

SENATE BILL REPORT

SB 5780

As Reported By Senate Committee On:
Financial Institutions & Housing, February 23, 1995

Title: An act relating to the regulation of viatical settlements.

Brief Description: Regulating viatical settlements.

Sponsors: Senators Prentice, Deccio and C. Anderson.

Brief History:

Committee Activity: Financial Institutions & Housing: 2/16/95, 2/23/95 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Majority Report: That Substitute Senate Bill No. 5780 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Hale, Roach, Sellar and Sutherland.

Staff: Erika Lim (786-7488)

Background: Viatical settlements are agreements allowing terminally ill people to obtain a portion of their life insurance benefits while they are still living. The funds are often used to pay for medicine, medical treatment, or in-home care. Many of those who enter into such agreements are persons with AIDS or cancer.

In general, a viatical settlement works as follows. A viatical settlement provider buys a life insurance policy from a terminally ill insured person for a portion of the face value of the policy. In return, the provider is named by the insured as the sole beneficiary of the policy. Upon the death of the insured, the provider collects the full value of the policy.

The numbers of viatical settlements and viatical settlement providers have increased over the past few years. There have been a number of publicized instances in which less than scrupulous companies have marketed viatical settlements as investments without fully explaining potential profits and risks to all parties. Because of the financial risks and also the privacy issues involved, it has been suggested that viatical settlements should be regulated.

Summary of Substitute Bill: Persons or businesses involved in the process of buying the life insurance policy of a terminally ill person must be licensed by the commissioner. This includes those who offer or advertise the availability of viatical settlements, negotiate viatical settlements, or actually purchase the policies. Licenses are issued to applicants who provide a detailed and adequate operation plan, and who have experience, education, or training in a relevant field. The commissioner may suspend, revoke, or refuse to renew a license for cause. The commissioner may examine the books and business records of licensees.

However, information about the owners of life insurance policies that are sold now or in the future is confidential and not subject to disclosure by the commissioner absent a court order. Licensees must file annual reports.

All viatical settlement contract forms must be filed with and approved by the commissioner. Compensation rates must also be filed with the commissioner. Licensees must maintain records of all transactions and advertising.

Viatical settlement providers must disclose certain information to owners of life insurance policies, such as alternatives, potential tax implications, and the right of rescission, before the settlement contract is executed. Viatical settlement providers must also obtain certain documents, such as statements from doctors and witnesses, before entering into a contract.

Insurance policies that are purchased by a viatical settlement provider may not be conveyed to an entity not licensed by the commissioner.

A violation of any provision of this act is a violation of the Consumer Protection Act.

Substitute Bill Compared to Original Bill: The substitute bill contains only technical changes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will provide protection and security for one of the last decisions some people will make.

Testimony Against: None.

Testified: Greg Scully, Insurance Commissioner's Office; Basil Badley, ACLI.