction, and upon proper showing, the court may enter an order  
698 compelling the witness to appear and testify or produce documentary  
699 evidence. Failure to obey the court order shall be punishable as  
700 contempt of court.

701 (h) When making an examination under this section, the  
702 commissioner may retain attorneys, appraisers, independent actuaries,

703 independent certified public accountants or other professionals and  
704 specialists as examiners, the reasonable cost of which shall be borne by  
705 the licensee that is the subject of the examination.

706 (i) Nothing contained in this section shall be construed to limit the  
707 commissioner's authority to terminate or suspend an examination in  
708 order to pursue other legal or regulatory action pursuant to the  
709 insurance laws of this state. Findings of fact and conclusions made  
710 pursuant to any examination shall be prima facie evidence in any legal  
711 or regulatory action.

712 (j) Nothing contained in this section shall be construed to limit the  
713 commissioner's authority to use and to make public, if the  
714 commissioner deems appropriate, any final or preliminary  
715 examination report, examiner or licensee workpapers or other  
716 documents, or any other information discovered or developed during  
717 the course of any examination in the furtherance of any legal or  
718 regulatory action that the commissioner may deem appropriate.

719 (k) Examination reports shall be comprised of only facts appearing  
720 upon the books, records or other documents of the licensee, its agents  
721 or other persons examined, or as ascertained from the testimony of its  
722 officers or agents or other persons examined concerning its affairs, and  
723 such conclusions and recommendations as the examiners find  
724 reasonably warranted from the facts.

725 (l) Not later than sixty calendar days following completion of the  
726 examination, the examiner in charge shall file with the commissioner a  
727 verified written report of examination under oath. Upon receipt of the  
728 verified report, the commissioner shall transmit the report to the  
729 licensee examined, together with a notice that shall afford the licensee  
730 examined not more than thirty calendar days from the time of receipt  
731 of such notice to make a written submission or rebuttal with respect to  
732 any matters contained in the examination report.

733 (m) In the event the commissioner determines that regulatory action

734 is appropriate as a result of an examination, the commissioner may  
735 initiate any proceedings or actions provided by law.

736 (n) Except as otherwise provided in this part, all examination  
737 reports, working papers, recorded information, documents and copies  
738 thereof produced by, obtained by or disclosed to the commissioner or  
739 any other person in the course of an examination made under this  
740 section, or in the course of analysis or investigation by the  
741 commissioner of the financial condition or market conduct of a licensee  
742 shall be confidential by law and privileged and shall not be subject to  
743 section 1-210 of the 2008 supplement to the general statutes, subject to  
744 subpoena, or subject to discovery or be admissible in evidence in any  
745 private civil action. The commissioner is authorized to use the  
746 documents, materials or other information in the furtherance of any  
747 regulatory or legal action brought as part of the commissioner's official  
748 duties. The provisions of this subsection shall apply to examinations  
749 conducted in another state or jurisdiction whose law is substantially  
750 similar to this part.

751 (o) Documents, materials or other information, including, but not  
752 limited to, all working papers, and copies thereof, in the possession or  
753 control of the National Association of Insurance Commissioners and its  
754 affiliates and subsidiaries shall be confidential by law and privileged,  
755 shall not be subject to subpoena and shall not be subject to discovery  
756 or admissible in evidence in any private civil action if they are: (1)  
757 Created, produced or obtained by or disclosed to the National  
758 Association of Insurance Commissioners and its affiliates and  
759 subsidiaries in the course of assisting an examination made under this  
760 section, or assisting a commissioner in the analysis or investigation of  
761 the financial condition or market conduct of a licensee; or (2) disclosed  
762 to the National Association of Insurance Commissioners and its  
763 affiliates and subsidiaries under subsection (q) of this section by a  
764 commissioner.

765 (p) Neither the commissioner nor any person that received the

766 documents, material or other information while acting under the  
767 authority of the commissioner, including the National Association of  
768 Insurance Commissioners and its affiliates and subsidiaries, shall  
769 testify in any private civil action concerning any confidential  
770 documents, materials or information specified in subsection (c) of this  
771 section.

772 (q) In order to assist in the performance of the commissioner's  
773 duties, the commissioner may:

774 (1) Share documents, materials or other information, including the  
775 confidential and privileged documents, materials or information  
776 specified in subsection (c) this of section with other state, federal and  
777 international regulatory agencies, with the National Association of  
778 Insurance Commissioners and its affiliates and subsidiaries, and with  
779 state, federal and international law enforcement authorities, provided  
780 the recipient agrees to maintain the confidentiality and privileged  
781 status of the document, material, communication or other information;

782 (2) Receive documents, materials, communications or information,  
783 including otherwise confidential and privileged documents, materials  
784 or information, from the National Association of Insurance  
785 Commissioners and its affiliates and subsidiaries, and from regulatory  
786 and law enforcement officials of other foreign or domestic  
787 jurisdictions, and shall maintain as confidential or privileged any  
788 document, material or information received with notice or the  
789 understanding that it is confidential or privileged under the  
790 jurisdiction that is the source of the document, material or information;  
791 and

792 (3) Enter into agreements governing sharing and use of information  
793 consistent with this subsection.

794 (r) No waiver of any applicable privilege or claim of confidentiality  
795 in the documents, materials or information shall be deemed to have  
796 occurred as a result of disclosure to the commissioner under this

797 section or as a result of sharing as authorized in subsection (r) of this  
798 section.

799 (s) A privilege established under the law of any state or jurisdiction  
800 that is substantially similar to the privilege established under this  
801 subsection shall be available and enforced in any proceeding in, and in  
802 any court of, this state.

803 (t) Nothing contained in this section shall prevent or be construed as  
804 prohibiting the commissioner from disclosing the content of an  
805 examination report, preliminary examination report or results or any  
806 matter relating thereto, to the commissioner of any other state or  
807 country, or to law enforcement officials of this or any other state or  
808 agency of the federal government at any time or to the National  
809 Association of Insurance Commissioners, provided such agency or  
810 office receiving the report or matters relating thereto agrees, in writing,  
811 to hold it confidential and in a manner consistent with this part.

812 (u) (1) An examiner may not be appointed by the commissioner if  
813 the examiner, either directly or indirectly, has a conflict of interest or is  
814 affiliated with the management of or owns a pecuniary interest in any  
815 person subject to examination under this section. This section shall not  
816 be construed to automatically preclude an examiner from being: (A) A  
817 viator; (B) an insured in a viaticated insurance policy; or (C) a  
818 beneficiary in an insurance policy that is proposed to be viaticated.

819 (2) Notwithstanding the requirements of this subsection, the  
820 commissioner may retain from time to time, on an individual basis,  
821 qualified actuaries, certified public accountants or other similar  
822 individuals who are independently practicing their professions, even  
823 though these persons may from time to time be similarly employed or  
824 retained by persons subject to examination under this section.

825 (v) On or before August first, annually, the commissioner shall  
826 produce a statement of the total cost of examinations or valuations for  
827 the preceding fiscal year ending June thirtieth, together with proposed

828 assessments against each of the several such companies and other  
829 entities. On September first annually, the commissioner, after receiving  
830 any objections to the proposed assessments and making such changes  
831 as in the opinion of the commissioner may be indicated, shall assess  
832 each insurance company or other entity for the cost of examinations or  
833 valuations. Each such insurance company or other entity shall pay to  
834 the commissioner the amount assessed against it not later than twenty  
835 days from the date of invoice, with interest at the rate of six per cent  
836 per annum if the assessment is unpaid at the end of each such twenty-  
837 day period. The commissioner shall deposit such receipts in  
838 accordance with section 38a-51.

839 (w) (1) No cause of action shall arise or shall any liability be  
840 imposed against the commissioner, the commissioner's authorized  
841 representatives or any examiner appointed by the commissioner for  
842 any statements made or conduct performed in good faith while  
843 carrying out the provisions of this section.

844 (2) No cause of action shall arise or shall any liability be imposed  
845 against any person for the act of communicating or delivering  
846 information or data to the commissioner or the commissioner's  
847 authorized representative or examiner pursuant to an examination  
848 made under this section, if the act of communication or delivery was  
849 performed in good faith and without fraudulent intent or the intent to  
850 deceive. This subdivision does not abrogate or modify in any way any  
851 common law or statutory privilege or immunity heretofore enjoyed by  
852 any person identified in subdivision (1) of this subsection.

853 (3) A person identified in subdivision (1) or (2) of this subsection  
854 shall be entitled to an award of attorney's fees and costs if such person  
855 is the prevailing party in a civil cause of action for libel, slander or any  
856 other relevant tort arising out of activities in carrying out the  
857 provisions of this section and the party bringing the action was not  
858 substantially justified in doing so. For purposes of this section, a  
859 proceeding is "substantially justified" if it had a reasonable basis in law

860 or fact at the time that it was initiated.

861 (x) The commissioner may investigate suspected fraudulent viatical  
862 settlement acts and persons engaged in the business of viatical  
863 settlements.

