

1 A bill to be entitled
2 An act relating to viatical settlements; amending s.
3 626.9911, F.S.; revising definitions; defining the
4 terms "business of viatical settlements," "fraudulent
5 viatical settlement act," and "stranger-originated
6 life insurance practice"; amending s. 626.9913, F.S.;
7 requiring additional information in an annual
8 statement filed by viatical settlement provider
9 licensees; deleting an obsolete provision regarding a
10 deposit requirement; amending s. 626.9914, F.S.;
11 adding an act that warrants the imposition of
12 administrative penalties against viatical settlement
13 provider licensees; increasing the amount of
14 administrative fines that may be imposed by the Office
15 of Insurance Regulation against licensees for certain
16 violations; amending s. 626.99175, F.S.; deleting an
17 obsolete provision; deleting an exception from
18 registration requirements for life expectancy
19 providers; creating s. 626.99185, F.S.; requiring
20 viatical settlement providers to provide viators with
21 a disclosure statement before or concurrently with a
22 viator's execution of a viatical settlement contract;
23 providing requirements and procedures for such
24 disclosure statements; amending s. 626.9924, F.S.;
25 deleting a requirement to provide specified documents
26 with a notice that a policy has or will become a

27 | viaticated policy; amending s. 626.99245, F.S.;

28 | conforming a cross-reference; creating s. 626.99273,

29 | F.S.; prohibiting certain practices and conflicts of

30 | interest relating to viatical settlement contracts or

31 | insurance policies; requiring a viatical settlement

32 | provider to file certain promotional, advertising, and

33 | marketing materials with the office before entering

34 | into viatical settlement contracts; prohibiting

35 | certain references relating to the cost of life

36 | insurance policies in such materials and other

37 | specified statements and representations; amending s.

38 | 626.99275, F.S.; prohibiting a person from entering

39 | into a viatical settlement contract before a specified

40 | date except under specified circumstances, from

41 | issuing, soliciting, marketing, or otherwise promoting

42 | the purchase of a policy under certain circumstances,

43 | and from engaging in a fraudulent viatical settlement

44 | act; providing criminal penalties for a violation of

45 | such prohibitions; creating s. 626.99276, F.S.;

46 | requiring specified affidavits and other documentation

47 | to be provided to an insurer for requests to verify

48 | coverage and to transfer a policy or certificate to a

49 | viatical settlement provider; prohibiting insurers

50 | from requiring certain forms that have not been

51 | approved by the office to be signed as a condition of

52 | responding to such requests; requiring insurers to

53 | respond in writing within a specified period to
 54 | properly completed requests to change the ownership or
 55 | beneficiary of a policy; amending s. 626.99278, F.S.;
 56 | providing requirements for licensed viatical
 57 | settlement providers to maintain specified
 58 | documentation relating to anti-fraud plans and
 59 | procedures, material inconsistencies between medical
 60 | records and insurance applications, and reporting of
 61 | specified fraudulent acts and prohibited practices;
 62 | repealing s. 626.99287, F.S., relating to the
 63 | contestability of viaticated policies; creating s.
 64 | 626.99289, F.S.; providing that certain contracts,
 65 | agreements, arrangements, and transactions relating to
 66 | stranger-originated life insurance practices are void
 67 | and unenforceable; providing an effective date.

68 |
 69 | Be It Enacted by the Legislature of the State of Florida:

70 |
 71 | Section 1. Section 626.9911, Florida Statutes, is amended
 72 | to read:

73 | 626.9911 Definitions.—As used in this act, the term:

74 | (1) "Business of viatical settlements" means an activity
 75 | involved in the offering, soliciting, negotiating, procuring,
 76 | effectuating, purchasing, investing, monitoring, tracking,
 77 | underwriting, selling, transferring, assigning, pledging, or
 78 | hypothecating of, or acquiring in other manner, an interest in a

79 life insurance policy by means of a viatical settlement
 80 contract.

81 (2) "Financing entity" means an underwriter, placement
 82 agent, lender, purchaser of securities, or purchaser of a policy
 83 or certificate from a viatical settlement provider, credit
 84 enhancer, or any entity that has direct ownership in a policy or
 85 certificate that is the subject of a viatical settlement
 86 contract, but whose principal activity related to the
 87 transaction is providing funds or credit enhancement to effect
 88 the viatical settlement or the purchase of one or more
 89 viaticated policies and who has an agreement in writing with one
 90 or more licensed viatical settlement providers to finance the
 91 acquisition of viatical settlement contracts. The term does not
 92 include a nonaccredited investor or other natural person. A
 93 financing entity may not enter into a viatical settlement
 94 contract.

