

HOUSE BILL 217

Unofficial Copy
C4
SB 742/01 - FIN

2002 Regular Session
2r1104
CF 2r0716

By: **Delegate Brown**

Introduced and read first time: January 18, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Viatical Settlement Providers and Viatical Settlement Brokers**

3 FOR the purpose of requiring viatical settlement providers and viatical settlement
4 brokers to register with the Insurance Commissioner under certain
5 circumstances; providing that this Act applies only to certain contracts between
6 viators and viatical settlement providers; establishing certain registration
7 requirements; requiring viatical settlement providers and viatical settlement
8 brokers to make certain disclosures in a certain manner to viators under certain
9 circumstances; providing for renewal of registrations; authorizing the Insurance
10 Commissioner to deny a registration to an applicant or refuse to renew, suspend,
11 or revoke a registration under certain circumstances; authorizing the
12 Commissioner to impose a certain penalty or require restitution under certain
13 circumstances; establishing certain violations of this Act; allowing viatical
14 settlement providers and viatical settlement brokers transacting business in
15 this State on the effective date of this Act to continue to transact business in this
16 State without being registered until a certain time under certain circumstances;
17 defining certain terms; and generally relating to viatical settlement providers
18 and viatical settlement brokers under insurance.

19 BY adding to

20 Article - Insurance

21 Section 8-601 through 8-610, inclusive, to be under the new subtitle "Subtitle 6.

22 Viatical Settlement Providers and Viatical Settlement Brokers"

23 Annotated Code of Maryland

24 (1997 Volume and 2001 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

26 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Insurance

2

SUBTITLE 6. VIATICAL SETTLEMENT PROVIDERS AND VIATICAL SETTLEMENT
BROKERS.

3

4 8-601.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "CREDIT ENHANCER" INCLUDES AN AUTHORIZED INSURER THAT
8 PROVIDES TO A VIATICAL SETTLEMENT PROVIDER STOP LOSS COVERAGE, AN
9 ANNUITY POLICY, AN INSURANCE POLICY, OR SIMILAR COVERAGE.

10 (C) "FINANCING ENTITY" MEANS A PERSON:

11 (1) THAT IS AN UNDERWRITER, A PLACEMENT AGENT, A LENDER, A
12 PURCHASER OF SECURITIES, A PURCHASER OF A POLICY OR CERTIFICATE FROM A
13 VIATICAL SETTLEMENT PROVIDER, A CREDIT ENHANCER, OR AN ENTITY THAT HAS A
14 DIRECT OWNERSHIP INTEREST IN A POLICY OR CERTIFICATE THAT IS THE SUBJECT
15 OF A VIATICAL SETTLEMENT CONTRACT; AND

16 (2) (I) WHOSE PRINCIPAL ACTIVITY RELATED TO THE TRANSACTION
17 IS PROVIDING FUNDS TO EFFECT THE VIATICAL SETTLEMENT OR PURCHASE OF ONE
18 OR MORE VIATICATED POLICIES;

19 (II) THAT HAS AN AGREEMENT IN WRITING WITH ONE OR MORE
20 REGISTERED VIATICAL SETTLEMENT PROVIDERS TO FINANCE THE ACQUISITION OF
21 VIATICAL SETTLEMENT CONTRACTS; OR

22 (III) THAT IS A QUALIFIED INSTITUTIONAL BUYER, AS THAT TERM IS
23 DEFINED IN RULE 144A OF THE FEDERAL SECURITIES ACT OF 1933.

24 (D) "POLICY" MEANS AN INDIVIDUAL OR GROUP POLICY, GROUP CERTIFICATE,
25 CONTRACT, OR ARRANGEMENT OF LIFE INSURANCE THAT AFFECTS THE RIGHTS OF A
26 RESIDENT OF THE STATE OR THAT BEARS A REASONABLE RELATION TO THE STATE,
27 REGARDLESS OF WHETHER DELIVERED OR ISSUED FOR DELIVERY IN THE STATE.