864 Sec. 7. Section 38a-465f of the general statutes is repealed and the  
865 following is substituted in lieu thereof (*Effective July 1, 2008*):

866 (a) With each application for a viatical settlement, a viatical  
867 settlement provider or viatical settlement broker shall provide the  
868 viator with at least the following disclosures not later than at the time  
869 the application for the viatical settlement contract is signed by all  
870 parties. Disclosure to a viator shall include distribution of a brochure  
871 developed or authorized by the commissioner describing the process  
872 of viatical settlements. The disclosure document shall contain the  
873 following language: "All medical, financial or personal information  
874 solicited or obtained by a viatical settlement provider or viatical  
875 settlement broker about an insured, including the insured's identity or  
876 the identity of family members, a spouse or a significant other may be  
877 disclosed as necessary to effect the viatical settlement between the  
878 viator and the viatical settlement provider. If you are asked to provide  
879 this information, you will be asked to consent to the disclosure. The  
880 information may be provided to someone who buys the policy or  
881 provides funds for the purchase. You may be asked to renew your  
882 permission to share information every two years." The [disclosure]  
883 disclosures shall be provided in a separate document that is signed by  
884 the viator and the viatical settlement provider or viatical settlement  
885 broker and shall provide [at least] the following [disclosures]  
886 information:

887 (1) There are possible alternatives to viatical settlement contracts  
888 including any accelerated death benefits or policy loans offered under  
889 the viator's life insurance policy;

890 (2) That a viatical settlement broker represents exclusively the viator

891 and not the insurer or the viatical settlement provider, and owes a  
892 fiduciary duty to the viator, including a duty to act according to the  
893 viator's instructions and in the best interest of the viator;

894 [(2)] (3) Some or all of the proceeds of the viatical settlement may be  
895 taxable under federal income tax and state franchise and income taxes,  
896 and assistance should be sought from a professional tax advisor;

897 [(3)] (4) Receipt of the viatical settlement proceeds may adversely  
898 affect the viator's eligibility for Medicaid or other government benefits  
899 or entitlements, and advice should be obtained from the appropriate  
900 governmental agencies; [or advisors;]

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

903 (5) The viator has the right to rescind a viatical settlement contract  
904 [for fifteen calendar days after the receipt of] sixty calendar days after  
905 the date upon which the viatical settlement contract is executed by all  
906 parties or thirty calendar days after the viatical settlement proceeds  
907 [by] have been paid to the viator, whichever is earlier. [, as provided in  
908 subsection (c) of section 38a-465g.] Rescission, if exercised by the  
909 viator, is effective only if both notice of the rescission is given, and the  
910 viator repays all proceeds and any premiums, loans and loan interest  
911 paid on account of the viatical settlement within the rescission period.  
912 If the insured dies during the rescission period, the settlement contract  
913 shall be deemed to have been rescinded, subject to repayment by the  
914 viator or the viator's estate of all viatical settlement proceeds and any  
915 premiums, loans and loan interest [to the viatical settlement provider  
916 or viatical settlement purchaser] not later than sixty calendar days  
917 from the death of the insured;

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

920 (7) Funds will be sent to the viator [within two] not later than three

921 business days after the viatical settlement provider has received the  
922 insurer or group administrator's acknowledgment that ownership of  
923 the [viatical] policy or interest in the certificate has been transferred  
924 and the beneficiary has been designated pursuant to sections 38a-465  
925 to [38a-465q] 38a-465p, inclusive, as amended by this act;

926 (8) Entering into the viatical settlement contract may cause other  
927 rights or benefits, including conversion rights and waiver of premium  
928 benefits that may exist under the policy or certificate, to be forfeited by  
929 the viator, and that assistance should be sought from a financial  
930 advisor;

931 (9) [The] Following execution of a viatical settlement contract, the  
932 insured may be contacted [by either the viatical settlement provider or  
933 broker or its authorized representative] for the purpose of determining  
934 the insured's health status and to confirm the insured's residential or  
935 business street address and telephone number or as otherwise  
936 provided in this part. This contact [is] shall be limited to once every  
937 three months following the date the viatical settlement proceeds are  
938 released to the viator if the insured has a life expectancy of more than  
939 one year, and no more than once per month following such date if the  
940 insured has a life expectancy of one year or less. All such contacts shall  
941 be made only by a viatical settlement provider licensed in the state in  
942 which the viator resided at the time of execution of the viatical  
943 settlement contract or by an authorized representative of a duly  
944 licensed viatical settlement provider.

945 (b) A viatical settlement provider shall provide the viator with at  
946 least the following disclosures not later than the date the viatical  
947 settlement contract is signed by all parties. The disclosures shall be  
948 conspicuously displayed in the viatical settlement contract or in a  
949 separate document signed by the viator [and the viatical settlement  
950 provider or viatical settlement broker,] and shall provide at least the  
951 following disclosures:

952 (1) The affiliation, if any, between the viatical settlement provider

953 and the issuer of the insurance policy to be viaticated;

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

956 (3) Any affiliations or contractual arrangements between the viatical  
957 settlement provider and the viatical settlement purchaser;

958 ~~[(3)]~~ (4) If an insurance policy to be viaticated has been issued as a  
959 joint policy or involves family riders or any coverage of a life other  
960 than the insured under the policy to be viaticated, the viator shall be  
961 informed of the possible loss of coverage on the other lives under the  
962 policy and shall be advised to consult with the viator's insurance  
963 producer or the insurer issuing the policy for advice on the proposed  
964 viatical settlement;

965 ~~[(4)]~~ (5) The dollar amount of the current death benefit payable to  
966 the viatical settlement provider under the policy or certificate. If  
967 known, the viatical settlement provider shall also disclose the  
968 availability of any additional guaranteed insurance benefits, the dollar  
969 amount of any accidental death and dismemberment benefits under  
970 the policy or certificate and the [viatical settlement provider's interest]  
971 extent to which the viator's interest in those benefits will be transferred  
972 as a result of the viatical settlement contract;

973 ~~[(5) The]~~ (6) Whether the funds will be escrowed with an  
974 independent third party during the transfer process and if so, the  
975 name, business address, and telephone number of the independent  
976 third party escrow agent, and the fact that the viator or owner may  
977 inspect or receive copies of the relevant escrow or trust agreements or  
978 documents.

979 (c) A viatical settlement broker shall provide the viator with at least  
980 the following disclosures not later than the date the viatical settlement  
981 contract is signed by all parties. The disclosures shall be conspicuously  
982 displayed in the viatical settlement contract or in a separate document

983 signed by the viator and provide the following information:

984 (1) The name, business address and telephone number of the viatical  
985 settlement broker;

986 (2) A full, complete and accurate description of all offers, counter  
987 offers, acceptances and rejections relating to the proposed viatical  
988 settlement contract;

989 (3) A written disclosure of any affiliations or contractual  
990 arrangements between the viatical settlement broker and any person  
991 making an offer in connection with the proposed viatical settlement  
992 contracts;

993 (4) The amount and method of calculating the broker's  
994 compensation, which compensation includes anything of value paid or  
995 given to a viatical settlement broker for the placement of a policy; and

996 (5) Where any portion of the viatical settlement broker's  
997 compensation, as defined in subdivision (4) of this subsection, is taken  
998 from a proposed viatical settlement offer, the broker shall disclose the  
999 total amount of the viatical settlement offer and the percentage of the  
1000 viatical settlement offer comprised by the viatical settlement broker's  
1001 compensation.

1002 ~~[(c)]~~ (d) If the viatical settlement provider transfers ownership or  
1003 changes the beneficiary of the insurance policy, the viatical settlement  
1004 provider shall communicate the change in ownership or beneficiary to  
1005 the insured not later than twenty days after the change.

1006 ~~[(d)]~~ (e) A viatical settlement provider [or its viatical settlement  
1007 investment agent] shall provide the viatical settlement purchaser with  
1008 at least the following disclosures prior to the date the viatical  
1009 settlement [purchase agreement] contract is signed by all parties. The  
1010 disclosures shall be conspicuously displayed in any viatical settlement  
1011 [purchase agreement] contract or in a separate document signed by the  
1012 viatical settlement purchaser and viatical settlement provider [or

1013 viatical settlement investment agent] and shall [provide at least] make  
1014 the following disclosures to the viatical settlement purchaser:

1015 (1) The purchaser will receive no returns, including, but not limited  
1016 to, dividends and interest, until the insured dies and a death claim  
1017 payment is made;

1018 (2) The actual annual rate of return on a viatical settlement contract  
1019 is dependent upon an accurate projection of the insured's life  
1020 expectancy, and the actual date of the insured's death. An annual  
1021 guaranteed rate of return is not determinable;

1022 (3) The viaticated life insurance contract should not be considered a  
1023 liquid purchase because it is impossible to predict the exact timing of  
1024 the contract's maturity and the funds may not be available until the  
1025 death of the insured. There is no established secondary market for  
1026 resale of these contracts by the purchaser;

1027 (4) The purchaser may lose all benefits or may receive substantially  
1028 reduced benefits if the insurer goes out of business during the term of  
1029 the viatical investment;

1030 (5) The purchaser is responsible for payment of the insurance  
1031 premium or other costs related to the policy if required by the terms of  
1032 the viatical settlement [purchase agreement] contract. Such payments  
1033 may reduce the purchaser's return. If a party other than the purchaser  
1034 is responsible for the payment, the name and address of that party  
1035 shall be disclosed;

1036 (6) The purchaser is responsible for payment of the insurance  
1037 premiums or other costs related to the policy if the insured returns to  
1038 good health. The amount of such premiums shall be disclosed, if  
1039 applicable;

1040 (7) The name and address of [any person] the independent third  
1041 party providing escrow services and the [person's] relationship to the  
1042 broker;

1043 (8) The amount of any trust fees or other expenses to be charged to  
1044 the viatical settlement purchaser;

1045 (9) Whether the purchaser is entitled to a refund of all or part of the  
1046 purchaser's investment under the viatical settlement contract if the  
1047 policy is later determined to be null and void;

1048 (10) That group policies may contain limitations or caps in the  
1049 conversion rights, additional premiums may be required to be paid if  
1050 the policy is converted, name the party responsible for the payment of  
1051 the additional premiums [shall be named] and, if a group policy is  
1052 terminated and replaced by another group policy, that there may be no  
1053 right to convert the original coverage;

1054 (11) The risks associated with policy contestability, including, but  
1055 not limited to, the risk that the purchaser will have no claim or only a  
1056 partial claim to death benefits if the insurer rescinds the policy within  
1057 the contestability period;

1058 (12) Whether the purchaser will be the owner of the policy in  
1059 addition to being the beneficiary, and if the purchaser is the  
1060 beneficiary only and not also the owner, the special risks associated  
1061 with that status, including, but not limited to, the risk that the  
1062 beneficiary may be changed or the premium may not be paid;

1063 (13) (A) The experience and qualifications of the person who  
1064 determines the life expectancy of the insured, such as in-house staff,  
1065 independent physicians and specialty firms that weigh medical and  
1066 actuarial data; (B) the information the determination of life expectancy  
1067 is based on; and (C) the relationship of the person making the  
1068 determination to the viatical settlement provider, if any. [;]

1069 [(14) Disclosure to an investor shall include distribution of a  
1070 brochure, developed or authorized by the commissioner, describing  
1071 the process of investment in viatical settlements.]

