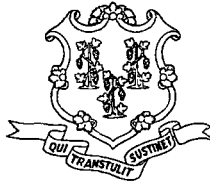


2006

Connecticut General Assembly



SENATE BILLS

Bill No. 615

Resolutions

Committee Bills



General Assembly

February Session, 2006

Raised Bill No.

615

LCO No. 2801



Referred to Committee on

INSURANCE & REAL ESTATE

Introduced by:

(INS)

AN ACT CONCERNING VIATICAL SETTLEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) Nothing in part III of
2 chapter 700b of the general statutes shall preempt or otherwise limit
3 the provisions of chapter 672a of the general statutes or any
4 regulations, orders, policy statements, notices, bulletins or other
5 interpretations issued by or through the Banking Commissioner or
6 said commissioner's designee acting pursuant to said chapter 672a.
7 Compliance with the provisions of part III of chapter 700b of the
8 general statutes does not constitute compliance with any applicable
9 provision of said chapter 672a and any amendments to said chapter
10 672a or any regulations, orders, policy statements, notices, bulletins or
11 other interpretations issued by or through the Banking Commissioner
12 or said commissioner's designee acting pursuant to said chapter 672a.

13 Sec. 2. Section 36b-3 of the 2006 supplement to the general statutes is
14 repealed and the following is substituted in lieu thereof (*Effective*
15 *October 1, 2006*):

16 As used in sections 36b-2 to 36b-33, inclusive, as amended, unless

17 the context otherwise requires:

18 (1) "Agent" means any individual, other than a broker-dealer, who
19 represents a broker-dealer or issuer in effecting or attempting to effect
20 purchases or sales of securities. "Agent" does not include an individual
21 who represents an issuer in (A) effecting transactions in a security
22 exempted by subdivision (1), (2), (3), (4), (6), (9), (10), (11) or (22) of
23 subsection (a) of section 36b-21, as amended, (B) effecting transactions
24 exempted by subsection (b) of section 36b-21, as amended, except for
25 transactions exempted by subdivisions (10), (13) or (14) of said
26 subsection, (C) effecting transactions with existing employees, partners
27 or directors of the issuer if no commission or other remuneration is
28 paid or given directly or indirectly for soliciting any person in this
29 state, or (D) effecting transactions in any covered security, except for
30 covered securities within the meaning of Sections 18(b)(2) or
31 18(b)(4)(D) of the Securities Act of 1933. "Agent" does not include such
32 other persons not within the intent of this subdivision as the
33 commissioner may by regulation or order determine. A general
34 partner, officer or director of a broker-dealer or issuer, or a person
35 occupying a similar status or performing similar functions, is an agent
36 only if such person otherwise comes within this definition and any
37 compensation that such person receives is directly or indirectly related
38 to purchases or sales of securities.

39 (2) "Associated person" has the meaning given to that term in
40 Section 3(a)(21) of the Securities Exchange Act of 1934.

41 (3) "Blank check company" means any company that (A) devotes
42 substantially all of its efforts to establishing a new business in which
43 planned principal operations have not commenced or, that has
44 commenced planned principal operations, but has not derived
45 significant revenue from such operations; and (B) has no specific
46 business plan or purpose or has indicated that its business plan is to
47 engage in a merger or acquisition with an unidentified company or
48 companies, or other entity or person.

49 (4) "Branch office" means any location other than the main office at
50 which an agent or investment adviser agent regularly conducts
51 business on behalf of a broker-dealer or investment adviser, or any
52 location that is held out as such, excluding: (A) Any location that is
53 established solely for customer service or back-office-type functions
54 where no sales activities are conducted and that is not held out to the
55 public as a branch office, (B) any location that is the agent's or
56 investment adviser agent's primary residence, provided (i) only agents
57 or investment adviser agents who reside at the location and are
58 members of the same immediate family conduct business at the
59 location, (ii) the location is not held out to the public as an office and
60 the agent or investment adviser agent does not meet with customers at
61 the location, (iii) neither customer funds nor securities are handled at
62 that location, (iv) the agent or investment adviser agent is assigned to a
63 designated branch office, and such designated branch office is reflected
64 on all business cards, stationery, advertisements and other
65 communications to the public by such agent or investment adviser
66 agent, (v) the agent's or investment adviser agent's correspondence
67 and communications with the public are subject to the supervision of
68 the broker-dealer or investment adviser with which such agent or
69 investment adviser agent is associated, (vi) electronic communications,
70 including e-mail, are made through the electronic system of the broker-
71 dealer or investment adviser, (vii) all orders for securities are entered
72 through the designated branch office or an electronic system
73 established by a broker-dealer that is reviewable at the branch office,
74 (viii) written supervisory procedures pertaining to supervision of
75 activities conducted at the residence are maintained by the broker-
76 dealer or investment adviser, and (ix) a list of the residence locations is
77 maintained by the broker-dealer or investment adviser, (C) any
78 location, other than a primary residence, that is used for securities or
79 investment advisory business for less than thirty business days in any
80 one calendar year, provided the broker-dealer or investment adviser
81 complies with the provisions of subparagraph (B)(ii), (iii), (iv), (v), (vi),
82 (vii), (viii) of this subdivision, (D) any office of convenience, where

83 associated persons occasionally and exclusively by appointment meet
84 with customers, which is not held out to the public as an office, (E) any
85 location that is used primarily to engage in nonsecurities activities and
86 from which the agent or investment adviser agent effects no more than
87 twenty-five securities transactions in any one calendar year, provided
88 any advertisement or sales literature identifying such location also sets
89 forth the address and telephone number of the location from which the
90 agent or investment adviser agent conducting business at the
91 nonbranch locations is directly supervised, (F) the floor of a registered
92 national securities exchange where a broker-dealer conducts a direct
93 access business with public customers, (G) a temporary location
94 established in response to the implementation of a business continuity
95 plan, or (H) any other location not within the intent of this subdivision
96 as the commissioner may determine. As used in this subdivision, the
97 term "business day" does not include any partial business day,
98 provided the agent or investment adviser agent spends at least four
99 hours on such day at the designated branch office of such agent or
100 investment adviser agent during the hours that such office is normally
101 open for business.