95 (3) "Fraudulent viatical settlement act" means an act or
 96 omission committed by a person who, knowingly or with the intent
 97 to defraud for the purpose of depriving another of property or
 98 for pecuniary gain, commits or allows an employee or agent to
 99 commit an act specified in this subsection.

100 (a) Presenting, causing to be presented, or preparing with
 101 the knowledge or belief that it will be presented to or by
 102 another person false or concealed material information as part
 103 of, in support of, or concerning a fact material to:

104 1. An application for the issuance of a viatical

- 105 settlement contract or an insurance policy;
- 106 2. The underwriting of a viatical settlement contract or
- 107 an insurance policy;
- 108 3. A claim for payment or benefit pursuant to a viatical
- 109 settlement contract or an insurance policy;
- 110 4. Premiums paid on an insurance policy;
- 111 5. Payments and changes in ownership or beneficiary made
- 112 in accordance with the terms of a viatical settlement contract
- 113 or an insurance policy;
- 114 6. The reinstatement or conversion of an insurance policy;
- 115 7. The solicitation, offer, effectuation, or sale of a
- 116 viatical settlement contract or an insurance policy;
- 117 8. The issuance of written evidence of a viatical
- 118 settlement contract or an insurance policy; or
- 119 9. A financing transaction.
- 120 (b) Employing a plan, financial structure, device, scheme,
- 121 or artifice to defraud related to viaticated policies.
- 122 (c) Engaging in a stranger-originated life insurance
- 123 practice.
- 124 (d) Failing to disclose upon request by an insurer that
- 125 the prospective insured has undergone a life expectancy
- 126 evaluation by a person other than the insurer or its authorized
- 127 representatives in connection with the issuance of the policy.
- 128 (e) Perpetuating a fraud or preventing the detection of a
- 129 fraud by:
- 130 1. Removing, concealing, altering, destroying, or

131 sequestering from the office the assets or records of a licensee
132 or other person engaged in the business of viatical settlements;

133 2. Misrepresenting or concealing the financial condition
134 of a licensee, financing entity, insurer, or other person;

135 3. Transacting in the business of viatical settlements in
136 violation of laws requiring a license, certificate of authority,
137 or other legal authority to transact such business; or

138 4. Filing with the office or the equivalent chief
139 insurance regulatory official of another jurisdiction a document
140 that contains false information or conceals information about a
141 material fact from the office or other regulatory official.

142 (f) Embezzlement, theft, misappropriation, or conversion
143 of moneys, funds, premiums, credits, or other property of a
144 viatical settlement provider, insurer, insured, viator,
145 insurance policyowner, or other person engaged in the business
146 of viatical settlements or insurance.

147 (g) Recklessly entering into, negotiating, brokering, or
148 otherwise dealing in a viatical settlement contract, the subject
149 of which is a life insurance policy that was obtained based on
150 information that was falsified or concealed for the purpose of
151 defrauding the policy's issuer, viatical settlement provider, or
152 viator. As used in this paragraph, the term "recklessly" means
153 acting or failing to act in conscious disregard for the relevant
154 facts or risks, and which disregard involves a gross deviation
155 from acceptable standards of conduct.

156 (h) Facilitating the viator's change of residency state to

157 avoid the provisions of this act.

158 (i) Facilitating or causing the creation of a trust with a
159 non-Florida situs or other nonresident entity for the purpose of
160 owning a life insurance policy covering a Florida resident to
161 avoid the provisions of this act.

162 (j) Facilitating or causing the transfer of the ownership
163 of an insurance policy covering a Florida resident to a trust
164 with a non-Florida situs or other nonresident entity to avoid
165 the provisions of this act.

166 (k) Applying for or obtaining a loan that is secured
167 directly or indirectly by an interest in a life insurance
168 policy.

169 (l) Violating s. 626.99273(1) or (2).

170 (m) Attempting to commit, assisting, aiding, or abetting
171 in the commission of or conspiring to commit an act or omission
172 specified in this subsection.

173 (4)-(2) "Independent third-party trustee or escrow agent"
174 means an attorney, certified public accountant, financial
175 institution, or other person providing escrow services under the
176 authority of a regulatory body. The term does not include any
177 person associated, affiliated, or under common control with a
178 viatical settlement provider or viatical settlement broker.

179 (5)-(3) "Life expectancy" means an opinion or evaluation as
180 to how long a particular person is to live, or relating to such
181 person's expected demise.