1072 [(e)] (f) A viatical settlement provider [or its viatical settlement

1073 investment agent] shall provide the viatical settlement purchaser with  
1074 at least the following disclosures not later than at the time of the  
1075 assignment, transfer or sale of all or a portion of an insurance policy.  
1076 The disclosures shall be contained in a document signed by the viatical  
1077 settlement purchaser and viatical settlement provider [or viatical  
1078 settlement investment agent] and shall [provide at least] make the  
1079 following disclosures:

1080 (1) All life expectancy certifications obtained by the provider in the  
1081 process of determining the price paid to the viator;

1082 (2) Whether premium payments or other costs related to the policy  
1083 have been escrowed. If such costs have been escrowed, disclosure is  
1084 required regarding the date upon which the escrowed funds will be  
1085 depleted and whether the purchaser will be responsible for payment of  
1086 premiums after that date, and, if so, the amount of the premiums;

1087 (3) Whether premium payments or other costs related to the policy  
1088 have been waived. If such costs have been waived, disclosure is  
1089 required regarding whether the investor will be responsible for  
1090 payment of the premiums if the insurer that wrote the policy  
1091 terminates the waiver after purchase and the amount of those  
1092 premiums;

1093 (4) The type of policy offered or sold, such as [,] whole life, term life,  
1094 universal life or a group policy certificate, any additional benefits  
1095 contained in the policy, and the current status of the policy;

1096 (5) If the policy is term insurance, the special risks associated with  
1097 term insurance, including, but not limited to, the purchaser's  
1098 responsibility for additional premiums if the viator continues the term  
1099 policy at the end of the current term;

1100 (6) Whether the policy is contestable;

1101 (7) Whether the insurer that wrote the policy has any additional  
1102 rights that could negatively affect or extinguish the purchaser's rights

1103 under the viatical settlement contract, what the rights are, and under  
1104 what conditions the rights are activated;

1105 (8) The name and address of the person responsible for monitoring  
1106 the insured's condition, a description of how often the monitoring of  
1107 the insured's condition is done, how the date of death is determined,  
1108 and how and when this information will be transmitted to the  
1109 purchaser.

1110 [(f) The viatical settlement purchase agreement may be voided by  
1111 the purchaser at any time before the end of the third day after the  
1112 disclosures required by subsections (d) and (e) of this section are  
1113 received by the purchaser.]

1114 (g) Prior to the initiation of a plan, transaction or series of  
1115 transactions, a viatical settlement broker or viatical settlement provider  
1116 shall fully disclose to an insurer a plan, transaction or series of  
1117 transactions to which the viatical settlement broker or viatical  
1118 settlement provider is a party to originate, renew, continue or finance a  
1119 life insurance policy with the insurer for the purpose of engaging in  
1120 the business of viatical settlements at any time prior to, or during the  
1121 first five years after, issuance of the policy.

1122 Sec. 8. Section 38a-465g of the general statutes is repealed and the  
1123 following is substituted in lieu thereof (*Effective July 1, 2008*):

1124 (a) (1) Before entering into a viatical settlement contract, a viatical  
1125 settlement provider shall obtain:

1126 (A) If the viator is the [individual whose life is] insured, [by the  
1127 viator's life insurance policy or certificate,] a written statement from a  
1128 licensed attending physician that the viator is of sound mind and  
1129 under no constraint or undue influence to enter into [the] a viatical  
1130 settlement contract; and

1131 (B) A [witnessed] document [executed by the insured person] in  
1132 which the person consents to the release of the person's medical

1133 records to a viatical settlement provider, viatical settlement broker and  
1134 the insurance company that issued the life insurance policy covering  
1135 the life of the insured. [The consent for the release of medical records  
1136 shall only be obtained for the insurance company if the life insurance  
1137 policy covering the insured was issued within forty-eight months of  
1138 the date of the viator's application for the viatical settlement contract.]

1139 (2) Not later than twenty days after a viator executes the documents  
1140 necessary to transfer any rights under a policy or not later than twenty  
1141 days after entering any agreement, option, promise or any other form  
1142 of understanding, expressed or implied, to viaticate the policy, the  
1143 viatical settlement provider shall give written notice to the insurer that  
1144 issued the policy that the policy has or will become a viaticated policy.  
1145 The notice shall be accompanied by the documents required by  
1146 subdivision (3) of this subsection.

1147 (3) The viatical settlement provider shall deliver a copy of the  
1148 medical release required under subparagraph (B) of subdivision (1) of  
1149 this subsection, a copy of the viator's application for the viatical  
1150 settlement contract, the notice required under subdivision (2) of this  
1151 subsection and a request for verification of coverage to the insurer that  
1152 issued the policy that is the subject of the viatical transaction. The  
1153 commissioner may adopt regulations, in accordance with chapter 54,  
1154 to prescribe the form or forms to be used for verification of coverage.

1155 (4) The insurer shall respond to a request for verification of coverage  
1156 submitted on an approved form by a viatical settlement provider or  
1157 viatical settlement broker not later than thirty calendar days after the  
1158 date the request was received and shall indicate whether, based on the  
1159 medical evidence and documents provided, the insurer intends, at the  
1160 time of the response, to pursue an investigation regarding the validity  
1161 of the policy or possible fraud. The insurer shall accept a request for  
1162 verification of coverage made on a form approved by the National  
1163 Association of Insurance Commissioners of any other form approved  
1164 by the commissioner. The insurer shall accept an original, facsimile or

1165 electronic copy of such request and any accompanying authorization  
1166 signed by the viator. Failure by the insurer to meet the provisions of  
1167 this subsection shall be a violation of subsection (c) of section 38a-465h,  
1168 as amended by this act, and section 38a-465l, as amended by this act.

1169 (5) Prior to or at the time of execution of the viatical settlement  
1170 contract, the viatical settlement provider shall obtain a witnessed  
1171 document in which the viator consents to the viatical settlement  
1172 contract, represents that the viator has a full and complete  
1173 understanding of the viatical settlement contract, that the viator has a  
1174 full and complete understanding of the benefits of the life insurance  
1175 policy, acknowledges that the viator is entering into the viatical  
1176 settlement contract freely and voluntarily and, for persons with a  
1177 terminal or chronic illness or condition, acknowledges that the insured  
1178 has a terminal or chronic illness and that the terminal or chronic illness  
1179 or condition was diagnosed after the life insurance policy was issued.

1180 (6) If a viatical settlement broker performs any of the activities  
1181 required of the viatical settlement provider under this section, the  
1182 provider shall be deemed to have fulfilled the requirements of this  
1183 section.

1184 (b) All medical information solicited or obtained by any person  
1185 licensed pursuant to this part shall be subject to applicable provisions  
1186 of law relating to the confidentiality of medical information.

1187 (c) Each viatical settlement contract entered into in this state [or  
1188 entered into with residents of this state] shall provide that the viator  
1189 may rescind the viatical settlement contract [within fifteen days from]  
1190 sixty calendar days after the date upon which the viatical settlement  
1191 contract is executed by all parties or thirty calendar days after the  
1192 [viator's receipt of the] viatical settlement proceeds [. Such rescission  
1193 shall be effective only if both] have been sent to the viator as provided  
1194 in subsection (d) of this section. Rescission by the viator may be  
1195 conditioned upon the viator giving both notice of rescission [is  
1196 delivered by the viator to the viatical settlement provider] and [a full

1197 return of funds] repayment to the viatical settlement provider [is made  
1198 before the expiration of the applicable] within the rescission period of  
1199 all proceeds of the viatical settlement and any premiums, loans and  
1200 loan interest paid by or on behalf of the viatical settlement provider in  
1201 connection with or as a consequence of the viatical settlement. If the  
1202 insured dies during the rescission period, the viatical settlement  
1203 contract shall be deemed to have been rescinded, subject to repayment  
1204 to the viatical settlement provider or viatical settlement purchaser of  
1205 all viatical settlement proceeds, and any premiums, loans and loan  
1206 interest that [has] have been paid by the viatical settlement provider or  
1207 viatical settlement purchaser, which shall be paid not later than sixty  
1208 calendar days after the death of the insured. In the event of any  
1209 rescission, if the viatical settlement provider has paid commissions or  
1210 other compensation to a viatical settlement broker in connection with  
1211 the rescinded transaction, the viatical settlement broker shall refund all  
1212 such commissions and compensation to the viatical settlement  
1213 provider not later than five business days following receipt of written  
1214 demand from the viatical settlement provider, which demand shall be  
1215 accompanied by the viator's notice of rescission if rescinded at the  
1216 election of the viator or notice of the death of the insured if rescinded  
1217 by reason of death of the insured within the applicable rescission  
1218 period.

1219 [(d) The viatical settlement purchaser shall have the right to rescind  
1220 a viatical settlement contract until the end of the third day after the  
1221 disclosures required by subsections (d) and (e) of section 38a-465f are  
1222 received by the purchaser.]

1223 [(e)] (d) The viatical settlement provider shall instruct the viator to  
1224 send the executed documents required to effect the change in  
1225 ownership, assignment or change in beneficiary directly to the  
1226 independent escrow agent. Not later than [two] three business days  
1227 after the date the escrow agent receives the document, or [not later  
1228 than two business days after] from the date the viatical settlement  
1229 provider receives the documents if the viator erroneously provides the

1230 documents directly to the provider, the provider shall pay or transfer  
1231 the proceeds of the viatical settlement into an escrow or trust account  
1232 maintained in a state or federally-chartered financial institution whose  
1233 deposits are insured by the Federal Deposit Insurance Corporation.  
1234 Upon payment of the settlement proceeds into the escrow account, the  
1235 escrow agent shall deliver the original change in ownership,  
1236 assignment or change in beneficiary forms to the viatical settlement  
1237 provider, [or] related provider trust or other designated representative  
1238 of the viatical settlement provider. Upon the escrow agent's receipt of  
1239 the acknowledgment of the properly completed transfer of ownership,  
1240 assignment or designation of beneficiary from the insurance company,  
1241 the escrow agent shall pay the settlement proceeds to the viator.

1242 [(f)] (e) Failure to tender consideration to the viator for the viatical  
1243 settlement contract within the time set forth in section 38a-465f shall  
1244 render the viatical settlement contract voidable by the viator for lack of  
1245 consideration until the time such consideration is tendered to, and  
1246 accepted by, the viator. Funds shall be deemed sent by a viatical  
1247 settlement provider to a viator as of the date the escrow agent releases  
1248 funds for wire transfer to the viator or places a check for delivery to  
1249 the viator via United States postal service or other nationally  
1250 recognized delivery service.

1251 [(g)] No viatical settlement broker shall receive from a viatical  
1252 settlement provider a fee, commission or other valuable consideration  
1253 for services rendered to or in connection with viators resident in this  
1254 state unless such viatical settlement provider is licensed in this state.