28 (E) "RELATED PROVIDER TRUST" MEANS A TITLING TRUST OR OTHER TRUST
29 THAT:

30 (1) IS ESTABLISHED BY A REGISTERED VIATICAL SETTLEMENT
31 PROVIDER OR A FINANCING ENTITY FOR THE SOLE PURPOSE OF HOLDING THE
32 OWNERSHIP OR BENEFICIAL INTEREST IN PURCHASED POLICIES IN CONNECTION
33 WITH A FINANCING TRANSACTION; AND

34 (2) HAS A WRITTEN AGREEMENT WITH THE REGISTERED VIATICAL
35 SETTLEMENT PROVIDER UNDER WHICH:

1 (I) THE VIATICAL SETTLEMENT PROVIDER IS RESPONSIBLE FOR
2 ENSURING COMPLIANCE WITH ALL STATUTORY AND REGULATORY REQUIREMENTS;
3 AND

4 (II) THE TRUST AGREES TO MAKE ALL RECORDS AND FILES
5 RELATED TO VIATICAL SETTLEMENT TRANSACTIONS AVAILABLE TO THE
6 COMMISSIONER AS IF THOSE RECORDS AND FILES WERE MAINTAINED DIRECTLY BY
7 THE REGISTERED VIATICAL SETTLEMENT PROVIDER.

8 (F) "SPECIAL PURPOSE ENTITY" MEANS A CORPORATION, PARTNERSHIP,
9 TRUST, LIMITED LIABILITY COMPANY, OR OTHER SIMILAR ENTITY FORMED SOLELY
10 TO PROVIDE, EITHER DIRECTLY OR INDIRECTLY, ACCESS TO INSTITUTIONAL CAPITAL
11 MARKETS FOR A FINANCING ENTITY OR A REGISTERED VIATICAL SETTLEMENT
12 PROVIDER.

13 (G) (1) "VIATICAL SETTLEMENT BROKER" MEANS A PERSON THAT ON
14 BEHALF OF A VIATOR AND FOR A FEE, COMMISSION, OR OTHER VALUABLE
15 CONSIDERATION OFFERS OR ATTEMPTS TO NEGOTIATE VIATICAL SETTLEMENT
16 CONTRACTS BETWEEN A VIATOR AND ONE OR MORE VIATICAL SETTLEMENT
17 PROVIDERS.

18 (2) "VIATICAL SETTLEMENT BROKER" DOES NOT INCLUDE AN
19 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, OR FINANCIAL PLANNER ACCREDITED
20 BY A NATIONALLY RECOGNIZED ACCREDITATION AGENCY, WHO IS RETAINED TO
21 REPRESENT THE VIATOR AND WHOSE COMPENSATION IS NOT PAID DIRECTLY OR
22 INDIRECTLY BY THE VIATICAL SETTLEMENT PROVIDER.

23 (H) (1) "VIATICAL SETTLEMENT CONTRACT" MEANS A WRITTEN
24 AGREEMENT THAT ESTABLISHES THE TERMS UNDER WHICH COMPENSATION OR
25 ANYTHING OF VALUE WILL BE PAID, WHICH COMPENSATION OR VALUE IS LESS
26 THAN THE EXPECTED DEATH BENEFIT OF THE POLICY, IN RETURN FOR THE
27 VIATOR'S ASSIGNMENT, TRANSFER, SALE, DEVISE, OR BEQUEST OF THE DEATH
28 BENEFIT OR OWNERSHIP OF ANY PART OF THE POLICY.

29 (2) "VIATICAL SETTLEMENT CONTRACT" INCLUDES:

30 (I) A CONTRACT FOR A LOAN OR OTHER FINANCING TRANSACTION
31 WITH A VIATOR SECURED PRIMARILY BY A POLICY, OTHER THAN A LOAN BY A LIFE
32 INSURER UNDER THE TERMS OF THE POLICY OR A LOAN SECURED BY THE CASH
33 VALUE OF A POLICY; AND

34 (II) AN AGREEMENT WITH A VIATOR TO TRANSFER OWNERSHIP OR
35 CHANGE THE BENEFICIARY DESIGNATION AT A LATER DATE REGARDLESS OF THE
36 DATE THAT COMPENSATION IS PAID TO THE VIATOR.