182 (6)-(4) "Life expectancy provider" means a person who

183 determines, or holds himself or herself out as determining, life
 184 expectancies or mortality ratings used to determine life
 185 expectancies under any of the following circumstances:

186 (a) On behalf of a viatical settlement provider, viatical
 187 settlement broker, life agent, or person engaged in the business
 188 of viatical settlements.~~†~~

189 (b) In connection with a viatical settlement investment,
 190 pursuant to s. 517.021(24).~~† or~~

191 (c) On residents of this state in connection with a
 192 viatical settlement contract or viatical settlement investment.

193 ~~(7)(5)~~ "Person" has the meaning specified in s. 1.01.

194 ~~(8)(6)~~ "Related form" means any form, created by or on
 195 behalf of a licensee, which a viator or insured is required to
 196 sign or initial. The forms include, but are not limited to, a
 197 power of attorney, a release of medical information form, a
 198 suitability questionnaire, a disclosure document, or any
 199 addendum, schedule, or amendment to a viatical settlement
 200 contract considered necessary by a provider to effectuate a
 201 viatical settlement transaction.

202 ~~(9)(7)~~ "Related provider trust" means a titling trust or
 203 other trust established by a licensed viatical settlement
 204 provider or financing entity for the sole purpose of holding the
 205 ownership or beneficial interest in purchased policies in
 206 connection with a financing transaction. The trust must have a
 207 written agreement with a licensed viatical settlement provider
 208 or financing entity under which the licensed viatical settlement

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209 provider or financing entity is responsible for insuring
210 compliance with all statutory and regulatory requirements and
211 under which the trust agrees to make all records and files
212 relating to viatical settlement transactions available to the
213 office as if those records and files were maintained directly by
214 the licensed viatical settlement provider. This term does not
215 include an independent third-party trustee or escrow agent or a
216 trust that does not enter into agreements with a viator. A
217 related provider trust is ~~shall be~~ subject to all provisions of
218 this act that apply to the viatical settlement provider who
219 established the related provider trust, except s. 626.9912,
220 which does ~~shall~~ not apply ~~be applicable~~. A viatical settlement
221 provider may establish up to ~~no more than~~ one related provider
222 trust, and the sole trustee of such related provider trust shall
223 be the viatical settlement provider licensed under s. 626.9912.
224 The name of the licensed viatical settlement provider shall be
225 included within the name of the related provider trust.

226 (10) ~~(8)~~ "Special purpose entity" means an entity
227 established by a licensed viatical settlement provider or by a
228 financing entity, which may be a corporation, partnership,
229 trust, limited liability company, or other similar entity formed
230 solely to provide, either directly or indirectly, access to
231 institutional capital markets to a viatical settlement provider
232 or financing entity. A special purpose entity may not obtain
233 capital from any natural person or entity with less than \$50
234 million in assets and may not enter into a viatical settlement

235 contract.

236 (11) "Stranger-originated life insurance practice" means
237 an act, practice, arrangement, or agreement to initiate a life
238 insurance policy for the benefit of a third-party investor who,
239 at the time of policy origination, has no insurable interest in
240 the insured. Stranger-originated life insurance practices
241 include, but are not limited to:

242 (a) The purchase of a life insurance policy with resources
243 or guarantees from or through a person who, at the time of such
244 policy's inception, could not lawfully initiate the policy and
245 the execution of a verbal or written arrangement or agreement to
246 directly or indirectly transfer the ownership of such policy or
247 policy benefits to a third party.

248 (b) The creation of a trust that has the appearance of an
249 insurable interest to initiate policies for investors, which
250 violates insurable interest laws and the prohibition against
251 wagering on life.

252 (12)~~(9)~~ "Viatical settlement broker" means a person who,
253 on behalf of a viator and for a fee, commission, or other
254 valuable consideration, offers or attempts to negotiate viatical
255 settlement contracts between a viator resident in this state and
256 one or more viatical settlement providers. Notwithstanding the
257 manner in which the viatical settlement broker is compensated, a
258 viatical settlement broker is deemed to represent only the
259 viator and owes a fiduciary duty to the viator to act according
260 to the viator's instructions and in the best interest of the

261 viator. The term does not include an attorney, licensed
262 Certified Public Accountant, or investment adviser lawfully
263 registered under chapter 517, who is retained to represent the
264 viator and whose compensation is paid directly by or at the
265 direction and on behalf of the viator.

