

## Article - Insurance

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§8–601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Activities of daily living” includes bathing, continence, dressing, eating, toileting, and transferring.
- (c) “Chronically ill” means that an individual:
  - (1) is unable to perform at least two activities of daily living;
  - (2) requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or
  - (3) has a level of disability similar to that described in item (1) of this subsection.
- (d) “Credit enhancer” includes an authorized insurer that provides to a viatical settlement provider stop loss coverage, an annuity policy, an insurance policy, or similar coverage.
- (e) “Financing entity” means a person:
  - (1) that is an underwriter, a placement agent, a lender, a purchaser of securities, a purchaser of a policy or certificate from a viatical settlement provider, a credit enhancer, or an entity that has a direct ownership interest in a policy or certificate that is the subject of a viatical settlement contract; and
  - (2)
    - (i) whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies;
    - (ii) that has an agreement in writing with one or more registered viatical settlement providers to finance the acquisition of viatical settlement contracts; or
    - (iii) that is a qualified institutional buyer, as that term is defined in Rule 144A of the Federal Securities Act of 1933.
- (f) “Fraudulent viatical settlement act” means a fraudulent insurance act as described in § 27-403(6) of this article.
- (g) “Policy” means an individual or group policy, group certificate, contract, or arrangement of life insurance that affects the rights of a resident of the State or that bears a reasonable relation to the State, regardless of whether delivered or issued for delivery in the State.

(h) “Related provider trust” means a titling trust or other trust that:

(1) is established by a registered viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction; and

(2) has a written agreement with the registered viatical settlement provider under which:

(i) the viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements; and

(ii) the trust agrees to make all records and files related to viatical settlement transactions available to the Commissioner as if those records and files were maintained directly by the registered viatical settlement provider.

(i) “Special purpose entity” means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or a registered viatical settlement provider.

(j) “Terminally ill” means that an individual has an illness or sickness that can reasonably be expected to result in death in 24 months or less.

(k) (1) “Viatical settlement broker” means an insurance producer who:

(i) is licensed under Title 10, Subtitle 1 of this article to sell life insurance; and

(ii) on behalf of a viator and for a fee, commission, or other valuable consideration offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers.

(2) “Viatical settlement broker” does not include an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider.

(l) (1) “Viatical settlement contract” means a written agreement that establishes the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of the policy, in return for the viator’s assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any part of the policy.

(2) “Viatical settlement contract” includes:

(i) a contract for a loan or other financing transaction with a viator secured primarily by a policy, other than a loan by a life insurer under the terms of the

policy or a loan secured by the cash value of a policy; and

(ii) an agreement with a viator to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator.

(3) “Viatical settlement contract” does not include a contract entered into or effectuated between a viatical settlement provider and a financing entity, a related provider trust, or a special purpose entity.

(m) (1) “Viatical settlement provider” means a person, other than a viator, that enters into or effectuates a viatical settlement contract.

(2) “Viatical settlement provider” does not include an individual who enters into or effectuates no more than one agreement in a calendar year for the transfer of policies for any value less than the expected death benefit.

(n) “Viaticated policy” means a policy that has been acquired by a viatical settlement provider under a viatical settlement contract.

(o) (1) “Viator” means the owner or certificate holder of a policy who enters or seeks to enter into a viatical settlement contract.

(2) “Viator” does not include an accredited investor or qualified institutional buyer, as defined in Regulation D, Rule 501, or Rule 144A of the Federal Securities Act of 1933.

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