37 (3) "VIATICAL SETTLEMENT CONTRACT" DOES NOT INCLUDE A
38 CONTRACT ENTERED INTO OR EFFECTUATED BETWEEN A VIATICAL SETTLEMENT
39 PROVIDER AND A FINANCING ENTITY, A RELATED PROVIDER TRUST, OR A SPECIAL
40 PURPOSE ENTITY.

1 (I) (1) "VIATICAL SETTLEMENT PROVIDER" MEANS A PERSON, OTHER THAN
2 A VIATOR, THAT ENTERS INTO OR EFFECTUATES A VIATICAL SETTLEMENT
3 CONTRACT.

4 (2) "VIATICAL SETTLEMENT PROVIDER" DOES NOT INCLUDE AN
5 INDIVIDUAL WHO ENTERS INTO OR EFFECTUATES NO MORE THAN ONE AGREEMENT
6 IN A CALENDAR YEAR FOR THE TRANSFER OF POLICIES FOR ANY VALUE LESS THAN
7 THE EXPECTED DEATH BENEFIT.

8 (J) "VIATICATED POLICY" MEANS A POLICY THAT HAS BEEN ACQUIRED BY A
9 VIATICAL SETTLEMENT PROVIDER UNDER A VIATICAL SETTLEMENT CONTRACT.

10 (K) (1) "VIATOR" MEANS THE OWNER OR CERTIFICATE HOLDER OF A POLICY
11 WHO ENTERS OR SEEKS TO ENTER INTO A VIATICAL SETTLEMENT CONTRACT.

12 (2) "VIATOR" DOES NOT INCLUDE AN ACCREDITED INVESTOR OR
13 QUALIFIED INSTITUTIONAL BUYER, AS DEFINED IN REGULATION D, RULE 501, OR
14 RULE 144A OF THE FEDERAL SECURITIES ACT.

15 8-602.

16 THIS SUBTITLE APPLIES ONLY TO A VIATICAL SETTLEMENT CONTRACT
17 BETWEEN A VIATOR AND A VIATICAL SETTLEMENT PROVIDER.

18 8-603.

19 (A) A PERSON MUST REGISTER WITH THE COMMISSIONER BEFORE THE
20 PERSON ACTS AS OR REPRESENTS ITSELF AS A VIATICAL SETTLEMENT PROVIDER OR
21 VIATICAL SETTLEMENT BROKER IN THE STATE.

22 (B) EMPLOYEES AND AGENTS OF A REGISTERED VIATICAL SETTLEMENT
23 PROVIDER OR A REGISTERED VIATICAL SETTLEMENT BROKER MAY NOT BE
24 REQUIRED TO BE SEPARATELY REGISTERED EXCEPT IN ACCORDANCE WITH
25 REGULATIONS ADOPTED BY THE COMMISSIONER.

26 8-604.

27 AN APPLICANT FOR REGISTRATION SHALL:

28 (1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM
29 THAT THE COMMISSIONER REQUIRES; AND

30 (2) PAY TO THE COMMISSIONER A REGISTRATION FEE OF \$250.

31 8-605.

32 (A) NOTWITHSTANDING THE MANNER IN WHICH THE VIATICAL SETTLEMENT
33 BROKER IS COMPENSATED, A VIATICAL SETTLEMENT BROKER IS DEEMED TO
34 REPRESENT ONLY THE VIATOR AND OWES A FIDUCIARY DUTY TO THE VIATOR TO
35 ACT ACCORDING TO THE VIATOR'S INSTRUCTIONS AND IN THE BEST INTEREST OF
36 THE VIATOR.