266 (13)~~(10)~~ "Viatical settlement contract" means a written
267 agreement entered into between a viatical settlement provider,
268 or its related provider trust, and a viator. The viatical
269 settlement contract includes an agreement to transfer ownership
270 or change the beneficiary designation of a life insurance policy
271 at a later date, regardless of the date that compensation is
272 paid to the viator. The agreement must establish the terms under
273 which the viatical settlement provider will pay compensation or
274 anything of value, which compensation or value is less than the
275 expected death benefit of the insurance policy or certificate,
276 in return for the viator's assignment, transfer, sale, devise,
277 or bequest of the death benefit or ownership of all or a portion
278 of the insurance policy or certificate of insurance to the
279 viatical settlement provider. The term also includes the
280 transfer for compensation or value of an ownership or a
281 beneficial interest in a trust or other entity that owns such
282 policy if the trust or other entity was formed or used for the
283 principal purpose of acquiring one or more life insurance
284 contracts that insure the life of a person residing in this
285 state, and ~~A viatical settlement contract also includes a~~
286 contract for a loan or other financial transaction secured

287 primarily by an individual or group life insurance policy. The
 288 term does not include, ~~other than~~ a policy loan by a life
 289 insurance company pursuant to the terms of the life insurance
 290 contract or accelerated death provisions contained in a life
 291 insurance policy, whether issued with the original policy or as
 292 a rider, or a loan secured by the cash surrender value of a
 293 policy as determined by the policy issuer and the life insurance
 294 policy terms, or a loan or advance from the issuer of the policy
 295 to the policyowner.

296 (14) ~~(11)~~ "Viatical settlement investment" has the same
 297 meaning as specified in s. 517.021.

298 (15) ~~(12)~~ "Viatical settlement provider" means a person
 299 who, in this state, from this state, or with a resident of this
 300 state, effectuates a viatical settlement contract. The term does
 301 not include:

302 (a) A ~~Any~~ bank, savings bank, savings and loan
 303 association, or credit union, ~~or other licensed lending~~
 304 ~~institution~~ that takes an assignment of a life insurance policy
 305 as collateral for a loan.

306 (b) A life and health insurer that has lawfully issued a
 307 life insurance policy that provides accelerated benefits to
 308 terminally ill policyholders or certificateholders.

309 (c) A ~~Any~~ natural person who enters into no more than one
 310 viatical settlement contract with a viator in 1 calendar year,
 311 unless such natural person has previously been licensed under
 312 this act or is currently licensed under this act.

313 (d) A trust that meets the definition of a "related
314 provider trust."

315 (e) A viator in this state.

316 (f) A financing entity.

317 (16)~~(13)~~ "Viaticated policy" means a life insurance
318 policy, or a certificate under a group policy, which is the
319 subject of a viatical settlement contract.

320 (17)~~(14)~~ "Viator" means the owner of a life insurance
321 policy or a certificateholder under a group policy, which policy
322 is not a previously viaticated policy, who enters or seeks to
323 enter into a viatical settlement contract. This term does not
324 include a viatical settlement provider, ~~or a~~ a ~~any~~ person
325 acquiring a policy or interest in a policy from a viatical
326 settlement provider, ~~or nor does it include~~ an independent
327 third-party trustee or escrow agent.

328 Section 2. Subsections (2) and (3) of section 626.9913,
329 Florida Statutes, are amended to read:

330 626.9913 Viatical settlement provider license continuance;
331 annual report; fees; deposit.—

332 (2) (a) Annually, on or before March 1, the viatical
333 settlement provider licensee shall file a statement containing
334 information the commission requires and shall pay to the office
335 a license fee in the amount of \$500.

336 (b) In addition to any other requirements, the annual
337 statement must specify:

338 1. The total number of unsettled viatical settlement

339 contracts and corresponding total amount due to viators under
340 viatical settlement contracts that have been signed by the
341 viator but have not been settled as of December 31 of the
342 preceding calendar year, categorized by the number of days since
343 the viator signed the contract for transactions regulated by
344 this state.

345 2. For the most recent 5 years, the total number of
346 policies purchased, total gross amount paid for policies
347 purchased, total commissions or compensation paid for policies
348 purchased, and total face value of policies purchased, allocated
349 by state, territory, and jurisdiction.

350 3. The total amount of proceeds or compensation paid to
351 policyowners, allocated by state, territory, and jurisdiction.