102 (5) "Broker-dealer" means any person engaged in the business of
103 effecting transactions in securities for the account of others or for such
104 person's own account. "Broker-dealer" does not include (A) an agent,
105 (B) an issuer, (C) a bank, as defined in Section 3(a)(6) of the Securities
106 Exchange Act of 1934, when conducting activities that would except it
107 from the definitions of "broker" or "dealer" under Sections 3(a)(4) or
108 3(a)(5) of the Securities Exchange Act of 1934, (D) a person who has no
109 place of business in this state if such person effects transactions in this
110 state exclusively with or through (i) the issuers of the securities
111 involved in the transactions, (ii) other broker-dealers, or (iii) a bank
112 and trust company, a national banking association, a savings bank, a
113 savings and loan association, a federal savings bank, a federal savings
114 and loan association, a credit union, a federal credit union, a trust
115 company, an insurance company, an investment company as defined
116 in the Investment Company Act of 1940, a pension or profit-sharing

117 trust, or other financial institution or institutional buyer, whether
118 acting for itself or as trustee, or (E) such other persons not within the
119 intent of this subdivision as the commissioner may by regulation or
120 order determine.

121 (6) "Commissioner" means the Banking Commissioner or any
122 person appointed or designated by the Banking Commissioner to
123 administer sections 36b-2 to 36b-33, inclusive, as amended.

124 (7) "Covered security" has the meaning given to that term in Section
125 18(b) of the Securities Act of 1933.

126 (8) "Fraud", "deceit" and "defraud" are not limited to common-law
127 deceit.

128 (9) "Guaranteed" means guaranteed as to payment of principal,
129 interest or dividends.

130 (10) "International banking institution" means an international
131 financial institution, as defined in 22 USC 262r, as from time to time
132 amended, of which the United States is a member and whose securities
133 are exempt from registration under the Securities Act of 1933.

134 (11) "Investment adviser" means any person who, for compensation,
135 engages in the business of advising others, either directly or through
136 publications or writings, as to the value of securities or as to the
137 advisability of investing in, purchasing or selling securities, or who, for
138 compensation and as a part of a regular business, issues or
139 promulgates analyses or reports concerning securities. "Investment
140 adviser" does not include (A) an investment adviser agent; (B) a bank,
141 as defined in Section 202(a)(2) of the Investment Advisers Act of 1940,
142 or a bank holding company, as defined in the Bank Holding Company
143 Act of 1956, that is excepted from the definition of "investment
144 adviser" in Section 202(a)(11) of the Investment Advisers Act of 1940;
145 (C) a lawyer, accountant, engineer, or teacher whose performance of
146 these services is solely incidental to the practice of such person's

147 profession; (D) a broker-dealer whose performance of these services is
148 solely incidental to the conduct of such person's business as a broker-
149 dealer and who receives no special compensation for them; (E) a
150 publisher of any bona fide newspaper, news magazine, or business or
151 financial publication of general, regular, and paid circulation; (F) a
152 person whose advice, analyses or reports relate only to securities
153 exempted by subdivision (1) of subsection (a) of section 36b-21, as
154 amended; (G) any insurance company under the supervision of the
155 Insurance Commissioner or any affiliate thereof, as defined in
156 subsection (b) of section 38a-129, when providing services to separate
157 accounts of that insurance company or registered investment
158 companies all of whose shares are owned by such insurance company
159 or its insurance company affiliates or by the separate accounts of that
160 insurance company or its insurance company affiliates; and (H) such
161 other persons not within the intent of this subdivision as the
162 commissioner may by regulation or order designate.

163 (12) (A) "Investment adviser agent" includes (i) any individual,
164 including an officer, partner or director of an investment adviser, or an
165 individual occupying a similar status or performing similar functions,
166 employed, appointed or authorized by or associated with an
167 investment adviser to solicit business from any person for such
168 investment adviser in this state and who receives compensation or
169 other remuneration, directly or indirectly, for such solicitation; or (ii)
170 any partner, officer, or director of an investment adviser, or an
171 individual occupying a similar status or performing similar functions,
172 or other individual employed, appointed, or authorized by or
173 associated with an investment adviser, who makes any
174 recommendation or otherwise renders advice regarding securities to
175 clients and who receives compensation or other remuneration, directly
176 or indirectly, for such advisory services.

177 (B) "Investment adviser agent" does not include an individual
178 employed, appointed or authorized by, associated with or acting on
179 behalf of an investment adviser exempt from registration under

180 subdivision (1) or (2) of subsection (e) of section 36b-6, as amended,
181 who is a "supervised person", as defined in Section 202(a)(25) of the
182 Investment Advisers Act of 1940, unless such supervised person is an
183 "investment adviser representative", as defined in Securities and
184 Exchange Commission Rule 203A-3, 17 CFR 275.203A-3.

185 (C) "Investment adviser agent" does not include such other
186 individuals not within the intent of this subdivision as the
187 commissioner may by regulation or order designate.

188 (13) "Issuer" means any person who issues or proposes to issue any
189 security; except that (A) with respect to a certificate of deposit, a
190 voting-trust certificate, or a collateral-trust certificate, or with respect
191 to a certificate of interest or a share in an unincorporated investment
192 trust not having a board of directors or persons performing similar
193 functions or of the fixed, restricted management, or unit type, "issuer"
194 means any person performing the acts and assuming the duties of
195 depositor or manager pursuant to the provisions of the trust or other
196 agreement or instrument under which the security is issued; (B) with
197 respect to an equipment trust certificate or similar security serving the
198 same purpose, "issuer" means any person who uses or will use the
199 property, any person to whom the property or equipment is or will be
200 leased or conditionally sold or any person who is otherwise
201 contractually responsible for assuring payment of the certificate; and
202 (C) with respect to a fractional undivided interest in oil, gas or other
203 mineral leases or in payments out of production under a lease, right or
204 royalty, "issuer" means any owner of an interest in the lease or in
205 payments out of production under a lease, right or royalty, whether
206 whole or fractional, who creates fractional interests for the purpose of
207 sale.

208 (14) "Nonissuer" means not directly or indirectly for the benefit of
209 the issuer.

210 (15) "Person" means an individual, a corporation, a limited liability
211 company, a partnership, a limited partnership, a limited liability

212 partnership, an association, a joint-stock company, a trust where the
213 interests of the beneficiaries are evidenced by a security, an
214 unincorporated organization, a government or a political subdivision
215 of a government.