1 (B) FOR PURPOSES OF THIS SUBTITLE, A VIATOR MAY NOT BE LIMITED TO AN
2 OWNER OR CERTIFICATE HOLDER OF A POLICY THAT INSURES THE LIFE OF AN
3 INDIVIDUAL WITH A TERMINAL OR CHRONIC ILLNESS OR CONDITION.

4 8-606.

5 (A) BEFORE AN OFFER TO PURCHASE A POLICY CAN BE MADE TO A VIATOR, A
6 VIATICAL SETTLEMENT PROVIDER SHALL:

7 (1) PROVIDE THE VIATOR WITH A DISCLOSURE STATEMENT THAT:

8 (I) CONTAINS THE DISCLOSURES REQUIRED IN SUBSECTIONS (B)
9 AND (C) OF THIS SECTION; AND

10 (II) HAS BEEN SIGNED BY THE VIATICAL SETTLEMENT PROVIDER;
11 AND

12 (2) RECEIVE FROM THE VIATOR THE DISCLOSURE STATEMENT SIGNED
13 BY THE VIATOR.

14 (B) BEFORE AN OFFER TO PURCHASE A POLICY CAN BE MADE TO THE VIATOR,
15 A VIATICAL SETTLEMENT PROVIDER SHALL PROVIDE TO THE VIATOR A DISCLOSURE
16 STATEMENT THAT CONTAINS THE FOLLOWING DISCLOSURES:

17 (1) THERE ARE POSSIBLE ALTERNATIVES TO VIATICAL SETTLEMENT
18 CONTRACTS, INCLUDING ANY ACCELERATED DEATH BENEFITS OR POLICY LOANS
19 OFFERED UNDER THE VIATOR'S POLICY;

20 (2) SOME OR ALL OF THE PROCEEDS OF THE VIATICAL SETTLEMENT
21 MAY BE TAXABLE UNDER FEDERAL OR STATE INCOME TAX LAW, AND ASSISTANCE
22 SHOULD BE SOUGHT FROM A PROFESSIONAL TAX ADVISER;

23 (3) PROCEEDS OF THE VIATICAL SETTLEMENT COULD BE SUBJECT TO
24 THE CLAIMS OF CREDITORS;

25 (4) RECEIPT OF THE PROCEEDS OF A VIATICAL SETTLEMENT MAY
26 ADVERSELY AFFECT THE VIATOR'S ELIGIBILITY FOR MEDICAID OR OTHER
27 GOVERNMENT BENEFITS OR ENTITLEMENTS, AND ADVICE SHOULD BE OBTAINED
28 FROM THE APPROPRIATE GOVERNMENT AGENCIES;

29 (5) (I) THE VIATOR HAS THE RIGHT TO RESCIND A VIATICAL
30 SETTLEMENT CONTRACT FOR 15 CALENDAR DAYS AFTER RECEIPT OF THE VIATICAL
31 SETTLEMENT PROCEEDS BY THE VIATOR, SUBJECT TO REPAYMENT OF ALL VIATICAL
32 SETTLEMENT PROCEEDS AND ANY PREMIUMS AND LOAN INTEREST PAID BY THE
33 VIATICAL SETTLEMENT PROVIDER; AND

34 (II) IF THE INSURED DIES DURING THE RESCISSION PERIOD, THE
35 VIATICAL SETTLEMENT CONTRACT SHALL BE DEEMED TO HAVE BEEN RESCINDED,
36 SUBJECT TO REPAYMENT OF ALL VIATICAL SETTLEMENT PROCEEDS AND ANY
37 PREMIUMS, LOANS, AND LOAN INTEREST TO THE VIATICAL SETTLEMENT PROVIDER;

1 (6) FUNDS WILL BE SENT TO THE VIATOR WITHIN 3 BUSINESS DAYS
2 AFTER THE VIATICAL SETTLEMENT PROVIDER HAS RECEIVED THE INSURER'S OR
3 GROUP ADMINISTRATOR'S ACKNOWLEDGMENT THAT OWNERSHIP OF OR INTEREST
4 IN THE POLICY HAS BEEN TRANSFERRED AND THE BENEFICIARY HAS BEEN
5 DESIGNATED;