352 (c) After ~~December 31, 2007,~~ The annual statement shall
353 include an annual audited financial statement of the viatical
354 settlement provider prepared in accordance with generally
355 accepted accounting principles by an independent certified
356 public accountant covering a 12-month period ending on a day
357 occurring within ~~falling during~~ the last 6 months of the
358 preceding calendar year. If the audited financial statement has
359 not been completed, however, the licensee shall include in its
360 annual statement an unaudited financial statement for the
361 preceding calendar year and an affidavit from an officer of the
362 licensee stating that the audit has not been completed. In this
363 event, the licensee shall submit the audited statement on or
364 before June 1. The annual statement, due on or before March 1

365 each year, shall also provide the office with a report of all
366 life expectancy providers who have provided life expectancies
367 directly or indirectly to the viatical settlement provider for
368 use in connection with a viatical settlement contract or a
369 viatical settlement investment. A viatical settlement provider
370 shall include in all statements filed with the office all
371 information requested by the office regarding a related provider
372 trust established by the viatical settlement provider. The
373 office may require more frequent reporting. Failure to timely
374 file the annual statement or the audited financial statement or
375 to timely pay the license fee is grounds for immediate
376 suspension of the license. The commission may by rule require
377 all or part of the statements or filings required under this
378 section to be submitted by electronic means in a computer-
379 readable form compatible with the electronic data format
380 specified by the commission.

381 (3) To ensure the faithful performance of its obligations
382 to its viators in the event of insolvency or the loss of its
383 license, a viatical settlement provider licensee must deposit
384 and maintain deposited in trust with the department securities
385 eligible for deposit under s. 625.52, having at all times a
386 value of not less than \$100,000; ~~however, a viatical settlement~~
387 ~~provider licensed in this state prior to June 1, 2004, which has~~
388 ~~deposited and maintains continuously deposited in trust with the~~
389 ~~department securities in the amount of \$25,000 and which posted~~
390 ~~and maintains continuously posted a security bond acceptable to~~

391 ~~the department in the amount of \$75,000, has until June 1, 2005,~~
 392 ~~to comply with the requirements of this subsection.~~

393 Section 3. Subsections (1) and (2) of section 626.9914,
 394 Florida Statutes, are amended to read:

395 626.9914 Suspension, revocation, denial, or nonrenewal of
 396 viatical settlement provider license; grounds; administrative
 397 fine.—

398 (1) The office shall suspend, revoke, deny, or refuse to
 399 renew the license of any viatical settlement provider if the
 400 office finds that the licensee has committed any of the
 401 following acts:

402 (a) Has made a misrepresentation in the application for
 403 the license.†

404 (b) Has engaged in fraudulent or dishonest practices, or
 405 otherwise has been shown to be untrustworthy or incompetent to
 406 act as a viatical settlement provider.†

407 (c) Demonstrates a pattern of unreasonable payments to
 408 viators.†

409 (d) Has been found guilty of, or has pleaded guilty or
 410 nolo contendere to, any felony, or a misdemeanor involving fraud
 411 or moral turpitude, regardless of whether a judgment of
 412 conviction has been entered by the court.†

413 (e) Has issued viatical settlement contracts that have not
 414 been approved pursuant to this act.†

415 (f) Has failed to honor contractual obligations related to
 416 the business of viatical settlement contracts.†

417 (g) Deals in bad faith with viators.~~†~~
 418 (h) Has violated any provision of the insurance code or of
 419 this act.~~†~~
 420 (i) Employs a ~~any~~ person who materially influences the
 421 licensee's conduct and who fails to meet the requirements of
 422 this act.~~†~~
 423 (j) No longer meets the requirements for initial
 424 licensure.~~†~~ ~~or~~
 425 (k) Obtains or utilizes life expectancies from life
 426 expectancy providers who are not registered with the office
 427 pursuant to this act.
 428 (1) Has engaged in a fraudulent viatical settlement act.
 429 (2) The office may, in lieu of or in addition to any
 430 suspension or revocation, assess an administrative fine not to
 431 exceed \$10,000 ~~\$2,500~~ for each nonwillful violation or \$25,000
 432 ~~\$10,000~~ for each willful violation by a viatical settlement
 433 provider licensee. The office may also place a viatical
 434 settlement provider licensee on probation for a period not to
 435 exceed 2 years.
 436 Section 4. Subsection (1) of section 626.99175, Florida
 437 Statutes, is amended to read:
 438 626.99175 Life expectancy providers; registration
 439 required; denial, suspension, revocation.—
 440 (1) ~~After July 1, 2006,~~ A person may not perform the
 441 functions of a life expectancy provider without first having
 442 registered as a life expectancy provider, ~~except as provided in~~