216 (16) (A) "Sale" or "sell" includes every contract of sale of, contract to
217 sell, or disposition of, a security or interest in a security for value. (B)
218 "Offer" or "offer to sell" includes every attempt or offer to dispose of, or
219 solicitation of an offer to buy, a security or interest in a security for
220 value. (C) Any security given or delivered with, or as a bonus on
221 account of, any purchase of securities or any other thing shall be
222 conclusively presumed to constitute a part of the subject of such
223 purchase and to have been sold for value. (D) Nothing in this
224 subdivision shall limit or diminish the full meaning of the terms "sale",
225 "sell", "offer" or "offer to sell" as construed by the courts of this state.
226 (E) A purported gift of assessable stock is considered to involve an
227 offer and sale. (F) Every sale or offer of a warrant or right to purchase
228 or subscribe to another security of the same or another issuer, as well
229 as every sale or offer of a security which gives the holder a present or
230 future right or privilege to convert into another security of the same or
231 another issuer, is considered to include an offer of the other security.
232 (G) The terms defined in this subdivision do not include: (i) Any bona
233 fide pledge or loan; (ii) any stock dividend, whether the corporation
234 distributing the dividend is the issuer of the stock or not, if nothing of
235 value is given by stockholders for the dividend other than the
236 surrender of a right to a cash or property dividend when each
237 stockholder may elect to take the dividend in cash or property or in
238 stock; (iii) any act incident to a class vote by security holders on a
239 merger, exchange of securities for securities, consolidation,
240 reclassification of securities, or sale of assets in consideration of the
241 issuance of securities or securities and cash of another person other
242 than an individual; or (iv) any security which is issued in exchange for
243 one or more bona fide outstanding securities, claims or property
244 interests, or partly in such exchange and partly for cash, where the
245 terms and conditions of such issuance and exchange are approved by

246 any state or federal court.

247 (17) "Securities Act of 1933", "Securities Exchange Act of 1934",
248 "Public Utility Holding Company Act of 1935", "Investment Advisers
249 Act of 1940" and "Investment Company Act of 1940" mean the federal
250 statutes of those names, as from time to time amended.

251 (18) "Securities and Exchange Commission" means the United States
252 Securities and Exchange Commission.

253 (19) "Security" means any note, stock, treasury stock, security future,
254 bond, debenture, evidence of indebtedness, certificate of interest or
255 participation in any profit-sharing agreement, interests of limited
256 partners in a limited partnership, collateral-trust certificate,
257 preorganization certificate or subscription, transferable share,
258 investment contract, viatical settlement investment, voting-trust
259 certificate, certificate of deposit for a security, fractional undivided
260 interest in oil, gas or other mineral rights, put, call, straddle, option, or
261 privilege on any security or group or index of securities, including any
262 interest in or based on the value of such security, group or index, put,
263 call, straddle, option or privilege entered into on a national securities
264 exchange relating to foreign currency, or, in general, any interest or
265 instrument commonly known as a "security", or any certificate of
266 interest or participation in, temporary or interim certificate for, receipt
267 for, guarantee of, or warrant or right to subscribe to or purchase, any
268 of the foregoing. "Security" includes (A) a certificated and an
269 uncertificated security, and (B) as an "investment contract", an interest
270 in a limited liability company or limited liability partnership, but does
271 not include any insurance or endowment policy or annuity contract
272 issued by an insurance company that is subject to regulation by the
273 Insurance Commissioner.

274 (20) "Self-regulatory organization" means a national securities
275 exchange, a national securities association of broker-dealers or a
276 clearing agency registered under the Securities Exchange Act of 1934
277 or the Municipal Securities Rulemaking Board established under the

278 Securities Exchange Act of 1934.

279 (21) "Shell company" or "dormant company" means any company
280 which does not pursue nor has the financial capacity to pursue a
281 business plan or purpose.

282 (22) "State" means any state, territory or possession of the United
283 States, the District of Columbia and Puerto Rico.

284 (23) "Viatical settlement investment" means the contractual right to
285 receive any portion of the death benefit or ownership of a life
286 insurance policy or certificate for consideration that is less than the
287 expected death benefit of the life insurance policy or certificate.
288 Viatical settlement investment does not include:

289 (A) Any transaction between a viator and a viatical settlement
290 provider, as defined in section 38a-465, as amended by this act;

291 (B) Any transfer of ownership or beneficial interest in a life
292 insurance policy from a viatical settlement provider to another viatical
293 settlement provider, as defined in section 38a-465, as amended by this
294 act, or to any legal entity formed solely for the purpose of holding
295 ownership or beneficial interest in a life insurance policy or policies;

296 (C) The bona fide assignment of a life insurance policy to a bank,
297 savings bank, savings and loan association, credit union or other
298 licensed lending institution as collateral for a loan; or

299 (D) The exercise of accelerated benefits pursuant to the terms of a
300 life insurance policy issued in accordance with the insurance laws of
301 this state.

302 Sec. 3. Section 38a-465 of the general statutes is repealed and the
303 following is substituted in lieu thereof (*Effective October 1, 2006*):

304 As used in sections 38a-465 to 38a-465q, inclusive, as amended by
305 this act, and subdivision (20) of section 38a-816, as amended:

306 (1) "Accredited investor" means an accredited investor, as defined in
307 17 CFR Section 230.501(a), as amended from time to time.

308 (2) "Advertising" or "advertisement" means any written, electronic
309 or printed communication or any communication by means of
310 recorded telephone messages or transmitted on radio, television, the
311 Internet or similar communications media, including, but not limited
312 to, film strips, motion pictures and videos, published, disseminated,
313 circulated or placed directly before the public [directly or indirectly,]
314 in this state for the purpose of creating an interest in or inducing a
315 person to purchase or sell, assign, devise, bequest or transfer the death
316 benefit or ownership of a life insurance policy or an interest in a life
317 insurance policy pursuant to a viatical settlement contract or a viatical
318 settlement purchase agreement.

319 (3) "Chronically ill" means: (A) Being unable to perform at least two
320 activities of daily living, including, but are not limited to, eating,
321 toileting, transferring, bathing, dressing or continence; (B) requiring
322 substantial supervision to protect from threats to health and safety due
323 to severe cognitive impairment; or (C) having a level of disability
324 similar to that described in subparagraph (A) of this subdivision as
325 determined by the federal Secretary of Health and Human Services.

326 (4) "Commissioner" means the Insurance Commissioner.

327 (5) (A) "Financing entity" means an underwriter, placement agent,
328 lender, purchaser of securities, purchaser of a policy or certificate from
329 a viatical settlement provider, credit enhancer, or any entity that has a
330 direct ownership in a policy or certificate that is the subject of a viatical
331 settlement contract, but:

332 (i) Whose principal activity related to the transaction is providing
333 funds to effect the viatical settlement or purchase of one or more
334 viaticated policies; and

335 (ii) Who has an agreement in writing with one or more licensed

336 viatical settlement providers to finance the acquisition of viatical
337 settlement contracts.

338 (B) Financing entity does not include a nonaccredited investor or
339 viatical settlement purchaser.