6 (7) ENTERING INTO A VIATICAL SETTLEMENT CONTRACT MAY CAUSE
7 OTHER RIGHTS OR BENEFITS, INCLUDING CONVERSION RIGHTS AND WAIVER OF
8 PREMIUM BENEFITS THAT MAY EXIST UNDER THE POLICY, TO BE FORFEITED BY THE
9 VIATOR, AND ASSISTANCE SHOULD BE SOUGHT FROM A FINANCIAL ADVISER; AND

10 (8) (I) THE INSURED MAY BE CONTACTED BY EITHER THE VIATICAL
11 SETTLEMENT PROVIDER OR THE VIATICAL SETTLEMENT BROKER OR ITS
12 AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF DETERMINING THE
13 INSURED'S HEALTH STATUS; AND

14 (II) THIS CONTACT IS LIMITED TO:

15 1. ONCE EVERY 3 MONTHS IF THE INSURED HAS A LIFE
16 EXPECTANCY OF MORE THAN 1 YEAR; AND

17 2. NOT MORE THAN ONCE PER MONTH IF THE INSURED HAS
18 A LIFE EXPECTANCY OF 1 YEAR OR LESS.

19 (C) (1) DISCLOSURE TO A VIATOR SHALL ALSO INCLUDE DISTRIBUTION OF A
20 BROCHURE THAT DESCRIBES THE PROCESS OF VIATICAL SETTLEMENTS.

21 (2) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
22 FORM FOR THE BROCHURE SHALL BE USED UNLESS A BROCHURE IS DEVELOPED BY
23 THE COMMISSIONER.

24 (D) THE DISCLOSURE DOCUMENT SHALL CONTAIN THE FOLLOWING
25 LANGUAGE: "ALL MEDICAL, FINANCIAL, OR PERSONAL INFORMATION SOLICITED OR
26 OBTAINED BY A VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT
27 BROKER ABOUT AN INSURED, INCLUDING THE INSURED'S IDENTITY OR THE
28 IDENTITY OF FAMILY MEMBERS, A SPOUSE, OR A SIGNIFICANT OTHER MAY BE
29 DISCLOSED AS NECESSARY TO EFFECT THE VIATICAL SETTLEMENT BETWEEN THE
30 VIATOR AND THE VIATICAL SETTLEMENT PROVIDER. IF YOU ARE ASKED TO PROVIDE
31 THIS INFORMATION, YOU WILL BE ASKED TO CONSENT TO THE DISCLOSURE. THE
32 INFORMATION MAY BE PROVIDED TO SOMEONE WHO BUYS THE POLICY OR
33 PROVIDES FUNDS FOR THE PURCHASE. YOU MAY BE ASKED TO RENEW YOUR
34 PERMISSION TO SHARE INFORMATION EVERY 2 YEARS."

35 (E) A VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT BROKER
36 SHALL PROVIDE THE VIATOR WITH A COPY OF THE DISCLOSURE STATEMENT SIGNED
37 BY THE VIATOR AND THE VIATICAL SETTLEMENT PROVIDER OR VIATICAL
38 SETTLEMENT BROKER, AT THE TIME THAT AN APPLICATION FOR A VIATICAL
39 SETTLEMENT CONTRACT IS PROVIDED TO THE VIATOR.

1 (F) (1) A VIATICAL SETTLEMENT PROVIDER SHALL PROVIDE THE VIATOR
2 WITH AT LEAST THE DISCLOSURES REQUIRED BY THIS SUBSECTION NO LATER THAN
3 THE DATE THAT THE VIATICAL SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES.