1255 (h) Viatical settlement proceeds received by a viator from a licensed  
1256 viatical settlement provider pursuant to a viatical settlement contract  
1257 shall not be subject to state taxation under title 12.]

1258 [(i)] (f) Following the consummation of a viatical settlement, [no  
1259 person may initiate contact] contacts with the insured [under the  
1260 viaticated policy] for purposes of determining the insured's health  
1261 status by the viatical settlement provider or the viatical settlement

1262 broker shall only be made (1) not more than one time during each  
1263 consecutive three-month period [following the date the viatical  
1264 settlement proceeds are released to the viator] if the insured has an  
1265 estimated life expectancy of more than one year from such date, or (2)  
1266 not more than one time during each month following such date if the  
1267 insured has an estimated life expectancy of one year or less. The  
1268 viatical settlement provider or viatical settlement broker shall [notify  
1269 the viator of said limitations on contacts with the insured prior to the  
1270 consummation of the viatical settlement in accordance with section  
1271 38a-465f] explain the procedure for these contacts at the time the  
1272 viatical settlement contract is entered into. The limitations set forth in  
1273 this subsection shall not apply to any contacts with an insured [under a  
1274 viaticated policy] for reasons other than determining the insured's  
1275 health status. Viatical settlement providers and viatical settlement  
1276 brokers shall be responsible for the actions of their authorized  
1277 representatives.

1278       [(j) An insured shall have the right, where permitted under the life  
1279 insurance policy or certificate, to assign, transfer, sell or bequest the net  
1280 death benefit payable under or ownership of a life insurance policy or  
1281 certificate for any remaining portion of such coverage. An insured  
1282 shall also have the right, where permitted under the life insurance  
1283 policy or certificate, to assign, transfer, sell or bequest the net death  
1284 benefit payable under or ownership of a life insurance policy or  
1285 certificate at any time such coverage is on disability waiver of  
1286 premium.

1287       (k) Unless otherwise agreed to in writing by the viator and the  
1288 viatical settlement provider, the amount payable to a viatical  
1289 settlement provider upon the insured's death shall be the amount (1)  
1290 which would have been payable to the viatical settlement provider if  
1291 the insured had died on the first day following the date of the viatical  
1292 settlement contract, less (2) (A) any double or additional indemnity  
1293 amount, if any, payable under the viaticated policy if the insured's  
1294 death is accidental, and (B) all other amounts required to be deducted

1295 from the death benefit. Any other additional amounts shall remain  
1296 payable to the beneficiary last named by the viator prior to entering  
1297 into the viatical settlement contract, or to such other beneficiary, other  
1298 than the viatical settlement provider, as the viator may designate after  
1299 entering into the viatical settlement contract, or in the absence of a  
1300 designation, to the estate of the viator.]

1301 Sec. 9. Section 38a-465h of the general statutes is repealed and the  
1302 following is substituted in lieu thereof (*Effective July 1, 2008*):

1303 [(a) No person who invests in a viaticated policy, including, but not  
1304 limited to, a participant in a financing transaction, may influence the  
1305 treatment of the insured's illness.

1306 (b) (1) No life insurance policy or certificate issued or delivered in  
1307 this state which permits assignment may in any way restrict the owner  
1308 of the policy or holder of the certificate from making an assignment of  
1309 rights under said contract or certificate as a gift without consideration.

1310 (2) Any provision in any life insurance policy or certificate which  
1311 places restrictions on assignments described in subdivision (1) of this  
1312 subsection may be waived with written consent from the administrator  
1313 or insurer of such policy or certificate.

1314 (c) The assignee of an individual life insurance policy or of rights  
1315 under a certificate shall have all rights at law or in equity held by the  
1316 assignor under such policy or certificate, including, but not limited to,  
1317 the right to: (1) Convert the coverage evidenced by the certificate to an  
1318 individual policy; (2) receive timely notice of such right to convert; (3)  
1319 take such other action as may be necessary under the policy or  
1320 certificate in order to preserve the value of the assigned coverage; (4)  
1321 receive information concerning the coverage under the policy or  
1322 certificate; (5) receive notice of a lapse or discontinuation of coverage;  
1323 (6) exercise any option relating to the assigned coverage during an  
1324 open enrollment period; and (7) all such other rights and privileges  
1325 vested in the assignor under the terms of the policy or certificate.

1326 (d) If a certificate is assigned pursuant to a viatical settlement  
1327 contract and the administrator of the group life insurance policy to  
1328 which the certificate relates fails to give notice to the viatical settlement  
1329 provider that the insured is no longer a covered person under the  
1330 group life insurance policy or of the right to convert the certificate to  
1331 an individual life insurance policy, the period of time during which the  
1332 viatical settlement provider may apply for conversion under the terms  
1333 of the group life insurance policy shall begin from the date such notice  
1334 is received by the viatical settlement provider.

1335 (e) If a certificate acquired pursuant to a viatical settlement contract  
1336 is converted to an individual life insurance policy, where permitted  
1337 under the life insurance policy or certificate and when the face amount  
1338 does not exceed the original group coverage, for the purposes of  
1339 measuring the period of incontestability or determining application of  
1340 the suicide exclusion, the date of issue of the policy shall be the first  
1341 day coverage was provided under the group life insurance policy to  
1342 which the certificate related and not the date of issue of the individual  
1343 life insurance policy issued following conversion, provided the  
1344 information relevant to the determination of eligibility of conversion  
1345 can be contested.]

1346 (a) It is a violation of this part for any person to enter into a viatical  
1347 settlement contract at any time prior to the application or issuance of a  
1348 policy that is the subject of a viatical settlement contract or within a  
1349 five-year period commencing with the date of issuance of the  
1350 insurance policy or certificate unless the viator certifies to the viatical  
1351 settlement provider that one or more of the following conditions have  
1352 been met within the five-year period:

1353 (1) The policy was issued upon the viator's exercise of conversion  
1354 rights arising out of a group or individual policy, provided the total of  
1355 the time covered under the conversion policy plus the time covered  
1356 under the prior policy is not less than sixty months. The time covered  
1357 under a group policy shall be calculated without regard to any change

1358 in insurance carriers, provided the coverage has been continuous and  
1359 under the same group sponsorship;

1360 (2) The viator submits independent evidence to the viatical  
1361 settlement provider that one or more of the following conditions have  
1362 been met within the five-year period: (A) The viator or insured is  
1363 terminally or chronically ill; (B) the viator's spouse dies; (C) the viator  
1364 divorces his or her spouse; (D) the viator retires from full-time  
1365 employment; (E) the viator becomes physically or mentally disabled  
1366 and a physician determines that the disability prevents the viator from  
1367 maintaining full-time employment; or (F) a final order, judgment or  
1368 decree is entered by a court of competent jurisdiction on the  
1369 application of a creditor of the viator, adjudicating the viator bankrupt  
1370 or insolvent or approving a petition seeking reorganization of the  
1371 viator or appointing a receiver, trustee or liquidator to all or a  
1372 substantial part of the viator's assets; or

1373 (3) The viator enters into a viatical settlement contract not later than  
1374 two years after the date of issuance of a policy and, with respect to the  
1375 policy, at all times prior to the date that is two years after policy  
1376 issuance, the following conditions are met: (A) Policy premiums have  
1377 been funded exclusively with unencumbered assets, including, but not  
1378 limited to, an interest in the life insurance policy being financed only to  
1379 the extent of its net cash surrender value, provided by, or fully  
1380 recourse liability incurred by, the insured or a person described in  
1381 subparagraph (B)(v) of subdivision (15) of section 38a-465, as amended  
1382 by this act; (B) there is no agreement or understanding with any other  
1383 person to guarantee any such liability or to purchase or stand ready to  
1384 purchase the policy, including, but not limited to, through an  
1385 assumption or forgiveness of the loan; and (C) neither the insured nor  
1386 the policy has been evaluated for settlement.

1387 (b) Copies of the independent evidence described in subdivision (2)  
1388 of subsection (a) of this section and documents required by subsection  
1389 (a) of section 38a-465g, as amended by this act, shall be submitted to

1390 the insurer when the viatical settlement provider or other party  
1391 entering into a viatical settlement contract with a viator submits a  
1392 request to the insurer for verification of coverage. The copies shall be  
1393 accompanied by a letter of attestation from the viatical settlement  
1394 provider that the copies are true and correct copies of the documents  
1395 received by the viatical settlement provider.

1396 (c) If the viatical settlement provider submits to the insurer a copy  
1397 of the owner's or insured's certification described in, and the  
1398 independent evidence required by, subdivision (2) of subsection (a) of  
1399 this section, when the provider submits a request to the insurer to  
1400 effect the transfer of the policy or certificate to the viatical settlement  
1401 provider, the copy shall be deemed to conclusively establish that the  
1402 viatical settlement contract satisfies the requirements of this section  
1403 and the insurer shall timely respond to the request.

1404 (d) No insurer shall, as a condition of responding to a request for  
1405 verification of coverage or effecting the transfer of a policy pursuant to  
1406 a viatical settlement contract, require that the viator, insured, viatical  
1407 settlement provider or viatical settlement broker sign any forms,  
1408 disclosures, consent or waiver form that has not been expressly  
1409 approved by the commissioner for use in connection with viatical  
1410 settlement contracts in this state.

1411 (e) Upon receipt of a properly completed request for change of  
1412 ownership or beneficiary of a policy, the insurer shall respond, in  
1413 writing, not later than thirty calendar days from the date of receipt  
1414 with written acknowledgement confirming that the change has been  
1415 effected or specifying the reasons why the requested change cannot be  
1416 processed. The insurer shall not unreasonably delay effecting change  
1417 of ownership or beneficiary and shall not otherwise seek to interfere  
1418 with any viatical settlement contract lawfully entered into in this state.

1419 Sec. 10. Section 38a-465i of the general statutes is repealed and the  
1420 following is substituted in lieu thereof (*Effective July 1, 2008*):

1421 [(a) Each life insurance company licensed in this state shall  
1422 promptly respond to reasonable requests for policy or certificate  
1423 information following the receipt of the following documents by the  
1424 insurer or its agent:

1425 (1) An instruction executed by the viator requiring the insurer to  
1426 release specified information regarding the policy or certificate to a  
1427 named viatical settlement provider or viatical settlement broker; and

1428 (2) A written request for such information from the named viatical  
1429 settlement provider or viatical settlement broker.

