
By: **Senators Kelley, Middleton, Astle, Della, and Exum**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Viatical Settlements**

3 FOR the purpose of requiring the Maryland Insurance Commissioner to develop a
4 course of continuing education in viaticals; providing that credits received by a
5 viatical settlement broker in the course may be used to satisfy certain
6 continuing education requirements; requiring a viatical settlement broker to
7 provide a written disclosure to a viator before performing certain services for a
8 viator; specifying certain contents of the written disclosure; requiring a viatical
9 settlement broker, before entering into a viatical settlement brokerage
10 relationship with a viator, to make a reasonable attempt to verify the accuracy
11 and completeness of certain representations made by the viator under certain
12 circumstances; prohibiting a viatical settlement broker from paying certain fees,
13 commissions, or other compensation to another viatical settlement broker under
14 certain circumstances; prohibiting a viatical settlement broker from purchasing,
15 directly or indirectly, a policy that is the subject of a viatical settlement
16 brokerage relationship between the viatical settlement broker and a viator;
17 requiring a viatical settlement broker to submit certain offers, counter-offers,
18 acceptances, and rejections to a viator within a certain time period; prohibiting
19 a viatical settlement broker from soliciting other offers for a viator's policy after
20 a certain contract is signed; requiring an insurer to respond to a certain request
21 for verification of coverage within a certain time period under certain
22 circumstances; establishing a certain limit on the fee an insurer may charge to
23 respond to the request; authorizing an insurer to send an acknowledgment of
24 receipt of the request to certain persons; requiring the Commissioner to adopt a
25 certain form by regulation; and generally relating to viatical settlements and
26 viatical settlement brokers.

27 BY adding to

28 Article - Insurance

29 Section 8-604.1, 8-605.1, and 8-610.1

30 Annotated Code of Maryland

31 (2003 Replacement Volume and 2005 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
33 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Insurance

2 8-604.1.

3 (A) THE COMMISSIONER SHALL DEVELOP A COURSE OF CONTINUING
4 EDUCATION IN VIATICALS.

5 (B) CREDITS RECEIVED BY A VIATICAL SETTLEMENT BROKER IN THE COURSE
6 MAY BE USED TO SATISFY THE VIATICAL SETTLEMENT BROKER'S CONTINUING
7 EDUCATION REQUIREMENTS UNDER § 10-116 OF THIS ARTICLE.

8 8-605.1.

9 (A) BEFORE PERFORMING SERVICES TO PLACE A POLICY FOR A VIATOR, A
10 VIATICAL SETTLEMENT BROKER SHALL PROVIDE TO THE VIATOR A WRITTEN
11 DISCLOSURE THAT, AT A MINIMUM, CONTAINS:

12 (1) A DESCRIPTION OF THE SERVICES TO BE PROVIDED BY THE
13 VIATICAL SETTLEMENT BROKER;

14 (2) A DESCRIPTION OF ALL FEES, COMMISSIONS, OR OTHER
15 COMPENSATION TO BE PAID BY THE VIATOR TO THE VIATICAL SETTLEMENT BROKER
16 FOR THE SERVICES TO BE PROVIDED; AND

17 (3) THE DURATION OF THE VIATICAL SETTLEMENT BROKERAGE
18 RELATIONSHIP.

19 (B) BEFORE ENTERING INTO A VIATICAL SETTLEMENT BROKERAGE
20 RELATIONSHIP WITH A VIATOR FOR THE PLACEMENT OF A POLICY, A VIATICAL
21 SETTLEMENT BROKER, AFTER OBTAINING WRITTEN CONSENT OF THE VIATOR FOR
22 THE RELEASE OF CONFIDENTIAL INSURANCE AND MEDICAL INFORMATION TO THE
23 VIATICAL SETTLEMENT BROKER, SHALL MAKE A REASONABLE ATTEMPT TO VERIFY,
24 THROUGH THE CONFIDENTIAL INSURANCE AND MEDICAL INFORMATION RELEASED
25 TO THE VIATICAL SETTLEMENT BROKER, THE ACCURACY AND COMPLETENESS OF
26 ANY REPRESENTATIONS MADE BY THE VIATOR REGARDING THE POLICY AND THE
27 VIATOR'S HEALTH.

