

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 1386
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Donoghue” and substitute “Donoghue, Benson, Boteler, Bromwell, Elliott, Frank, Hubbard, Kach, Kohl, Kullen, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon”; strike beginning with “requiring” in line 3 down through “requirements;” in line 6; strike beginning with “before” in line 7 down through “viator” in line 8 and substitute “at the time of each application for a viatical settlement”; strike beginning with “requiring” in line 8 down through “circumstances;” in line 14; in line 16, strike “relationship” and substitute “contract”; strike beginning with “prohibiting” in line 18 down through “signed;” in line 20 and substitute “altering a certain disclosure requirement relating to a viatical settlement broker’s compensation; requiring a certain brochure to include a description of a certain fiduciary duty;”; in line 25, after “regulation;” insert “providing that nothing in this Act shall affect the jurisdiction of the Securities Commissioner of the Office of the Attorney General;”; in line 29, strike “8-604.1.”; in the same line, strike the second comma; and after line 31, insert:

“BY repealing and reenacting, with amendments,

Article - Insurance

Section 8-606(c) and (f)(3)

Annotated Code of Maryland

(2003 Replacement Volume and 2005 Supplement)”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 2 through 7, inclusive; in line 9, strike “BEFORE PERFORMING SERVICES TO PLACE A POLICY FOR A VIATOR” and substitute “AT THE TIME OF EACH APPLICATION FOR A VIATICAL SETTLEMENT”; in line 11, strike the colon and substitute “A DESCRIPTION OF THE SERVICES REQUIRED BY STATUTE TO BE PROVIDED BY THE VIATICAL SETTLEMENT BROKER TO THE VIATOR.”; strike in their entirety lines 12 through 27, inclusive; in line 28, strike “(C)” and substitute “(B)”; in the same line, strike the colon and substitute “PURCHASE A POLICY THAT IS THE SUBJECT OF A

(Over)

VIATICAL SETTLEMENT BROKERAGE CONTRACT BETWEEN THE VIATICAL
SETTLEMENT BROKER AND A VIATOR DIRECTLY OR INDIRECTLY THROUGH:

(1) A PERSON OWNING OR CONTROLLING AN INTEREST IN THE
VIATICAL SETTLEMENT BROKER; OR

(2) A PERSON IN WHICH ANY INTEREST IS OWNED OR CONTROLLED
BY THE VIATICAL SETTLEMENT BROKER.”;

strike in their entirety lines 29 through 35, inclusive; in line 36 strike “(D)” and substitute “(C)”; in the same line, strike “(1)”; and in line 37, strike “WRITTEN”.

AMENDMENT NO. 3

On page 3, in line 1, strike “48” and substitute “72”; after line 2, insert:

“(D) (1) A VIATICAL SETTLEMENT BROKER SHALL PROVIDE TO THE
VIATOR A WRITTEN DISCLOSURE OF THE AMOUNT AND METHOD OF CALCULATING
THE VIATICAL SETTLEMENT BROKER’S COMPENSATION, INCLUDING ANYTHING OF
VALUE RECEIVED BY A VIATICAL SETTLEMENT BROKER FOR THE PLACEMENT OF A
POLICY.

(2) A VIATICAL SETTLEMENT BROKER SHALL PROVIDE THE
DISCLOSURE REQUIRED UNDER THIS SUBSECTION NO LATER THAN 72 HOURS
BEFORE THE VIATICAL SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES TO THE
CONTRACT.”;

strike in their entirety lines 3 through 5, inclusive; after line 5, insert:

“8-606.

(c) (1) Disclosure to a viator also shall include distribution of a brochure that
describes the process of viatical settlements AND CONTAINS A DESCRIPTION OF THE
STATUTORY FIDUCIARY DUTY OF A VIATICAL SETTLEMENT BROKER TO A VIATOR.

(2) The National Association of Insurance Commissioners form for the brochure

shall be used unless a brochure is:

(i) developed by the Commissioner; or

(ii) developed by a viatical settlement broker or viatical settlement provider and approved by the Commissioner.

(f) (3) The disclosures required under this subsection shall provide the following information:

(i) a statement of the affiliation, if any, between the viatical settlement broker, viatical settlement provider, and the insurer that issued the policy to be viaticated;

(ii) the name, address, and telephone number of the viatical settlement provider;

(iii) [a disclosure by the viatical settlement broker of the amount and method of calculating the viatical settlement broker's compensation, including anything of value paid or given to a viatical settlement broker for the placement of a policy;

(iv)] if the policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with an insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement;

[(v)] (IV) 1. the dollar amount of the current death benefit payable to the viatical settlement provider under the policy; and

2. if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the viatical settlement provider's interest in those benefits; and

(Over)

- ~~[(vi)]~~ (V) 1. the name, business address, and telephone number of the independent third party escrow agent; and
2. the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.”;

in line 10, after “INTENDS” insert “, AT THE TIME OF THE REQUEST,”; strike beginning with “THE” in line 21 down through “SERVICES” in line 24 and substitute “\$50”; strike beginning with “THAT” in line 31 down through “COMMISSIONERS” in line 33; after line 33, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the initial “Verification of Coverage for Life Insurance Policies” form required under § 8-610.1 of the Insurance Article, as enacted by Section 1 of this Act, shall be the form that appears in Appendix B of the Viatical Settlements Model Regulation adopted by the National Association of Insurance Commissioners.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall affect the jurisdiction of the Securities Commissioner of the Office of the Attorney General.”;

and in line 34, strike “2.” and substitute “4.”.