1430 (b) Requests for the following items are deemed to be reasonable: (1)  
1431 Ownership of and death benefits payable under the viaticated policy;  
1432 (2) premium information on the viaticated policy; (3) liens on and  
1433 assignments and additional benefits of the viaticated policy; (4) waiver  
1434 of premium of the viaticated policy; and (5) ownership of and  
1435 assignment provisions under the viaticated policy. The commissioner  
1436 may adopt regulations, in accordance with chapter 54, to identify  
1437 additional requests for information which shall also be deemed  
1438 reasonable.

1439 (c) An insurer or third party administrator of a group life insurance  
1440 policy shall promptly issue an individual conversion policy if the  
1441 conversion is being requested for the purpose of entering into a viatical  
1442 settlement contract.

1443 (d) Nothing in this section shall be construed to prohibit a policy  
1444 owner or certificate holder, pursuant to the provisions of the policy or  
1445 certificate, from assigning rights or benefits under the policy or  
1446 certificate to a viatical settlement provider or from converting such  
1447 coverage to an individual life insurance policy.

1448 (e) No person may enter into a viatical settlement contract within a  
1449 two-year period from the date of issuance of an insurance policy or  
1450 certificate unless the viator certifies to the viatical settlement provider

1451 that one or more of the following conditions have been met within the  
1452 two-year period:

1453 (1) The policy was issued upon the viator's exercise of conversion  
1454 rights arising out of a group or individual policy, provided the total of  
1455 the time covered under the conversion policy plus the time covered  
1456 under the prior policy is at least twenty-four months. The time covered  
1457 under a group policy shall be calculated without regard to any change  
1458 in insurance carriers, provided the coverage has been continuous and  
1459 under the same group sponsorship;

1460 (2) (A) The viator submits independent evidence to the viatical  
1461 settlement provider that one or more of the following conditions have  
1462 been met within the two-year period:

1463 (i) The viator or insured is terminally or chronically ill; or

1464 (ii) The viator disposes of the viator's entire ownership interests in a  
1465 closely held corporation pursuant to the terms of a buyout or other  
1466 similar agreement in effect at the time the insurance policy was  
1467 initially issued;

1468 (B) Copies of the independent evidence described in subparagraph  
1469 (A) of this subdivision and documents required by subsection (a) of  
1470 section 38a-465g shall be submitted to the insurer when the viatical  
1471 settlement provider submits a request to the insurer for verification of  
1472 coverage. The copies shall be accompanied by a letter from the viatical  
1473 settlement provider that the copies are true and correct copies of the  
1474 documents received by the viatical settlement provider.

1475 (f) If the viatical settlement provider submits to the insurer a copy of  
1476 the owner or insured's certification described in subdivision (2) of  
1477 subsection (e) of this section when the provider submits a request to  
1478 the insurer to effect the transfer of the policy or certificate to the  
1479 viatical settlement provider, the copy shall be deemed to conclusively  
1480 establish that the viatical settlement contract satisfies the requirements

1481 of this section and the insurer shall timely respond to the request.]

1482 (a) (1) With respect to any viatical settlement contract or insurance  
1483 policy, no viatical settlement broker shall knowingly solicit an offer  
1484 from, effectuate a viatical settlement with or make a sale to any viatical  
1485 settlement provider, viatical settlement purchaser, financing entity or  
1486 related provider trust that is controlling, controlled by or under  
1487 common control with such viatical settlement broker.

1488 (2) With respect to any viatical settlement contract or insurance  
1489 policy, no viatical settlement provider shall knowingly enter into a  
1490 viatical settlement contract with a viator, if, in connection with such  
1491 viatical settlement contract, anything of value will be paid to a viatical  
1492 settlement broker that is controlling, controlled by or under common  
1493 control with such viatical settlement provider or the viatical settlement  
1494 purchaser, financing entity or related provider trust that is involved in  
1495 such viatical settlement contract.

1496 (3) A violation of subdivision (1) or (2) of this subsection shall be  
1497 deemed a fraudulent viatical settlement act.

1498 (b) No person shall issue, solicit, market or otherwise promote the  
1499 purchase of an insurance policy for the purpose of or with an emphasis  
1500 on settling the policy.

1501 (c) No person shall enter into a premium finance agreement with  
1502 any other person or agency, or any person affiliated with such person  
1503 or agency, pursuant to which such person shall receive any proceeds,  
1504 fees or other consideration, directly or indirectly, from the policy or  
1505 owner of the policy or any other person with respect to the premium  
1506 finance agreement or any viatical settlement contract or other  
1507 transaction related to such policy that are in addition to the amounts  
1508 required to pay the principal, interest and services charges related to  
1509 policy premiums pursuant to the premium finance agreement or  
1510 subsequent sale of such agreement. Any such payments, charges, fees  
1511 or other amounts in addition to the amounts required to pay the

1512 principal, interest and service charges related to policy premiums paid  
1513 under the premium finance agreement shall be remitted to the original  
1514 owner of the policy or to his or her estate if he or she is not living at the  
1515 time of the determination of overpayment.

1516 (d) In the solicitation, application or issuance of a life insurance  
1517 policy, no person shall employ any device, scheme or artifice which  
1518 violates Connecticut's insurable interest law.

1519 (e) No viatical settlement provider shall enter into a viatical  
1520 settlement contract unless the viatical settlement promotional,  
1521 advertising and marketing materials, as may be prescribed by  
1522 regulation, have been filed with the commissioner. In no event shall  
1523 any marketing materials expressly reference that the insurance is free  
1524 for any period of time. The inclusion of any reference in the marketing  
1525 materials that would cause a viator to reasonably believe that the  
1526 insurance is free for any period of time shall be a violation of this part.

1527 (f) No life insurance producer, insurance company, viatical  
1528 settlement broker, viatical settlement provider or viatical settlement  
1529 investment agent shall make any statement or representation to the  
1530 applicant or policyholder in connection with the sale or financing of a  
1531 life insurance policy to the effect that the insurance is free or without  
1532 cost to the policyholder for any period of time unless provided in the  
1533 policy.

1534 Sec. 11. Section 38a-465j of the general statutes is repealed and the  
1535 following is substituted in lieu thereof (*Effective July 1, 2008*):

1536 [(a) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be  
1537 construed to require a financing entity to obtain a viatical settlement  
1538 provider license or viatical settlement broker license pursuant to  
1539 section 38a-465a.

1540 (b) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be  
1541 construed to restrict any person from receiving a fee, commission or

1542 other valuable consideration for services rendered in connection with  
1543 any financing transaction.

1544 (c) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be  
1545 construed to require notice to the commissioner of, or restrict an  
1546 insurance company from investing or participating in or purchasing  
1547 any securities issued in, any financing transaction.]

1548 (a) (1) A person shall not commit a fraudulent viatical settlement  
1549 act.

1550 (2) A person shall not knowingly or intentionally interfere with the  
1551 enforcement of the provisions of this part or investigations of  
1552 suspected or actual violations of this part.

1553 (3) A person in the business of viatical settlements shall not  
1554 knowingly or intentionally permit any person convicted of a felony  
1555 involving dishonesty or breach of trust to participate in the business of  
1556 viatical settlements.

1557 (b) (1) Viatical settlement contracts and applications for viatical  
1558 settlements, regardless of the form of transmission, shall contain the  
1559 following statement or a substantially similar statement: "Any person  
1560 who knowingly presents false information in an application for an  
1561 insurance or viatical settlement contract is guilty of a crime and may be  
1562 subject to fines and confinement in prison".

1563 (2) The lack of a statement as required in subdivision (1) of this  
1564 subsection does not constitute a defense in any prosecution for a  
1565 fraudulent viatical settlement act.

1566 (c) (1) Any person engaged in the business of viatical settlements  
1567 having knowledge or a reasonable suspicion that a fraudulent viatical  
1568 settlement act is being, will be or has been committed shall provide to  
1569 the commissioner such information as required by, and in a manner  
1570 prescribed by, the commissioner.

1571 (2) Any other person having knowledge or a reasonable belief that a  
1572 fraudulent viatical settlement act is being, will be or has been  
1573 committed may provide to the commissioner the information required  
1574 by, and in a manner prescribed by, the commissioner.

1575 (d) (1) No civil liability shall be imposed on and no cause of action  
1576 shall arise from a person's furnishing information concerning  
1577 suspected, anticipated or completed fraudulent viatical settlement acts  
1578 or suspected or completed fraudulent insurance acts if the information  
1579 is provided to or received from: (A) The commissioner or the  
1580 commissioner's employees, agents or representatives; (B) federal, state  
1581 or local law enforcement or regulatory officials or their employees,  
1582 agents or representatives; (C) a person involved in the prevention and  
1583 detection of fraudulent viatical settlement acts or that person's agents,  
1584 employees or representatives; (D) the National Association of  
1585 Insurance Commissioners, the National Association of Securities  
1586 Dealers, the North American Securities Administrators Association or  
1587 their employees, agents or representatives, or other regulatory body  
1588 overseeing life insurance, viatical settlements, securities or investment  
1589 fraud; or (E) the life insurer that issued the life insurance policy  
1590 covering the life of the insured.

1591 (2) Subdivision (1) of this subsection shall not apply to statements  
1592 made with actual malice. In an action brought against a person for  
1593 filing a report or furnishing other information concerning a fraudulent  
1594 viatical settlement act, the party bringing the action shall plead  
1595 specifically any allegation that subdivision (1) of this subsection does  
1596 not apply because the person filing the report or furnishing the  
1597 information did so with actual malice.

1598 (3) A person furnishing information as identified in subdivision (1)  
1599 of this subsection shall be entitled to an award of attorney's fees and  
1600 costs if such person is the prevailing party in a civil cause of action for  
1601 libel, slander or any other relevant tort arising out of activities in  
1602 carrying out the provisions of this part and the party bringing the

1603 action was not substantially justified in doing so. For purposes of this  
1604 section, a proceeding is substantially justified if it had a reasonable  
1605 basis in law or fact at the time that it was initiated. Such an award shall  
1606 not apply to any person furnishing information concerning such  
1607 person's own fraudulent viatical settlement acts.

1608 (4) This section does not abrogate or modify common law or  
1609 statutory privileges or immunities enjoyed by a person described in  
1610 subdivision (1) of this subsection.