28 (C) A VIATICAL SETTLEMENT BROKER MAY NOT:

29 (1) PAY A FEE, COMMISSION, OR OTHER COMPENSATION TO ANOTHER
30 VIATICAL SETTLEMENT BROKER WITHOUT DISCLOSING THE FEE, COMMISSION, OR
31 OTHER COMPENSATION TO THE VIATOR AND OBTAINING THE VIATOR'S PRIOR
32 WRITTEN CONSENT TO THE PAYMENT; OR

33 (2) PURCHASE, DIRECTLY OR INDIRECTLY, A POLICY THAT IS THE
34 SUBJECT OF A VIATICAL SETTLEMENT BROKERAGE RELATIONSHIP BETWEEN THE
35 VIATICAL SETTLEMENT BROKER AND A VIATOR.

36 (D) (1) A VIATICAL SETTLEMENT BROKER SHALL SUBMIT TO THE VIATOR
37 ALL WRITTEN OFFERS, COUNTER-OFFERS, ACCEPTANCES, AND REJECTIONS

1 RELATING TO THE PLACEMENT OF THE VIATOR'S POLICY WITHIN 48 HOURS AFTER
2 RECEIPT BY THE VIATICAL SETTLEMENT BROKER.

3 (2) AFTER A VIATICAL SETTLEMENT CONTRACT IS SIGNED BY A VIATOR
4 AND A VIATICAL SETTLEMENT PROVIDER, A VIATICAL SETTLEMENT BROKER MAY
5 NOT SOLICIT OTHER OFFERS FOR THE VIATOR'S POLICY.

6 8-610.1.

7 (A) AN INSURER SHALL RESPOND TO A REQUEST FOR VERIFICATION OF
8 COVERAGE SUBMITTED BY A VIATICAL SETTLEMENT PROVIDER OR A VIATICAL
9 SETTLEMENT BROKER UNDER THIS SUBTITLE, INCLUDING VERIFICATION OF
10 WHETHER THE INSURER INTENDS TO PURSUE AN INVESTIGATION REGARDING
11 POSSIBLE FRAUD AFFECTING THE VALIDITY OF A POLICY, WITHIN 30 DAYS AFTER
12 THE REQUEST IS RECEIVED, IF THE FOLLOWING DOCUMENTS ARE SUBMITTED WITH
13 THE REQUEST:

14 (1) AN AUTHORIZATION SIGNED BY THE VIATOR; AND

15 (2) A "VERIFICATION OF COVERAGE FOR LIFE INSURANCE POLICIES"
16 FORM ADOPTED BY THE COMMISSIONER UNDER SUBSECTION (D) OF THIS SECTION
17 THAT HAS BEEN COMPLETED BY THE VIATICAL SETTLEMENT PROVIDER OR
18 VIATICAL SETTLEMENT BROKER.

19 (B) AN INSURER MAY NOT CHARGE A FEE FOR RESPONDING TO A REQUEST
20 FOR VERIFICATION OF COVERAGE SUBMITTED BY A VIATICAL SETTLEMENT
21 PROVIDER OR A VIATICAL SETTLEMENT BROKER THAT EXCEEDS THE LESSER OF:

22 (1) \$50; OR

23 (2) THE USUAL AND CUSTOMARY FEE CHARGED TO POLICY OWNERS,
24 CERTIFICATE HOLDERS, OR INSURED FOR SIMILAR SERVICES.

25 (C) (1) AN INSURER MAY SEND AN ACKNOWLEDGMENT OF RECEIPT OF A
26 REQUEST FOR VERIFICATION OF COVERAGE TO THE VIATOR AND, IF THE VIATOR IS
27 OTHER THAN THE INSURED, TO THE INSURED.

28 (2) THE ACKNOWLEDGMENT MAY CONTAIN A GENERAL DESCRIPTION
29 OF ANY ACCELERATED DEATH BENEFIT THAT IS AVAILABLE UNDER THE POLICY.

30 (D) THE COMMISSIONER SHALL ADOPT BY REGULATION A "VERIFICATION OF
31 COVERAGE FOR LIFE INSURANCE POLICIES" FORM THAT IS SUBSTANTIALLY SIMILAR
32 TO THE FORM IN APPENDIX B OF THE VIATICAL SETTLEMENTS MODEL REGULATION
33 ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 July 1, 2006.