4 (2) THE DISCLOSURES SHALL BE CONSPICUOUSLY DISPLAYED IN THE
5 VIATICAL SETTLEMENT CONTRACT OR IN A SEPARATE DOCUMENT SIGNED BY THE
6 VIATOR AND THE VIATICAL SETTLEMENT PROVIDER OR VIATICAL SETTLEMENT
7 BROKER.

8 (3) THE DISCLOSURES REQUIRED UNDER THIS SUBSECTION SHALL
9 PROVIDE THE FOLLOWING INFORMATION:

10 (I) A STATEMENT OF THE AFFILIATION, IF ANY, BETWEEN THE
11 VIATICAL SETTLEMENT BROKER, VIATICAL SETTLEMENT PROVIDER, AND THE
12 INSURER THAT ISSUED THE POLICY TO BE VIATICATED;

13 (II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
14 VIATICAL SETTLEMENT PROVIDER;

15 (III) A DISCLOSURE BY THE VIATICAL SETTLEMENT BROKER OF THE
16 AMOUNT AND METHOD OF CALCULATING THE VIATICAL SETTLEMENT BROKER'S
17 COMPENSATION, INCLUDING ANYTHING OF VALUE PAID OR GIVEN TO A VIATICAL
18 SETTLEMENT BROKER FOR THE PLACEMENT OF A POLICY;

19 (IV) IF THE POLICY TO BE VIATICATED HAS BEEN ISSUED AS A
20 JOINT POLICY OR INVOLVES FAMILY RIDERS OR ANY COVERAGE OF A LIFE OTHER
21 THAN THE INSURED UNDER THE POLICY TO BE VIATICATED, THE VIATOR SHALL BE
22 INFORMED OF THE POSSIBLE LOSS OF COVERAGE ON THE OTHER LIVES UNDER THE
23 POLICY AND SHALL BE ADVISED TO CONSULT WITH AN INSURANCE PRODUCER OR
24 THE INSURER ISSUING THE POLICY FOR ADVICE ON THE PROPOSED VIATICAL
25 SETTLEMENT;

26 (V) 1. THE DOLLAR AMOUNT OF THE CURRENT DEATH BENEFIT
27 PAYABLE TO THE VIATICAL SETTLEMENT PROVIDER UNDER THE POLICY; AND

28 2. IF KNOWN, THE AVAILABILITY OF ANY ADDITIONAL
29 GUARANTEED INSURANCE BENEFITS, THE DOLLAR AMOUNT OF ANY ACCIDENTAL
30 DEATH AND DISMEMBERMENT BENEFITS UNDER THE POLICY, AND THE VIATICAL
31 SETTLEMENT PROVIDER'S INTEREST IN THOSE BENEFITS; AND

32 (VI) 1. THE NAME, BUSINESS ADDRESS, AND TELEPHONE
33 NUMBER OF THE INDEPENDENT THIRD PARTY ESCROW AGENT; AND

34 2. THE FACT THAT THE VIATOR OR OWNER MAY INSPECT OR
35 RECEIVE COPIES OF THE RELEVANT ESCROW OR TRUST AGREEMENTS OR
36 DOCUMENTS.

37 (G) IF THE VIATICAL SETTLEMENT PROVIDER TRANSFERS OWNERSHIP OR
38 CHANGES THE BENEFICIARY OF THE POLICY, THE VIATICAL SETTLEMENT PROVIDER

1 SHALL COMMUNICATE THE CHANGE IN OWNERSHIP OR BENEFICIARY TO THE
2 INSURED WITHIN 20 DAYS AFTER THE CHANGE.

3 8-607.

4 (A) A REGISTRATION EXPIRES AT THE END OF EVERY OTHER YEAR ON THE
5 ANNIVERSARY OF THE REGISTRATION UNLESS IT IS RENEWED AS PROVIDED IN THIS
6 SECTION.

7 (B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR
8 AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

9 (1) OTHERWISE IS ENTITLED TO BE REGISTERED;

10 (2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE
11 FORM THAT THE COMMISSIONER REQUIRES; AND

12 (3) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$50.