340 (6) "Financing transaction" means any transaction in which
341 financing is obtained for the purchase, acquisition, transfer or other
342 assignment of one or more viatical settlement contracts, viaticated
343 policies or interests in such contracts or policies, including, but not
344 limited to, any secured or unsecured financing, any securitization
345 transaction or any securities offering which is registered or exempt
346 from registration under federal or state securities law, or in which one
347 or more viatical settlement contracts, viaticated policies or interests
348 therein are sold, assigned, transferred, pledged, hypothecated or
349 otherwise disposed of.

350 (7) "Fraudulent viatical settlement act" means any of the following:

351 (A) An act or omission committed by a person who, knowingly or
352 with intent to defraud, for the purpose of depriving another of
353 property or for pecuniary gain, commits or permits its employees or its
354 agents to engage in acts including:

355 (i) Presenting, causing to be presented, or preparing with
356 knowledge or belief that it will be presented to or by a viatical
357 settlement provider, financing entity, insurer, insurance producer or
358 another person, false material information or concealing material
359 information, as part of, in support of, or concerning a fact material to
360 any of the following: An application for the issuance of a viatical
361 settlement contract or policy; the underwriting of a viatical settlement
362 contract or policy; a claim for payment or benefit pursuant to a viatical
363 settlement contract or policy; premiums paid on a policy; payments
364 and changes in ownership or beneficiary made in accordance with the
365 terms of a viatical settlement contract or policy; the reinstatement or
366 conversion of a policy; in the solicitation, offer, effectuation or sale of a

367 viatical settlement contract or policy; the issuance of written evidence
 368 of viatical settlement contract or insurance; or a financing transaction;

369 (ii) Employing any device, scheme or artifice to defraud related to
 370 viaticated policies;

371 (B) In the furtherance of a fraud or to prevent the detection of a
 372 fraud a person commits or permits its employees or its agents to do
 373 any of the following:

374 (i) Remove, conceal, alter, destroy or sequester from the
 375 commissioner the assets or records of a licensee or other person
 376 engaged in the business of viatical settlements;

377 (ii) Misrepresent or conceal the financial condition of a licensee,
 378 financing entity, insurer or other person;

379 (iii) Transact the business of viatical settlements in violation of laws
 380 requiring a license, certificate of authority or other legal authority for
 381 the transaction of the business of viatical settlements; or

382 (iv) File with the commissioner or the chief insurance regulatory
 383 official of another jurisdiction a document containing false information
 384 or otherwise conceal information about a material fact from the
 385 commissioner.

386 (C) Embezzlement, theft, misappropriation or conversion of
 387 moneys, funds, premiums, credits or other property of a life settlement
 388 provider, life insurance producer, insurer, insured, seller, policyowner
 389 or another person engaged in the business of viatical settlements or of
 390 insurance;

391 (D) Recklessly entering into, negotiating, otherwise dealing in a
 392 viatical settlement contract or policy, the subject of which is a policy
 393 that was obtained by presenting false information concerning a fact
 394 material to the policy, or by concealing, for the purpose of misleading
 395 another, information concerning a fact material to the policy, where the

396 person or persons intended to defraud the insurance company that
 397 issued the policy, a viatical settlement provider or viator. "Recklessly"
 398 means engaging in the conduct in conscious and clearly unjustifiable
 399 disregard of a substantial likelihood of the existence of the relevant
 400 facts or risks, this disregard involving a gross deviation from
 401 acceptable standards of conduct;

402 (E) Facilitating, directly or indirectly, the change of state of
 403 ownership of a policy or the state of residency of a viator to avoid the
 404 provisions of this part;

405 (F) Facilitating directly or indirectly the issuance of a policy on an
 406 insured who is a resident of this state such that the policy is owned in
 407 another state in order to avoid the provisions of this part; or

408 (G) Attempting to commit, assist, aid or abet in the commission of,
 409 or conspiracy to commit, the acts or omissions specified in this
 410 subsection.

411 [(7)] (8) "Person" means a natural person or a legal entity, including,
 412 but not limited to, an individual, partnership, limited liability
 413 company, association, trust or corporation.

414 [(8)] (9) "Nonaccredited investor" means an investor that does not
 415 qualify as an accredited investor.

416 [(9)] (10) "Policy" means an individual or group policy, group
 417 certificate, contract or arrangement of life insurance affecting the rights
 418 of a resident of the state or bearing a reasonable relation to the state,
 419 regardless of whether delivered or issued for delivery in this state.

420 [(10)] (11) "Qualified institutional buyer" means a qualified
 421 institutional buyer, as defined in 17 CFR Section 230.144A, as amended
 422 from time to time.

423 [(11)] (12) "Related provider trust" means a titling trust or other trust
 424 established by a licensed viatical settlement provider or a financing

425 entity for the sole purpose of holding the ownership or beneficial
426 interest in purchased policies in connection with a financing
427 transaction.

428 [(12)] (13) "Special purpose entity" means a corporation, partnership,
429 trust, limited liability company or other similar entity formed solely to
430 provide, either directly or indirectly, access to institutional capital
431 markets for a financing entity or licensed viatical settlement provider.

432 [(13)] (14) "Terminally ill" means having an illness or sickness that
433 can reasonably be expected to result in death in twenty-four months or
434 less.

435 [(14)] (15) "Viatical settlement" means a transaction between a viator
436 and a viatical settlement provider in which the viatical settlement
437 provider pays compensation or other value in return for the viator's
438 assignment, transfer, sale, devise or bequest to the viatical settlement
439 provider of the ownership of, or the death benefit payable under, a life
440 insurance policy or a certificate.

441 [(15)] (16) "Viatical settlement broker" or "broker" means a person
442 who, on behalf of a viator and for a fee, commission or other valuable
443 consideration, offers or attempts to negotiate viatical settlement
444 contracts between a viator and one or more viatical settlement
445 providers. Irrespective of the manner in which the viatical settlement
446 broker is compensated, a viatical settlement broker is deemed to
447 represent only the viator and not the insurer or the viatical settlement
448 provider and owes a fiduciary duty to the viator to act according to the
449 viator's instructions and in the best interests of the viator. "Viatical
450 settlement broker" does not include an attorney, certified public
451 accountant or a financial planner accredited by a nationally recognized
452 accreditation agency who is retained to represent the viator and whose
453 compensation is not paid directly or indirectly by the viatical
454 settlement provider or viatical settlement purchaser.

455 [(16)] (17) "Viatical settlement contract" means a written agreement

456 between a viator and a viatical settlement provider establishing the
457 terms under which compensation or anything of value will be paid,
458 which compensation or value is less than the expected death benefit of
459 a policy in return for the viator's assignment, transfer, sale, devise or
460 bequest of the death benefit or ownership of any portion of the policy.
461 A viatical settlement contract includes, but is not limited to, (A) a
462 contract for a loan or other financing transaction with a viator secured
463 primarily by an individual or group life insurance policy, other than a
464 loan by a life insurance company pursuant to the terms of the life
465 insurance contract, or a loan secured by the cash value of a policy, or
466 (B) an agreement with a viator to transfer ownership or change the
467 beneficiary designation at a later date regardless of the date that
468 compensation is paid to the viator.