443 ~~subsection (6).~~

444 Section 5. Section 626.99185, Florida Statutes, is created
445 to read:

446 626.99185 Disclosures to viator of disbursement.—

447 (1) Before or concurrently with a viator's execution of a
448 viatical settlement contract, the viatical settlement provider
449 shall provide to the viator, in duplicate, a disclosure
450 statement in legible written form disclosing:

451 (a) The name of each viatical settlement broker who
452 receives or will receive compensation and the amount of each
453 broker's compensation related to that transaction. For the
454 purpose of this section, compensation includes anything of value
455 paid or given by or at the direction of a viatical settlement
456 provider or person acquiring an interest in one or more life
457 insurance policies to a viatical settlement broker in connection
458 with the viatical settlement contract.

459 (b) A complete reconciliation of the gross offer or bid by
460 the viatical settlement provider to the net amount of proceeds
461 or value to be received by the viator related to that
462 transaction. As used in this section, the term "gross offer" or
463 "bid" means the total amount or value offered by the viatical
464 settlement provider for the purchase of an interest in one or
465 more life insurance policies, including commissions,
466 compensation, or other proceeds or value being deducted from the
467 gross offer or bid.

468 (2) The viator shall sign and date the disclosure

469 statement before or concurrently with the viator's execution of
470 a viatical settlement contract, with the viator retaining the
471 duplicate copy of the disclosure statement.

472 (3) If a viatical settlement contract is entered into and
473 the contract is subsequently amended or if there is a change in
474 the viatical settlement provider's gross offer or bid amount, a
475 change in the net amount of proceeds or value to be received by
476 the viator, or a change in the information provided in the
477 disclosure statement to the viator, the viatical settlement
478 provider shall provide, in duplicate, an amended disclosure
479 statement to the viator containing the information in subsection
480 (1). The viator shall sign and date the amended disclosure
481 statement, with the viator retaining the duplicate copy of the
482 amended disclosure statement.

483 (4) Before a viatical settlement provider's execution of a
484 viatical settlement contract or an amendment to such contract,
485 the viatical settlement provider must obtain the signed and
486 dated disclosure statement and any amended disclosure statement
487 required by this section. In transactions for which a broker is
488 not used, the viatical settlement provider must obtain the
489 signed and dated disclosure statement from the viator.

490 (5) The viatical settlement provider shall maintain the
491 documentation required by this section pursuant to s.
492 626.9922(2) and shall make such documentation available to the
493 office at any time for copying and inspection upon reasonable
494 notice by the office to the viatical settlement provider.

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495 Section 6. Subsection (7) of section 626.9924, Florida
 496 Statutes, is amended to read:

497 626.9924 Viatical settlement contracts; procedures;
 498 rescission.—

499 (7) At any time during the contestable period, within 20
 500 days after a viator executes documents necessary to transfer
 501 rights under an insurance policy or within 20 days of any
 502 agreement, option, promise, or any other form of understanding,
 503 express or implied, to viaticate the policy, the provider must
 504 give notice to the insurer of the policy that the policy has or
 505 will become a viaticated policy. ~~The notice must be accompanied~~
 506 ~~by the documents required by s. 626.99287(5)(a) in their~~
 507 ~~entirety.~~

508 Section 7. Subsection (2) of section 626.99245, Florida
 509 Statutes, is amended to read:

510 626.99245 Conflict of regulation of viaticals.—

511 (2) This section does not affect the requirement of ss.
 512 626.9911(15) ~~(12)~~ and 626.9912(1) that a viatical settlement
 513 provider doing business from this state must obtain a viatical
 514 settlement license from the office. As used in this subsection,
 515 the term "doing business from this state" includes effectuating
 516 viatical settlement contracts from offices in this state,
 517 regardless of the state of residence of the viator.

518 Section 8. Section 626.99273, Florida Statutes, is created
 519 to read:

520 626.99273 Prohibited practices and conflicts of interest.—

521 (1) With respect to a viatical settlement contract or an
522 insurance policy, a viatical settlement broker may not knowingly
523 solicit an offer from, effectuate a viatical settlement with, or
524 make a sale to any viatical settlement provider, financing
525 entity, or related provider trust that is controlling,
526 controlled by, or under common control with such viatical
527 settlement broker.

528 (2) With respect to a viatical settlement contract or an
529 insurance policy, a viatical settlement provider may not
530 knowingly enter into a viatical settlement contract with a
531 viator if, in connection with such viatical settlement contract,
532 anything of value will be paid to a viatical settlement broker
533 that is controlling, controlled by, or under common control with
534 such viatical settlement provider, financing entity, or related
535 provider trust that is involved in such viatical settlement
536 contract.