1611 (e) (1) The documents and evidence provided pursuant to  
1612 subsection (d) of this section or obtained by the commissioner in an  
1613 investigation of suspected or actual fraudulent viatical settlement acts  
1614 shall be privileged and confidential. Such documents and evidence  
1615 shall not be a public record and shall not be subject to discovery or  
1616 subpoena in a civil or criminal action.

1617 (2) Subdivision (1) of this subsection shall not prohibit release by the  
1618 commissioner of documents and evidence obtained in an investigation  
1619 of suspected or actual fraudulent viatical settlement acts: (A) In  
1620 administrative or judicial proceedings, to enforce laws administered by  
1621 the commissioner; (B) to federal, state or local law enforcement or  
1622 regulatory agencies; (C) to an organization established for the purpose  
1623 of detecting and preventing fraudulent viatical settlement acts or to the  
1624 National Association of Insurance Commissioners; or (D) at the  
1625 discretion of the commissioner, to a person in the business of viatical  
1626 settlements that is aggrieved by a fraudulent viatical settlement act.

1627 (3) Release of documents and evidence under subdivision (2) of this  
1628 subsection does not abrogate or modify the privilege granted in  
1629 subdivision (1) of this subsection.

1630 (f) Nothing in this part shall be construed to: (1) Preempt the  
1631 authority or relieve the duty of other law enforcement or regulatory  
1632 agencies to investigate, examine and prosecute suspected violations of  
1633 law; (2) prevent or prohibit a person from disclosing, voluntarily,

1634 information concerning viatical settlement fraud to a law enforcement  
1635 or regulatory agency other than the Insurance Department; or (3) limit  
1636 the powers granted elsewhere by the laws of this state to the  
1637 commissioner or an insurance fraud unit to investigate and examine  
1638 possible violations of law and to take appropriate action against  
1639 wrongdoers.

1640 (g) (1) Viatical settlement providers and viatical settlement brokers  
1641 shall have in place antifraud initiatives reasonably calculated to detect,  
1642 prosecute and prevent fraudulent viatical settlement acts. The  
1643 commissioner may order, or a licensee may request and the  
1644 commissioner may grant, such modifications of the following required  
1645 initiatives as necessary to ensure an effective antifraud program. The  
1646 modifications may be more or less restrictive than the required  
1647 initiatives if the modifications may reasonably be expected to  
1648 accomplish the purpose of this section.

1649 (2) Antifraud initiatives shall include:

1650 (A) Fraud investigators, who may be viatical settlement provider or  
1651 viatical settlement broker employees or independent contractors; and

1652 (B) An antifraud plan, which shall be submitted to the  
1653 commissioner. The antifraud plan shall include, but not be limited to:  
1654 (i) A description of the procedures for detecting and investigating  
1655 possible fraudulent viatical settlement acts and procedures for  
1656 resolving material inconsistencies between medical records and  
1657 insurance applications; (ii) a description of the procedures for  
1658 reporting possible fraudulent viatical settlement acts to the  
1659 commissioner; (iii) a description of the plan for antifraud education  
1660 and training of underwriters and other personnel; and (iv) a  
1661 description or chart outlining the organizational arrangement of the  
1662 antifraud personnel who are responsible for the investigation and  
1663 reporting of possible fraudulent viatical settlement acts and  
1664 investigating unresolved material inconsistencies between medical  
1665 records and insurance applications.

1666 (3) Antifraud plans submitted to the commissioner shall be  
1667 privileged and confidential. Such plans shall not be a public record and  
1668 shall not be subject to discovery or subpoena in a civil or criminal  
1669 action.

1670 Sec. 12. Section 38a-465k of the general statutes is repealed and the  
1671 following is substituted in lieu thereof (*Effective July 1, 2008*):

1672 [No viatical settlement provider may sell, assign, transfer or pledge  
1673 a viaticated policy except to a viatical settlement provider licensed  
1674 pursuant to section 38a-465a, or a person not required to be licensed  
1675 under sections 38a-465 to 38a-465m, inclusive.]

1676 (a) In addition to the penalties and other enforcement provisions of  
1677 this part, if any person violates this part or any regulation  
1678 implementing this part, the commissioner may seek an injunction in a  
1679 court of competent jurisdiction and may apply for temporary and  
1680 permanent orders that the commissioner determines are necessary to  
1681 restrain the person from committing the violation.

1682 (b) Any person damaged by the acts of a person in violation of this  
1683 part may bring a civil action against the person committing the  
1684 violation in a court of competent jurisdiction.

1685 (c) The commissioner may issue, in accordance with the provisions  
1686 of chapter 54, a cease and desist order upon a person that violates any  
1687 provision of this part, any regulation or order adopted by the  
1688 commissioner or any written agreement entered into with the  
1689 commissioner.

1690 (d) When the commissioner finds that an activity in violation of this  
1691 part presents an immediate danger to the public that requires an  
1692 immediate final order, the commissioner may issue an emergency  
1693 cease and desist order reciting with particularity the facts underlying  
1694 the findings. The emergency cease and desist order is effective  
1695 immediately upon service of a copy of the order on the respondent and

1696 shall remain effective for ninety days from the date of service. If the  
1697 commissioner begins nonemergency cease and desist proceedings, the  
1698 emergency cease and desist order shall remain effective, absent an  
1699 order by a court of competent jurisdiction.

1700 (e) In addition to the penalties and other enforcement provisions of  
1701 this part, any person who violates this part shall be subject to civil  
1702 penalties in an amount to be determined by the commissioner. The  
1703 commissioner shall adopt regulations, in accordance with the  
1704 provisions of chapter 54, for the imposition of civil penalties,  
1705 including, but not limited to, requiring a person found to be in  
1706 violation of this part to make restitution to persons aggrieved by  
1707 violations of this part.

1708 (f) A person convicted of a violation of this part by a court of  
1709 competent jurisdiction shall be deemed to have committed larceny, as  
1710 defined in section 53a-119, and shall be subject to the provisions in  
1711 sections 53a-122 to 53a-125, inclusive. A person convicted of a violation  
1712 of this part shall be ordered to pay restitution to persons aggrieved by  
1713 the violation of this part. Restitution shall be ordered in addition to a  
1714 fine or imprisonment, but not in lieu of a fine or imprisonment.

1715 (g) Except for a fraudulent viatical settlement act committed by a  
1716 viator, the enforcement provisions and penalties of this section shall  
1717 not apply to a viator.

1718 Sec. 13. Section 38a-465l of the general statutes is repealed and the  
1719 following is substituted in lieu thereof (*Effective July 1, 2008*):

1720 [Any viatical settlement provider or viatical settlement broker who  
1721 is acting in such capacity in this state as of January 1, 1998, may  
1722 continue to operate in such capacity pending approval or disapproval  
1723 of such provider's or broker's application for a license pursuant to  
1724 section 38a-465a, provided such application is filed with the  
1725 commissioner not later than thirty days after January 1, 1998.]

1726 A violation of this part, including the commission of a fraudulent  
1727 viatical settlement act, shall be considered an unfair trade practice, as  
1728 defined in chapter 735a, and shall be subject to the penalties provided  
1729 in said chapter.

1730 Sec. 14. Section 38a-465m of the general statutes is repealed and the  
1731 following is substituted in lieu thereof (*Effective July 1, 2008*):

1732 (a) The commissioner may adopt regulations, in accordance with the  
1733 provisions of chapter 54, to implement the provisions of sections  
1734 38a-465 to 38a-465l, inclusive, as amended by this act, and sections 38a-  
1735 465n to [38a-465q] 38a-465p, inclusive, as amended by this act.

1736 (b) Such regulations may establish standards for evaluating  
1737 reasonableness of payments under viatical settlement contracts for  
1738 persons who are terminally or chronically ill. Such regulations may  
1739 include, but are not limited to, the regulation of discount rates used to  
1740 determine the amount paid in exchange for assignment, transfer, sale,  
1741 devise or bequest of a benefit under a life insurance policy.

1742 (c) Such regulations may establish appropriate licensing  
1743 requirements and standards for continued licensure for viatical  
1744 settlement providers, viatical settlement brokers and viatical  
1745 settlement investment agents.

1746 (d) The commissioner may require a bond or other mechanism for  
1747 financial accountability for viatical settlement providers and brokers.

1748 (e) Such regulations may adopt rules governing the relationship and  
1749 responsibilities of both insurers and viatical settlement providers [ ]  
1750 and viatical settlement brokers [and viatical settlement investment  
1751 agents] during the viatication of a life insurance policy or certificate.

1752 Sec. 15. Section 38a-465n of the general statutes is repealed and the  
1753 following is substituted in lieu thereof (*Effective July 1, 2008*):

1754 (a) This section shall apply to the advertising of viatical settlement

1755 contracts [, viatical settlement purchase agreements] or related  
1756 products or services, including Internet advertising viewed by persons  
1757 located in this state. Where disclosure requirements are established  
1758 pursuant to federal law, this section shall be interpreted to minimize or  
1759 eliminate conflict with the federal law.

1760 (b) Each person licensed pursuant to this part shall establish and at  
1761 all times maintain a system of control over the content, form and  
1762 method of dissemination of all advertisements of its contracts,  
1763 products and services. Each advertisement, regardless of by whom  
1764 written, created, designed or presented, shall be the responsibility of  
1765 the viatical settlement licensee, as well as the individual who created  
1766 or presented the advertisement. A system of control shall include  
1767 regular routine notification, at least once a year, to agents and others  
1768 authorized by the licensee who disseminate advertisements of the  
1769 requirements and procedures for approval prior to the use of any  
1770 advertisements not furnished by the licensee.

1771 (c) Advertisements shall be truthful and not misleading in fact or by  
1772 implication. The form and content of an advertisement of a viatical  
1773 settlement contract, [or viatical settlement purchase agreement]  
1774 product or service shall be sufficiently complete and clear so as to  
1775 avoid deception. The advertisement shall not have the capacity or  
1776 tendency to mislead or deceive. Whether an advertisement has the  
1777 capacity or tendency to mislead or deceive shall be determined by the  
1778 commissioner from the overall impression that the advertisement may  
1779 be reasonably expected to create upon a person of average education  
1780 or intelligence within the segment of the public to which it is directed.