469 [(17)] (18) "Viatical settlement investment agent" means a person
470 who is an appointed or contracted agent of a licensed viatical
471 settlement provider who solicits or arranges the funding for the
472 purchase of a viatical settlement by a viatical settlement purchaser and
473 who is acting on behalf of a viatical settlement provider.

474 [(18)] (19) "Viatical settlement provider" means a person, other than
475 a viator, [who] that, in this state, from this state or with a resident of
476 this state, enters into or effectuates a viatical settlement contract.
477 Viatical settlement provider does not include:

478 (A) A bank, savings bank, savings and loan association, credit union
479 or other licensed lending institution that takes an assignment of a life
480 insurance policy as collateral for a loan;

481 (B) The issuer of a life insurance policy providing accelerated
482 benefits pursuant to section 38a-457 and pursuant to the contract;

483 (C) An authorized or eligible insurer that provides stop loss
484 coverage to a viatical settlement provider, viatical settlement
485 purchaser, financing entity, special purpose entity or related provider
486 trust;

487 (D) A natural person who enters into or effectuates no more than
488 one agreement in a calendar year for the transfer of a life insurance
489 policy for any value less than the expected death benefit;

490 (E) A financing entity;

491 (F) A special purpose entity;

492 (G) A related provider trust;

493 (H) A viatical settlement purchaser; or

494 (I) An accredited investor or qualified institutional buyer who
495 purchases a viaticated policy from a viatical settlement provider.

496 [(19)] (20) "Viatical settlement purchase agreement" means a
497 contract or agreement, entered into by a viatical settlement purchaser,
498 to which the viator is not a party, to purchase a life insurance policy or
499 an interest in a life insurance policy, that is entered into for the
500 purpose of deriving an economic benefit.

501 [(20)] (21) "Viatical settlement purchaser" means a person who gives
502 a sum of money as consideration for a life insurance policy or an
503 interest in the death benefits of a life insurance policy, or a person who
504 owns or acquires or is entitled to a beneficial interest in a trust that
505 owns a viatical settlement contract or is the beneficiary of a life
506 insurance policy that has been or will be the subject of a viatical
507 settlement contract, for the purpose of deriving an economic benefit.
508 Viatical settlement purchaser does not include:

509 (A) A licensee under this part;

510 (B) An accredited investor or qualified institutional buyer;

511 (C) A financing entity;

512 (D) A special purpose entity; or

513 (E) A related provider trust.

514 [(21)] (22) "Viaticated policy" means a life insurance policy or
515 certificate that has been acquired by a viatical settlement provider
516 pursuant to a viatical settlement contract.

517 [(22)] (23) "Viator" means the owner of a [life insurance policy or a
518 certificate holder under a group] policy who enters or seeks to enter
519 into a viatical settlement contract. For the purposes of this part, a
520 viator shall not be limited to an owner of a [life insurance policy or a
521 certificate holder under a group] policy insuring the life of an
522 individual [with a terminal or chronic illness or condition] who is
523 terminally or chronically ill except where specifically provided. Viator
524 does not include:

525 (A) A licensee under this part;

526 (B) An accredited investor or qualified institutional buyer;

527 (C) A financing entity;

528 (D) A special purpose entity; or

529 (E) A related provider trust.

530 Sec. 4. Section 38a-465a of the general statutes is repealed and the
531 following is substituted in lieu thereof (*Effective October 1, 2006*):

532 (a) Except as otherwise provided in this part, no person may act as a
533 viatical settlement provider, viatical settlement broker or viatical
534 settlement investment agent until the person is licensed by the
535 commissioner pursuant to this section, except that any person who
536 holds a resident or nonresident insurance producer license pursuant to
537 chapter 702 may act as a viatical settlement broker, and shall be subject
538 to the provisions of subsection (a) of section 38a-11, as amended,
539 sections 38a-465 to 38a-465q, inclusive, and subdivision (20) of section
540 38a-816, as amended, as if such person is a licensed viatical settlement

541 broker.

542 (b) Any applicant for a license as a viatical settlement provider,
543 viatical settlement broker or viatical settlement investment agent shall
544 submit written application to the commissioner. Such applicants shall
545 provide such information as the commissioner requires. All initial
546 applications shall be accompanied by a filing fee specified in section
547 38a-11, as amended.

548 (c) Upon the filing of an application and full payment of the license
549 fee, the commissioner shall investigate the applicant and shall issue a
550 license if the commissioner determines that:

551 (1) The applicant has provided a detailed plan of operation;

552 (2) The applicant is competent and trustworthy, and intends to act
553 in good faith pursuant to the license applied for;

554 (3) The applicant has a good business reputation and adequate
555 experience, training or education so as to be qualified in the business
556 for which the license is applied for;

557 (4) If the applicant is a corporation, partnership, limited liability
558 company or other legal entity, the applicant has provided a certificate
559 of good standing from its state of domicile and, if such applicant is not
560 domiciled in this state, a certificate of good standing from this state
561 dated not more than fifteen days before or after the date of filing of the
562 application; and

563 (5) Neither the applicant, nor any partner, key manager, director,
564 officer or majority stockholder of the applicant has been convicted of a
565 felony.

566 (d) Any license issued for a viatical settlement provider, a viatical
567 settlement broker or a viatical settlement investment agent shall be in
568 force only until the last day of March in each year, but may be renewed
569 by the commissioner without formality other than proper application.

570 The fees for such licenses shall be assessed annually as provided in
571 section 38a-11, as amended. If such broker, provider or investment
572 agent fails to timely pay the renewal fee, such license shall be
573 automatically revoked if the license fee is not received by the
574 commissioner not later than the fifth day after the commissioner sends
575 by first class mail a written notice of nonrenewal to the principal office
576 of the broker, provider or investment agent, provided such notice may
577 only be mailed after said last day of March.

578 (e) The commissioner may, at any time, require the applicant to
579 fully disclose the identity of all of its stockholders, partners, key
580 management personnel, directors, officers, members and employees,
581 except stockholders owning fewer than ten per cent of the shares of an
582 applicant whose shares are publicly traded, and the commissioner may
583 deny any application for a license if the commissioner determines that
584 any partner, key manager, director, officer, employee stockholder or
585 member thereof who may materially influence the applicant's conduct
586 fails to meet any of the standards set forth in sections 38a-465 to 38a-
587 465q, inclusive.