537 (3) A viatical settlement provider may not enter into a
538 viatical settlement contract unless the viatical settlement
539 promotional, advertising, and marketing materials, as may be
540 prescribed by rule, have been filed with the office. Such
541 materials may not expressly indicate, or include any reference
542 that would cause a viator to reasonably believe, that the life
543 insurance is free for any period of time.

544 (4) A life insurance producer, insurer, viatical
545 settlement broker, or viatical settlement provider may not make
546 a statement or representation to an applicant or policyholder in

547 connection with the sale of a life insurance policy to the
548 effect that the insurance is free or without cost to the
549 policyholder for any period of time.

550 Section 9. Section 626.99275, Florida Statutes, is amended
551 to read:

552 626.99275 Prohibited practices; penalties.—

553 (1) It is unlawful for a ~~any~~ person to:

554 (a) ~~To~~ Knowingly enter into, broker, or otherwise deal in
555 a viatical settlement contract the subject of which is a life
556 insurance policy, knowing that the policy was obtained by
557 presenting materially false information concerning any fact
558 material to the policy or by concealing, for the purpose of
559 misleading another, information concerning any fact material to
560 the policy, where the viator or the viator's agent intended to
561 defraud the policy's issuer.

562 (b) ~~To~~ Knowingly or with the intent to defraud, for the
563 purpose of depriving another of property or for pecuniary gain,
564 issue or use a pattern of false, misleading, or deceptive life
565 expectancies.

566 (c) ~~To~~ Knowingly engage in any transaction, practice, or
567 course of business intending thereby to avoid the notice
568 requirements of s. 626.9924(7).

569 (d) ~~To~~ Knowingly or intentionally facilitate the change of
570 state of residency of a viator to avoid the provisions of this
571 chapter.

572 (e) Knowingly enter into a viatical settlement contract

573 before the application for or issuance of a life insurance
574 policy that is the subject of a viatical settlement contract or
575 within a 5-year period commencing with the date of issuance of
576 the policy or certificate, unless the viator provides a sworn
577 affidavit and accompanying documentation that certifies to the
578 viatical settlement provider that one or more of the following
579 conditions have been met within the 5-year period:

580 1. The policy or certificate was issued upon the viator's
581 exercise of conversion rights arising out of a group or
582 individual policy, provided the total of the time covered under
583 the conversion policy plus the time covered under the prior
584 policy is at least 60 months. The time covered under a group
585 policy shall be calculated without regard to any change in
586 insurance carriers, provided the coverage has been continuous
587 and under the same group sponsorship.

588 2. The viator submits independent evidence to the viatical
589 settlement provider that one or more of the following conditions
590 have been met within the 5-year period:

591 a. The viator or insured is terminally or chronically ill;

592 b. The viator's spouse dies;

593 c. The viator divorces his or her spouse;

594 d. The viator retires from full-time employment;

595 e. The viator becomes physically or mentally disabled and
596 a physician determines that the disability prevents the viator
597 from maintaining full-time employment; or

598 f. A final order, judgment, or decree is entered by a

599 court of competent jurisdiction, upon the application by a
600 viator's creditor, which adjudicates the viator bankrupt or
601 insolvent or approves a petition seeking reorganization of the
602 viator or appointing a receiver, trustee, or liquidator to all
603 or a substantial part of the viator's assets.

604 3. The viator enters into a viatical settlement contract
605 more than 2 years after a policy's issuance date and, with
606 respect to the policy, at all times before such date each of the
607 following conditions is met:

608 a. Policy premiums have been funded exclusively with
609 unencumbered assets, including an interest in the life insurance
610 policy being financed only to the extent of its net cash
611 surrender value provided by, or full recourse liability incurred
612 by, the insured;

613 b. An agreement or understanding with another person has
614 not been entered to guarantee any such liability or to purchase,
615 or be ready to purchase, the policy, including through an
616 assumption or forgiveness of the loan; and

617 c. The insured and the policy have not been evaluated for
618 settlement.

619 (f) Knowingly issue, solicit, market, or otherwise promote
620 the purchase of a life insurance policy for the purpose of or
621 with an emphasis on selling the policy.

622 (g) Engage in a fraudulent viatical settlement act.

623 (2) A person who violates any provision of this section
624 commits:

625 (a) A felony of the third degree, punishable as provided
626 in s. 775.082, s. 775.083, or s. 775.084, if the insurance
627 policy involved is valued at any amount less than \$20,000.