13 (C) AN APPLICATION FOR RENEWAL OF A REGISTRATION SHALL BE
14 CONSIDERED MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE THE
15 ANNIVERSARY DATE OF THE REGISTRATION OF THE YEAR OF RENEWAL.

16 8-608.

17 SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE
18 COMMISSIONER MAY DENY A REGISTRATION TO AN APPLICANT OR REFUSE TO
19 RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A REGISTRANT IF THE
20 APPLICANT OR REGISTRANT:

21 (1) KNOWINGLY MAKES A MATERIAL MISSTATEMENT IN AN
22 APPLICATION FOR REGISTRATION;

23 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
24 OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;

25 (3) HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR
26 INVOLVING MORAL TURPITUDE;

27 (4) IN CONNECTION WITH THE VIATICAL SETTLEMENT CONTRACT AND
28 RELATED INSURANCE APPLICATION, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR
29 DISHONEST ACTIVITIES;

30 (5) HAS OTHERWISE SHOWN A LACK OF TRUSTWORTHINESS OR
31 COMPETENCE TO ACT AS A VIATICAL SETTLEMENT BROKER OR VIATICAL
32 SETTLEMENT PROVIDER; OR

33 (6) VIOLATES ANY PROVISION OF THIS SUBTITLE OR A REGULATION
34 ADOPTED UNDER IT.

1 8-609.

2 INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A REGISTRATION,
3 THE COMMISSIONER MAY:

4 (1) IMPOSE ON THE HOLDER A PENALTY NOT EXCEEDING \$125,000 FOR
5 EACH VIOLATION OF THIS SUBTITLE; AND

6 (2) REQUIRE THE HOLDER TO MAKE RESTITUTION TO ANY PERSON
7 THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS
8 SUBTITLE.

9 8-610.

10 IT IS A VIOLATION OF THIS SUBTITLE FOR A VIATICAL SETTLEMENT BROKER OR
11 VIATICAL SETTLEMENT PROVIDER TO:

12 (1) VIOLATE ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION
13 ADOPTED UNDER THIS SUBTITLE;

14 (2) FAIL TO REGISTER WITH THE COMMISSIONER IN ACCORDANCE WITH
15 THIS SUBTITLE BEFORE ACTING OR REPRESENTING ITSELF AS A VIATICAL
16 SETTLEMENT BROKER OR VIATICAL SETTLEMENT PROVIDER;

17 (3) FAIL TO PROVIDE A VIATOR WITH A DISCLOSURE STATEMENT IN
18 ACCORDANCE WITH THIS SUBTITLE;

19 (4) FAIL TO ALLOW A VIATOR TO RESCIND A VIATICAL SETTLEMENT
20 CONTRACT UP TO AT LEAST 15 CALENDAR DAYS AFTER THE RECEIPT OF THE
21 VIATICAL SETTLEMENT PROCEEDS BY THE VIATOR; AND

22 (5) FAIL TO DELIVER TO A VIATOR THE VIATICAL SETTLEMENT
23 PROCEEDS IN ACCORDANCE WITH THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall
25 affect the jurisdiction of the Securities Commissioner of the Office of the Attorney
26 General of Maryland.

27 SECTION 3. AND BE IT FURTHER ENACTED, That, in the absence of an
28 order by the Insurance Commissioner to the contrary, a viatical settlement provider
29 or a viatical settlement broker transacting business in this State on the effective date
30 of this Act may continue to transact business in this State without being registered,
31 as required under Section 1 of this Act, until the Insurance Commissioner approves or
32 disapproves the viatical settlement provider's or viatical settlement broker's
33 application for registration if:

34 (a) the viatical settlement provider or viatical settlement broker applies for
35 registration no later than 30 days after the date the Insurance Commissioner makes
36 available viatical settlement provider or viatical settlement broker registration
37 applications; and

1 (b) the viatical settlement provider or viatical settlement broker complies with
2 all other provisions of this Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2002.