588 (f) A viatical settlement provider, viatical settlement broker or
589 viatical settlement investment agent shall provide to the commissioner
590 new or revised information about officers, stockholders holding ten
591 per cent or more of the company's stock, partners, directors, members
592 or designated employees not later than thirty days after the change in
593 information.

594 (g) A viatical settlement provider license, a viatical settlement
595 broker license or a viatical settlement investment agent license issued
596 to a corporation, partnership, limited liability company or other legal
597 entity authorizes all of such legal entity's stockholders, partners, key
598 managers, directors, officers and employees named in the application
599 for such license, and any supplements to the application, to act on such
600 entity's behalf as if such individuals are licensed. Such authorization
601 shall terminate upon the expiration, suspension or revocation of the

602 viatical settlement provider license, a viatical settlement broker license
603 or a viatical settlement investment agent license.

604 (h) The commissioner shall maintain a complete listing of all viatical
605 settlement providers, viatical settlement brokers and viatical
606 settlement investment agents licensed in this state which shall be
607 available to the general public for inspection.

608 Sec. 5. Section 38a-465b of the general statutes is repealed and the
609 following is substituted in lieu thereof (*Effective October 1, 2006*):

610 (a) The commissioner may deny a license application, or suspend,
611 revoke or refuse to renew the license of any viatical settlement
612 provider, viatical settlement broker or viatical settlement investment
613 agent if the commissioner determines that:

614 (1) There was a material misrepresentation in the license application
615 or in other information submitted to the commissioner;

616 (2) The licensee, or any partner, key manager, director, officer or
617 majority stockholder of the licensee has been convicted of a felony, is
618 subject to a final administrative action to suspend or revoke a license
619 granted by the chief insurance regulatory official of another state, or is
620 otherwise shown to be untrustworthy or incompetent to act as a
621 viatical settlement provider, viatical settlement broker or viatical
622 settlement investment agent;

623 (3) The licensee has wilfully violated any of the provisions of this
624 part;

625 (4) The viatical settlement provider demonstrates a pattern of
626 unreasonably low payments to viators;

627 (5) The licensee has been found guilty of or has pleaded guilty or
628 nolo contendere to, any felony, or to a misdemeanor involving fraud or
629 moral turpitude regardless of whether a judgment or conviction has
630 been entered by the court;

631 (6) The viatical settlement provider has [entered into] used any
632 viatical settlement contract form or other form required to be approved
633 pursuant to this part that has not been approved; [pursuant to sections
634 38a-465 to 38a-465q, inclusive;]

635 (7) The viatical settlement provider has failed to honor contractual
636 obligations set out in a viatical settlement contract or a viatical
637 settlement purchase agreement;

638 (8) The licensee no longer meets the requirements for initial
639 licensure; or

640 (9) The viatical settlement provider has assigned, transferred or
641 pledged a viatical policy to a person other than a viatical settlement
642 provider licensed in this state, a viatical settlement purchaser, an
643 accredited investor, a qualified institutional buyer, a financing entity,
644 special purpose entity or related provider trust.

645 (b) The commissioner may suspend, revoke or refuse to renew the
646 license of an insurance producer operating as a viatical settlement
647 broker pursuant to this part if the commissioner finds that such
648 insurance producer:

649 (1) Has violated the provisions of this part;

650 (2) Has received a fee, commission or other valuable consideration
651 for his or her services with respect to viatical settlement transactions
652 that involved unlicensed viatical settlement providers or viatical
653 settlement brokers; or

654 (3) Deals in bad faith with viators.

655 [(b)] (c) If the commissioner denies a license application, or
656 suspends, revokes or refuses to renew the license of a viatical
657 settlement provider, viatical settlement broker or viatical settlement
658 investment agent, or refuses to renew the license of a life insurance
659 producer, the applicant or licensee aggrieved by such denial,

660 suspension, revocation or refusal to renew a license may appeal such
661 action in accordance with chapter 54. Hearings may be held by the
662 commissioner or by any person designated by the commissioner.
663 Whenever an individual other than the commissioner acts as the
664 hearing officer, the individual shall submit to the commissioner a
665 memorandum of findings and recommendations upon which the
666 commissioner may base a decision.

667 [(c)] (d) In addition to denying a license application, or suspending,
668 revoking or refusing to renew a license, the commissioner may assess a
669 fine of up to one thousand dollars against a viatical settlement
670 provider or viatical settlement investment agent for each wilful
671 violation by the viatical settlement provider of any provision of this
672 part or regulations adopted pursuant to this part.

673 [(d)] (e) In addition to denying a license application, or suspending,
674 revoking or refusing to renew a license, the commissioner may assess a
675 fine of up to one thousand dollars against a viatical settlement broker
676 or an insurance agent acting as a viatical settlement broker pursuant to
677 this part, if:

678 (1) Such viatical settlement broker or agent has knowingly received
679 a commission or other payment or benefit from a viatical settlement
680 provider or viatical settlement broker who is unlicensed in this state in
681 connection with a viatical settlement contract entered into with a
682 viator; [resident in this state;]

683 (2) Such viatical settlement broker or agent has defrauded, misled or
684 mistreated viators; or

685 (3) Such viatical settlement broker or agent has wilfully violated any
686 provision of sections 38a-465 to 38a-465q, inclusive, as amended by
687 this act, or regulations adopted pursuant to said sections.

688 Sec. 6. Section 38a-465c of the general statutes is repealed and the
689 following is substituted in lieu thereof (*Effective October 1, 2006*):

690 No person may use any [form of] viatical settlement contract form
 691 or disclosure statement form in this state when dealing with a viator
 692 unless such form has been filed with and approved by the
 693 commissioner. The commissioner may disapprove a viatical settlement
 694 contract form or disclosure statement form, if the commissioner finds
 695 any provision in said form is unreasonable, contrary to the interests of
 696 the public, fails to comply with the provisions of sections 38a-465 to
 697 38a-465q, inclusive, as amended by this act, or is misleading to viators
 698 or the public.

699 Sec. 7. Section 38a-465d of the general statutes is repealed and the
 700 following is substituted in lieu thereof (*Effective October 1, 2006*):

701 (a) Except as provided in subsection (b) of this section, on or before
 702 the last day of March of each year, each viatical settlement provider
 703 shall file with the commissioner an annual statement containing such
 704 information as the commissioner may prescribe by regulation. Such
 705 information is limited to only those transactions in which the viator is
 706 a resident of this state and does not include individual transaction data
 707 regarding the business of viatical settlements or data that compromises
 708 the privacy of personal, financial and health information relating to the
 709 viator or insured. The commissioner shall adopt regulations, in
 710 accordance with chapter 54, to prescribe the contents of such annual
 711 statements.