1781 (d) Certain viatical settlement advertisements are deemed false and  
1782 misleading on their face and are prohibited. False and misleading  
1783 viatical settlement advertisements include, but are not limited to,  
1784 advertisements that include the following representations:

1785 (1) "Guaranteed", "fully secured", "100 per cent secured", "fully  
1786 insured", "secure", "safe", "backed by rated insurance companies",

1787 "backed by federal law", "backed by state law", "state guaranty funds"  
1788 or similar representations;

1789 (2) "No risk", "minimal risk", "low risk", "no speculation", "no  
1790 fluctuation" or similar representations;

1791 [(3) Qualified or approved for individual retirement accounts, Roth  
1792 IRAs, 401(k) plans, simplified employee pensions, 403(b) plans, Keogh  
1793 plans, TSA or other retirement account rollovers, tax deferred or  
1794 similar representations;]

1795 (3) "Qualified or approved for individual retirement accounts",  
1796 "Roth IRAs", "401(k) plans", "simplified employee pensions", "403(b)  
1797 plans", "Keogh plans", "TSA" or other retirement account rollovers, "tax  
1798 deferred" or similar representations;

1799 (4) Utilization of the word "guaranteed" to describe the fixed return,  
1800 annual return, principal, earnings, profits, investment or similar  
1801 representations;

1802 (5) "No sales charges or fees" or similar representations;

1803 (6) "High yield", "superior return", "excellent return", "high return",  
1804 "quick profit" or similar representations; and

1805 (7) Purported favorable representations or testimonials about the  
1806 benefits of viatical settlement contracts [or viatical settlement purchase  
1807 agreements] as an investment, taken out of context from newspapers,  
1808 trade papers, journals, radio and television programs, and all other  
1809 forms of print or electronic media.

1810 (e) The information required to be disclosed under this section shall  
1811 not be minimized, rendered obscure or presented in an ambiguous  
1812 fashion or intermingled with the text of the advertisement so as to be  
1813 confusing or misleading. An advertisement shall not:

1814 (1) Omit material information or use words, phrases, statements,

1815 references or illustrations if the omission or use has the capacity,  
1816 tendency or effect of misleading or deceiving viators [, purchasers or  
1817 prospective purchasers] as to the nature or extent of any benefit, loss  
1818 covered, premium payable, or state or federal tax consequence. The  
1819 fact that the viatical settlement contract [or viatical settlement purchase  
1820 agreement] offered is made available for inspection prior to  
1821 consummation of the sale, or an offer is made to refund the payment if  
1822 the viator is not satisfied or that the viatical settlement contract [or  
1823 viatical settlement purchase agreement] includes a "free look" period  
1824 that satisfies or exceeds legal requirements shall not remedy  
1825 misleading statements;

1826 (2) Use the name or title of a life insurance company or a life  
1827 insurance policy unless the advertisement has been approved by the  
1828 insurance company;

1829 (3) Represent that premium payments will not be required to be  
1830 paid on the life insurance policy that is the subject of a viatical  
1831 settlement contract [or viatical settlement purchase agreement] in  
1832 order to maintain that policy unless that is the fact;

1833 (4) State or imply that interest charged on an accelerated death  
1834 benefit or a policy loan is unfair, inequitable or in any manner an  
1835 incorrect or improper practice;

1836 (5) Include the words "free", "no cost", "without cost", "no additional  
1837 cost", "at no extra cost" or words of similar meaning with respect to  
1838 any benefit or service unless true. An advertisement may specify the  
1839 charge for a benefit or a service or may state that a charge is included  
1840 in the payment or use other appropriate language;

1841 (6) Include testimonials, appraisals or analysis that are not genuine.  
1842 Testimonials, appraisals and analysis shall (A) represent the current  
1843 opinion of the author; (B) be applicable to the viatical settlement  
1844 contract, [or viatical settlement purchase agreement,] product or  
1845 service advertised, if any; and (C) be accurately reproduced with

1846 sufficient completeness to avoid misleading or deceiving prospective  
1847 viators or purchasers as to the nature or scope of the testimonials,  
1848 appraisals, analysis or endorsement. In using testimonials, appraisals  
1849 or analysis, the licensee makes as its own all the statements contained  
1850 therein, and the statements shall be subject to the provisions of this  
1851 subdivision (i) If the individual making a testimonial, appraisal,  
1852 analysis or an endorsement has a financial interest in the viatical  
1853 settlement provider or related entity as a stockholder, director, officer,  
1854 employee or otherwise, or receives any benefit directly or indirectly  
1855 other than required union scale wages, that fact shall be prominently  
1856 disclosed in the advertisement. (ii) An advertisement shall not state or  
1857 imply that a viatical settlement contract, [or viatical settlement  
1858 purchase agreement,] benefit or service has been approved or  
1859 endorsed by a group of individuals, society, association or other  
1860 organization unless that is the fact and unless any relationship  
1861 between an organization and the viatical settlement licensee is  
1862 disclosed. If the entity making the endorsement or testimonial is  
1863 owned, controlled or managed by the viatical settlement licensee, or  
1864 receives any payment or other consideration from the viatical  
1865 settlement licensee for making an endorsement or testimonial, that fact  
1866 shall be disclosed in the advertisement. (iii) When an endorsement  
1867 refers to benefits received under a viatical settlement contract, [or  
1868 viatical settlement purchase agreement] all pertinent information shall  
1869 be retained for a period of five years after its use.

1870 (f) An advertisement shall not contain statistical information unless  
1871 the information accurately reflects recent and relevant facts. The source  
1872 of all statistics used in an advertisement shall be identified.

1873 (g) An advertisement shall not disparage insurers, viatical  
1874 settlement providers, viatical settlement brokers, [viatical settlement  
1875 investment agents,] insurance producers, policies, services or methods  
1876 of marketing.

1877 (h) The name of the licensee shall be clearly identified in all

1878 advertisements about the licensee or its viatical settlement contract, [or  
1879 viatical settlement purchase agreements,] products or services, and if  
1880 any specific viatical settlement contract [or viatical settlement purchase  
1881 agreement] is advertised, the viatical settlement contract [or viatical  
1882 settlement purchase agreement] shall be identified either by form  
1883 number or some other appropriate description. If an application is part  
1884 of the advertisement, the name of the viatical settlement provider shall  
1885 be shown on the application.

1886 (i) An advertisement shall not use a trade name, group designation,  
1887 name of the parent company of a licensee, name of a particular  
1888 division of the licensee, service mark, slogan, symbol or other device or  
1889 reference without disclosing the name of the licensee, if the  
1890 advertisement would have the capacity or tendency to mislead or  
1891 deceive as to the true identity of the licensee, or to create the  
1892 impression that a company other than the licensee would have any  
1893 responsibility for the financial obligation under a viatical settlement  
1894 contract, [or viatical settlement purchase agreement.]

1895 (j) An advertisement shall not use any combination of words,  
1896 symbols or physical materials that by their content, phraseology,  
1897 shape, color or other characteristics are so similar to a combination of  
1898 words, symbols or physical materials used by a government program  
1899 or agency or otherwise appear to be of such a nature that they tend to  
1900 mislead prospective viators or purchasers into believing that the  
1901 solicitation is in some manner connected with a government program  
1902 or agency.

1903 (k) An advertisement may state that a licensee is licensed in the state  
1904 where the advertisement appears, provided it does not exaggerate that  
1905 fact or suggest or imply that competing licensees may not be so  
1906 licensed. The advertisement may ask the audience to consult the  
1907 licensee's web site or contact the Insurance Department to find out if  
1908 the state requires licensing and, if so, whether the viatical settlement  
1909 provider [ ] or viatical settlement broker [or viatical settlement

1910 investment agent] is licensed.

1911 (l) An advertisement shall not create the impression that the viatical  
1912 settlement provider, its financial condition or status, the payment of its  
1913 claims or the merits, desirability, or advisability of its viatical  
1914 settlement contracts [or viatical settlement purchase agreement forms]  
1915 are recommended or endorsed by any government entity.

1916 (m) The name of the licensee shall be stated in all of the licensee's  
1917 advertisements. An advertisement shall not use a trade name, any  
1918 group designation, name of any affiliate or controlling entity of the  
1919 licensee, service mark, slogan, symbol or other device in a manner that  
1920 would have the capacity or tendency to mislead or deceive as to the  
1921 true identity of the licensee or create the false impression that an  
1922 affiliate or controlling entity would have any responsibility for the  
1923 financial obligation of the licensee.

1924 (n) An advertisement shall not directly or indirectly create the  
1925 impression that any division or agency of the state or of the United  
1926 States government endorses, approves or favors:

1927 (1) Any licensee or its business practices or methods of operation;

1928 (2) The merits, desirability or advisability of any viatical settlement  
1929 contract; [or viatical settlement purchase agreement;]

1930 (3) Any viatical settlement contract; [or viatical settlement purchase  
1931 agreement;]

1932 (4) Any life insurance policy or life insurance company.

1933 (o) If the advertisement emphasizes the speed with which the  
1934 viatication will occur, the advertisement shall disclose the average time  
1935 frame from completed application to the date of offer and from  
1936 acceptance of the offer to receipt of the funds by the viator.

1937 (p) If the advertisement emphasizes the dollar amounts available to

1938 viators, the advertisement shall disclose the average purchase price as  
1939 a per cent of face value obtained by viators contracting with the  
1940 licensee during the past six months.

1941 Sec. 16. Section 38a-465p of the general statutes is repealed and the  
1942 following is substituted in lieu thereof (*Effective July 1, 2008*):

1943 [(a) A viatical settlement investment agent shall not have any  
1944 contact directly or indirectly with the viator or have knowledge of the  
1945 identity of the viator.

1946 (b) A viatical settlement investment agent is deemed to represent  
1947 the viatical settlement provider for whom the viatical settlement  
1948 investment agent is an appointed or contracted agent.]

1949 A related provider trust shall have a written agreement with the  
1950 licensed viatical settlement provider under which the licensed viatical  
1951 settlement provider is responsible for ensuring compliance with all  
1952 statutory and regulatory requirements and under which the trust  
1953 agrees to make all records and files related to viatical settlement  
1954 transactions available to the commissioner as if those records and files  
1955 were maintained directly by the licensed viatical settlement provider.