628 (b) A felony of the second degree, punishable as provided
629 in s. 775.082, s. 775.083, or s. 775.084, if the insurance
630 policy involved is valued at \$20,000 or more, but less than
631 \$100,000.

632 (c) A felony of the first degree, punishable as provided
633 in s. 775.082, s. 775.083, or s. 775.084, if the insurance
634 policy involved is valued at \$100,000 or more.

635 Section 10. Section 626.99276, Florida Statutes, is
636 created to read:

637 626.99276 Notification to insurer required.—

638 (1) A copy of the sworn affidavit and the documentation
639 required in s. 626.99275(1)(e) must be submitted to the insurer
640 if the viatical settlement provider or other party entering into
641 a viatical settlement contract with a viator submits a request
642 to the insurer for verification of coverage or if the viatical
643 settlement provider submits a request to transfer the policy or
644 certificate to the provider. If the request is made by a
645 viatical settlement provider, the copy shall be accompanied by a
646 sworn affidavit from the viatical settlement provider affirming
647 that the copy is a true and correct copy of the documentation
648 received by the provider.

649 (2) An insurer may not require, as a condition of
650 responding to a request for verification of coverage or

651 effecting the transfer of a policy pursuant to a viatical
 652 settlement contract, that the viator, insured, viatical
 653 settlement provider, or viatical settlement broker sign any
 654 disclosures, consent form, waiver form, or other form that has
 655 not been approved by the office for use in connection with
 656 viatical settlement contracts in this state.

657 (3) Upon receipt of a properly completed request for
 658 change of ownership or beneficiary of a policy, the insurer
 659 shall respond in writing within 30 calendar days confirming that
 660 the change has been effectuated or specifying the reasons why
 661 the requested change cannot be processed. The insurer may not
 662 unreasonably delay effectuating a change of ownership or
 663 beneficiary and may not otherwise seek to interfere with any
 664 viatical settlement contract lawfully entered into in this
 665 state.

666 Section 11. Section 626.99278, Florida Statutes, is
 667 amended to read:

668 626.99278 Viatical provider anti-fraud plan.—

669 (1) Each ~~Every~~ licensed viatical settlement provider and
 670 registered life expectancy provider must adopt an anti-fraud
 671 plan and file it with the Division of Insurance Fraud of the
 672 department. Each anti-fraud plan shall include:

673 (a) ~~(1)~~ A description of the procedures for detecting and
 674 investigating possible fraudulent acts and procedures for
 675 resolving material inconsistencies between medical records and
 676 insurance applications.

677 (b)~~(2)~~ A description of the procedures for the mandatory
678 reporting of possible fraudulent insurance acts and prohibited
679 practices specified ~~set forth~~ in s. 626.99275 to the Division of
680 Insurance Fraud ~~of the department~~.

681 (c)~~(3)~~ A description of the plan for anti-fraud education
682 and training of its underwriters or other personnel.

683 (d)~~(4)~~ A written description or chart outlining the
684 organizational arrangement of the anti-fraud personnel who are
685 responsible for the investigation and reporting of possible
686 fraudulent insurance acts and for the investigation of
687 unresolved material inconsistencies between medical records and
688 insurance applications.

689 (e)~~(5)~~ For viatical settlement providers, a description of
690 the procedures used to perform initial and continuing review of
691 the accuracy of life expectancies used in connection with a
692 viatical settlement contract or viatical settlement investment.

693 (2) Each licensed viatical settlement provider shall
694 maintain in accordance with s. 626.9922:

695 (a) Documentation of compliance with its anti-fraud plan
696 and procedures filed in accordance with this section.

697 (b) Documentation pertaining to resolved and unresolved
698 material inconsistencies between medical records and insurance
699 applications.

700 (c) Documentation of its mandatory reporting of the
701 possible fraudulent acts and prohibited practices specified in
702 s. 626.99275 to the Division of Insurance Fraud.

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703 Section 12. Section 626.99287, Florida Statutes, is
704 repealed.

705 Section 13. Section 626.99289, Florida Statutes, is
706 created to read:

707 626.99289 Void and unenforceable contracts, agreements,
708 arrangements, and transactions.—A contract, agreement,
709 arrangement, or transaction, including, but not limited to, a
710 financing agreement or any other arrangement or understanding
711 entered into, whether written or verbal, for the furtherance or
712 aid of a stranger-originated life insurance practice is void and
713 unenforceable.

714 Section 14. This act shall take effect July 1, 2016.