712 (b) Notwithstanding the provisions of subsection (a) of this section,
 713 no licensee may submit to the commissioner information which
 714 identifies any viator except with the express written permission of
 715 such viator or the viator's estate or representative.

716 (c) Except as otherwise required or permitted by law, no person,
 717 including, but not limited to, any viatical settlement provider, viatical
 718 settlement investment agent, viatical settlement broker, insurance
 719 company, insurance producer, information bureau, rating agency or
 720 company, or any other person with actual knowledge of an insured's
 721 identity, may disclose such identity to any other person unless such

disclosure: (1) Is necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator has provided prior written consent to such disclosure; (2) is provided in response to an investigation by the commissioner or any other governmental office or agency; (3) is necessary to effect a viatical settlement purchase agreement between the viatical settlement purchaser and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure; (4) is a term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider; (5) is necessary to permit a financing entity, related provider trust or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure; (6) is necessary to allow the viatical settlement provider [or viatical settlement broker or their] or his or her authorized [representatives] representative to make contacts for the purpose of determining health status; or (7) is required to purchase stop loss coverage.

(d) The commissioner shall not disclose the names of or other data identifying viators unless such disclosure is required by law.

Sec. 8. Section 38a-465f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) With each application for a viatical settlement contract, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures not later than at the time the application for the viatical settlement contract is signed by all parties. Disclosure to a viator shall include distribution of a brochure developed or authorized by the commissioner describing the process of viatical settlements. The disclosure document shall contain the following language: "All medical, financial or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be

754 disclosed as necessary to effect the viatical settlement between the
755 viator and the viatical settlement provider. If you are asked to provide
756 this information, you will be asked to consent to the disclosure. The
757 information may be provided to someone who buys the policy or
758 provides funds for the purchase. You may be asked to renew your
759 permission to share information every two years." The disclosure shall
760 be provided in a separate document that is signed by the viator and
761 the viatical settlement provider or viatical settlement broker and shall
762 provide at least the following disclosures:

763 (1) There are possible alternatives to viatical settlement contracts
764 including any accelerated death benefits or policy loans offered under
765 the viator's [life insurance] policy;

766 (2) A viatical settlement broker, including an insurance producer
767 lawfully operating as a viatical settlement broker, represents only the
768 viator and not the insurer or the viatical settlement provider and owes
769 a duty to the viator to act according to the viator's instructions and in
770 the best interest of the viator;

771 [(2)] (3) Some or all of the proceeds of the viatical settlement
772 contract may be taxable under federal income tax, and assistance
773 should be sought from a professional tax advisor;

774 [(3)] (4) Receipt of the [viatical settlement] proceeds of a viatical
775 settlement contract may adversely affect the viator's eligibility for
776 Medicaid or other government benefits or entitlements, and advice
777 should be obtained from the appropriate governmental agencies or
778 advisors;

779 [(4)] (5) The viatical settlement provider may assign or otherwise
780 transfer its interests in the viaticated policy to a third party;

781 [(5)] (6) The viator has the right to rescind a viatical settlement
782 contract [for] before the earlier of thirty calendar days after the date on
783 which the viatical settlement contract is executed by all parties or

fifteen calendar days after the receipt of the [viatical settlement]
 proceeds of a viatical settlement contract by the viator, as provided in
 subsection (c) of section 38a-465g, as amended by this act. If exercised
by the viator, rescission is effective only if both notice of the rescission
is delivered by the viator to the viatical settlement provider and
repayment of all proceeds and any premiums, loans and loan interest
to the viatical settlement provider is made before the expiration of the
applicable rescission period. If the insured dies during the rescission
 period, the viatical settlement contract shall be deemed to have been
 rescinded, subject to repayment of all [viatical settlement] proceeds of
a viatical settlement contract and any premiums, loans and loan
 interest to the viatical settlement provider or viatical settlement
 purchaser;

[(6)] (7) Proceeds of the viatical settlement contract may be subject to
 the claims of general creditors;

[(7)] (8) Funds will be sent to the viator within two business days
 after the viatical settlement provider has received the insurer or group
 administrator's acknowledgment that ownership of the [viatical]
viaticated policy or interest in the certificate has been transferred and
 the beneficiary has been designated pursuant to sections 38a-465 to
 38a-465q, inclusive, as amended by this act;

[(8)] (9) Entering into the viatical settlement contract may cause
 other rights or benefits, including conversion rights and waiver of
 premium benefits that may exist under the policy, [or certificate,] to be
 forfeited by the viator and that assistance should be sought from a
 financial advisor;

[(9)] (10) The insured may be contacted by either the viatical
 settlement provider [or broker] or its authorized representative for the
 purpose of determining the insured's health status. This contact is
 limited to once every three months following the date the [viatical
 settlement] proceeds of a viatical settlement contract are released to the
 viator if the insured has a life expectancy of more than one year, and

816 no more than once per month following such date if the insured has a
817 life expectancy of one year or less.

818 (b) A viatical settlement provider shall provide the viator with at
819 least the following disclosures not later than the date the viatical
820 settlement contract is signed by all parties. The disclosures shall be
821 conspicuously displayed in the viatical settlement contract or in a
822 separate document signed by the viator and the viatical settlement
823 provider, [or viatical settlement broker,] and shall provide at least the
824 following disclosures:

825 (1) The affiliation, if any, between the viatical settlement provider
826 and the issuer of the insurance policy to be [viaticated] acquired
827 pursuant to a viatical settlement contract;

828 (2) The name, address and telephone number of the viatical
829 settlement provider;

830 (3) If an insurance policy to be [viaticated] acquired pursuant to a
831 viatical settlement contract has been issued as a joint policy or involves
832 family riders or any coverage of a life other than the insured under the
833 policy to be [viaticated] acquired pursuant to a viatical settlement
834 contract, the viator shall be informed of the possible loss of coverage
835 on the other lives under the policy and shall be advised to consult with
836 the viator's insurance producer or the insurer issuing the policy for
837 advice on the proposed viatical settlement contract;

838 (4) The dollar amount of the current death benefit payable to the
839 viatical settlement provider under the policy, [or certificate.] If known,
840 the viatical settlement provider shall also disclose the availability of
841 any additional guaranteed insurance benefits, the dollar amount of any
842 accidental death and dismemberment benefits under the policy [or
843 certificate] and the viatical settlement provider's interest in those
844 benefits;

845 (5) The name, business address, and telephone number of the

846 independent third party escrow agent, and the fact that the viator or
847 owner may inspect or receive copies of the relevant escrow or trust
848 agreements or documents.