1956 Sec. 17. Subsection (a) of section 38a-11 of the 2008 supplement to  
1957 the general statutes is repealed and the following is substituted in lieu  
1958 thereof (*Effective July 1, 2008*):

1959 (a) The commissioner shall demand and receive the following fees:  
1960 (1) For the annual fee for each license issued to a domestic insurance  
1961 company, one hundred dollars; (2) for receiving and filing annual  
1962 reports of domestic insurance companies, twenty-five dollars; (3) for  
1963 filing all documents prerequisite to the issuance of a license to an  
1964 insurance company, one hundred seventy-five dollars, except that the  
1965 fee for such filings by any health care center, as defined in section 38a-  
1966 175, shall be one thousand one hundred dollars; (4) for filing any  
1967 additional paper required by law, fifteen dollars; (5) for each certificate

1968 of valuation, organization, reciprocity or compliance, twenty dollars;  
1969 (6) for each certified copy of a license to a company, twenty dollars; (7)  
1970 for each certified copy of a report or certificate of condition of a  
1971 company to be filed in any other state, twenty dollars; (8) for  
1972 amending a certificate of authority, one hundred dollars; (9) for each  
1973 license issued to a rating organization, one hundred dollars. In  
1974 addition, insurance companies shall pay any fees imposed under  
1975 section 12-211; (10) a filing fee of twenty-five dollars for each initial  
1976 application for a license made pursuant to section 38a-769; (11) with  
1977 respect to insurance agents' appointments: (A) A filing fee of twenty-  
1978 five dollars for each request for any agent appointment, except that no  
1979 filing fee shall be payable for a request for agent appointment by an  
1980 insurance company domiciled in a state or foreign country which does  
1981 not require any filing fee for a request for agent appointment for a  
1982 Connecticut insurance company; (B) a fee of forty dollars for each  
1983 appointment issued to an agent of a domestic insurance company or  
1984 for each appointment continued; and (C) a fee of twenty dollars for  
1985 each appointment issued to an agent of any other insurance company  
1986 or for each appointment continued, except that no fee shall be payable  
1987 for an appointment issued to an agent of an insurance company  
1988 domiciled in a state or foreign country which does not require any fee  
1989 for an appointment issued to an agent of a Connecticut insurance  
1990 company; (12) with respect to insurance producers: (A) An  
1991 examination fee of seven dollars for each examination taken, except  
1992 when a testing service is used, the testing service shall pay a fee of  
1993 seven dollars to the commissioner for each examination taken by an  
1994 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of  
1995 forty dollars per year, or any portion thereof, for each license renewed;  
1996 and (D) a fee of forty dollars for any license renewed under the  
1997 transitional process established in section 38a-784; (13) with respect to  
1998 public adjusters: (A) An examination fee of seven dollars for each  
1999 examination taken, except when a testing service is used, the testing  
2000 service shall pay a fee of seven dollars to the commissioner for each  
2001 examination taken by an applicant; and (B) a fee of one hundred

2002 twenty-five dollars for each license issued or renewed; (14) with  
2003 respect to casualty adjusters: (A) An examination fee of ten dollars for  
2004 each examination taken, except when a testing service is used, the  
2005 testing service shall pay a fee of ten dollars to the commissioner for  
2006 each examination taken by an applicant; (B) a fee of forty dollars for  
2007 each license issued or renewed; and (C) the expense of any  
2008 examination administered outside the state shall be the responsibility  
2009 of the entity making the request and such entity shall pay to the  
2010 commissioner one hundred dollars for such examination and the  
2011 actual traveling expenses of the examination administrator to  
2012 administer such examination; (15) with respect to motor vehicle  
2013 physical damage appraisers: (A) An examination fee of forty dollars  
2014 for each examination taken, except when a testing service is used, the  
2015 testing service shall pay a fee of forty dollars to the commissioner for  
2016 each examination taken by an applicant; (B) a fee of forty dollars for  
2017 each license issued or renewed; and (C) the expense of any  
2018 examination administered outside the state shall be the responsibility  
2019 of the entity making the request and such entity shall pay to the  
2020 commissioner one hundred dollars for such examination and the  
2021 actual traveling expenses of the examination administrator to  
2022 administer such examination; (16) with respect to certified insurance  
2023 consultants: (A) An examination fee of thirteen dollars for each  
2024 examination taken, except when a testing service is used, the testing  
2025 service shall pay a fee of thirteen dollars to the commissioner for each  
2026 examination taken by an applicant; (B) a fee of two hundred dollars for  
2027 each license issued; and (C) a fee of one hundred twenty-five dollars  
2028 for each license renewed; (17) with respect to surplus lines brokers: (A)  
2029 An examination fee of ten dollars for each examination taken, except  
2030 when a testing service is used, the testing service shall pay a fee of ten  
2031 dollars to the commissioner for each examination taken by an  
2032 applicant; and (B) a fee of five hundred dollars for each license issued  
2033 or renewed; (18) with respect to fraternal agents, a fee of forty dollars  
2034 for each license issued or renewed; (19) a fee of thirteen dollars for  
2035 each license certificate requested, whether or not a license has been

2036 issued; (20) with respect to domestic and foreign benefit societies shall  
 2037 pay: (A) For service of process, twenty-five dollars for each person or  
 2038 insurer to be served; (B) for filing a certified copy of its charter or  
 2039 articles of association, five dollars; (C) for filing the annual report, ten  
 2040 dollars; and (D) for filing any additional paper required by law, three  
 2041 dollars; (21) with respect to foreign benefit societies: (A) For each  
 2042 certificate of organization or compliance, four dollars; (B) for each  
 2043 certified copy of permit, two dollars; and (C) for each copy of a report  
 2044 or certificate of condition of a society to be filed in any other state, four  
 2045 dollars; (22) with respect to reinsurance intermediaries: A fee of five  
 2046 hundred dollars for each license issued or renewed; (23) with respect  
 2047 to viatical settlement providers: (A) A filing fee of thirteen dollars for  
 2048 each initial application for a license made pursuant to section 38a-465a;  
 2049 and (B) a fee of twenty dollars for each license issued or renewed; (24)  
 2050 with respect to viatical settlement brokers: (A) A filing fee of thirteen  
 2051 dollars for each initial application for a license made pursuant to  
 2052 section 38a-465a; and (B) a fee of twenty dollars for each license issued  
 2053 or renewed; [(25) with respect to viatical settlement investment agents:  
 2054 (A) A filing fee of thirteen dollars for each initial application for a  
 2055 license made pursuant to section 38a-465a; and (B) a fee of twenty  
 2056 dollars for each license issued or renewed; (26)] (25) with respect to  
 2057 preferred provider networks, a fee of two thousand five hundred  
 2058 dollars for each license issued or renewed; [(27)] (26) with respect to  
 2059 rental companies, as defined in section 38a-799, a fee of forty dollars  
 2060 for each permit issued or renewed; [(28)] (27) with respect to medical  
 2061 discount plan organizations licensed under section 38a-479rr, a fee of  
 2062 five hundred dollars for each license issued or renewed; [(29)] (28)  
 2063 with respect to pharmacy benefits managers, an application fee of fifty  
 2064 dollars for each registration issued or renewed; and [(30)] (29) with  
 2065 respect to each duplicate license issued a fee of twenty-five dollars for  
 2066 each license issued.

2067       Sec. 18. Subsection (a) of section 38a-25 of the general statutes is  
 2068 repealed and the following is substituted in lieu thereof (*Effective July*  
 2069 *1, 2008*):

2070 (a) The Insurance Commissioner is the agent for receipt of service of  
2071 legal process on the following:

2072 (1) Foreign and alien insurance companies authorized to do  
2073 business in this state in any proceeding arising from or related to any  
2074 transaction having a connection with this state.

2075 (2) Fraternal benefit societies authorized to do business in this state.

2076 (3) Insurance-support organizations as defined in section 38a-976,  
2077 transacting business outside this state which affects a resident of this  
2078 state.

2079 (4) Risk retention groups, as defined in section 38a-250.

2080 (5) Purchasing groups designating the Insurance Commissioner as  
2081 agent for receipt of service of process pursuant to section 38a-261.

2082 (6) Eligible surplus lines insurers authorized by the commissioner to  
2083 accept surplus lines insurance.

2084 (7) Except as provided by section 38a-273, unauthorized insurers or  
2085 other persons assisting unauthorized insurers who directly or  
2086 indirectly do any of the acts of insurance business as set forth in  
2087 subsection (a) of section 38a-271.

2088 (8) The Connecticut Insurance Guaranty Association and the  
2089 Connecticut Life and Health Insurance Guaranty Association.

2090 (9) Insurance companies designating the Insurance Commissioner  
2091 as agent for receipt of service of process pursuant to subsection (g) of  
2092 section 38a-85.

2093 (10) Nonresident insurance producers and nonresident surplus lines  
2094 brokers licensed by the Insurance Commissioner.

2095 (11) Viatical settlement providers [ ] and viatical settlement brokers  
2096 [ , and viatical settlement investment agents ] licensed by the

2097 commissioner.

2098 (12) Nonresident reinsurance intermediaries designating the  
 2099 commissioner as agent for receipt of service of process pursuant to  
 2100 section 38a-760b.

2101 (13) Workers' compensation self-insurance groups, as defined in  
 2102 section 38a-1001.

2103 (14) Persons alleged to have violated any provision of section 38a-  
 2104 130.

2105 (15) Captive insurers, as defined in section 38a-91k.

2106 Sec. 19. (*Effective July 1, 2008*) Section 38a-465q of the general statutes  
 2107 is repealed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	38a-465
Sec. 2	<i>July 1, 2008</i>	38a-465a
Sec. 3	<i>July 1, 2008</i>	38a-465b
Sec. 4	<i>July 1, 2008</i>	38a-465c
Sec. 5	<i>July 1, 2008</i>	38a-465d
Sec. 6	<i>July 1, 2008</i>	38a-465e
Sec. 7	<i>July 1, 2008</i>	38a-465f
Sec. 8	<i>July 1, 2008</i>	38a-465g
Sec. 9	<i>July 1, 2008</i>	38a-465h
Sec. 10	<i>July 1, 2008</i>	38a-465i
Sec. 11	<i>July 1, 2008</i>	38a-465j
Sec. 12	<i>July 1, 2008</i>	38a-465k
Sec. 13	<i>July 1, 2008</i>	38a-465l
Sec. 14	<i>July 1, 2008</i>	38a-465m
Sec. 15	<i>July 1, 2008</i>	38a-465n
Sec. 16	<i>July 1, 2008</i>	38a-465p
Sec. 17	<i>July 1, 2008</i>	38a-11(a)
Sec. 18	<i>July 1, 2008</i>	38a-25(a)
Sec. 19	<i>July 1, 2008</i>	Repealer section

**Statement of Purpose:**

To adopt the requirements of the Viatical Settlements Model Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*