849 (c) If the viatical settlement provider transfers ownership or changes
850 the beneficiary of the [insurance] viaticated policy, the viatical
851 settlement provider shall communicate the change in ownership or
852 beneficiary to the insured not later than twenty days after the change.

853 (d) A viatical settlement provider or its viatical settlement
854 investment agent shall provide the viatical settlement purchaser with
855 at least the following disclosures prior to the date the viatical
856 settlement purchase agreement is signed by all parties. The disclosures
857 shall be conspicuously displayed in any viatical settlement purchase
858 agreement or in a separate document signed by the viatical settlement
859 purchaser and viatical settlement provider or viatical settlement
860 investment agent and shall provide at least the following disclosures:

861 (1) The purchaser will receive no returns, including, but not limited
862 to, dividends and interest, until the insured dies;

863 (2) The actual annual rate of return on a viatical settlement contract
864 is dependent upon an accurate projection of the insured's life
865 expectancy, and the actual date of the insured's death. An annual
866 guaranteed rate of return is not determinable;

867 (3) The viaticated life insurance contract should not be considered a
868 liquid purchase because it is impossible to predict the exact timing of
869 the contract's maturity and the funds may not be available until the
870 death of the insured. There is no established secondary market for
871 resale of these contracts by the purchaser;

872 (4) The purchaser may lose all benefits or may receive substantially
873 reduced benefits if the insurer goes out of business during the term of
874 the viatical investment;

875 (5) The purchaser is responsible for payment of the insurance

876 premium or other costs related to the policy if required by the terms of
877 the viatical settlement purchase agreement. Such payments may
878 reduce the purchaser's return. If a party other than the purchaser is
879 responsible for the payment, the name and address of that party shall
880 be disclosed;

881 (6) The purchaser is responsible for payment of the insurance
882 premiums or other costs related to the policy if the insured returns to
883 good health. The amount of such premiums shall be disclosed, if
884 applicable;

885 (7) The name and address of any person providing escrow services
886 and the person's relationship to the broker;

887 (8) The amount of any trust fees or other expenses to be charged to
888 the viatical settlement purchaser;

889 (9) Whether the purchaser is entitled to a refund of all or part of the
890 purchaser's investment under the viatical settlement contract if the
891 policy is later determined to be null and void;

892 (10) That group policies may contain limitations or caps in the
893 conversion rights, additional premiums may be required to be paid if
894 the policy is converted, the party responsible for the payment of the
895 additional premiums shall be named and, if a group policy is
896 terminated and replaced by another group policy, that there may be no
897 right to convert the original coverage;

898 (11) The risks associated with policy contestability, including, but
899 not limited to, the risk that the purchaser will have no claim or only a
900 partial claim to death benefits if the insurer rescinds the policy within
901 the contestability period;

902 (12) Whether the purchaser will be the owner of the policy in
903 addition to being the beneficiary, and if the purchaser is the
904 beneficiary only and not also the owner, the special risks associated
905 with that status, including, but not limited to, the risk that the

906 beneficiary may be changed or the premium may not be paid;

907 (13) (A) The experience and qualifications of the person who
 908 determines the life expectancy of the insured, such as in-house staff,
 909 independent physicians and specialty firms that weigh medical and
 910 actuarial data; (B) the information the determination of life expectancy
 911 is based on; and (C) the relationship of the person making the
 912 determination to the viatical settlement provider, if any;

913 (14) Disclosure to an investor shall include distribution of a
 914 brochure, developed or authorized by the commissioner, describing
 915 the process of investment in viatical settlements.

916 (e) A viatical settlement provider or its viatical settlement
 917 investment agent shall provide the viatical settlement purchaser with
 918 at least the following disclosures not later than at the time of the
 919 assignment, transfer or sale of all or a portion of an insurance policy.
 920 The disclosures shall be contained in a document signed by the viatical
 921 settlement purchaser and viatical settlement provider or viatical
 922 settlement investment agent and shall provide at least the following
 923 disclosures:

924 (1) All life expectancy certifications obtained by the provider in the
 925 process of determining the price paid to the viator;

926 (2) Whether premium payments or other costs related to the policy
 927 have been escrowed. If such costs have been escrowed, disclosure is
 928 required regarding the date upon which the escrowed funds will be
 929 depleted and whether the purchaser will be responsible for payment of
 930 premiums after that date, and, if so, the amount of the premiums;

931 (3) Whether premium payments or other costs related to the policy
 932 have been waived. If such costs have been waived, disclosure is
 933 required regarding whether the investor will be responsible for
 934 payment of the premiums if the insurer that wrote the policy
 935 terminates the waiver after purchase and the amount of those

936 premiums;

937 (4) The type of policy offered or sold, such as, whole life, term life,
938 universal life or a group policy certificate, any additional benefits
939 contained in the policy, and the current status of the policy;

940 (5) If the policy is term insurance, the special risks associated with
941 term insurance, including, but not limited to, the purchaser's
942 responsibility for additional premiums if the viator continues the term
943 policy at the end of the current term;

944 (6) Whether the policy is contestable;

945 (7) Whether the insurer that wrote the policy has any additional
946 rights that could negatively affect or extinguish the purchaser's rights
947 under the viatical settlement contract, what the rights are, and under
948 what conditions the rights are activated;

949 (8) The name and address of the person responsible for monitoring
950 the insured's condition, a description of how often the monitoring of
951 the insured's condition is done, how the date of death is determined,
952 and how and when this information will be transmitted to the
953 purchaser.

954 (f) The viatical settlement purchase agreement may be voided by the
955 purchaser at any time before the end of the third day after the
956 disclosures required by subsections (d) and (e) of this section are
957 received by the purchaser.

958 Sec. 9. Section 38a-465g of the general statutes is repealed and the
959 following is substituted in lieu thereof (*Effective October 1, 2006*):

960 (a) (1) Before entering into a viatical settlement contract, a viatical
961 settlement provider shall obtain:

962 (A) If the viator is the individual whose life is insured by the
963 [viator's life insurance policy or certificate,] policy, a written statement

964 from a licensed physician that the viator is of sound mind and under
965 no undue influence to enter into the viatical settlement contract; and

966 (B) A witnessed document executed by the insured person in which
967 the person consents to the release of the person's medical records to a
968 viatical settlement provider, viatical settlement broker and the
969 insurance company that issued the life insurance policy covering the
970 life of the insured. The consent for the release of medical records shall
971 only be obtained for the insurance company if the life insurance policy
972 covering the insured was issued within forty-eight months of the date
973 of the viator's application for the viatical settlement contract.

974 [(2) Not later than twenty days after a viator executes the
975 documents necessary to transfer any rights under a policy or not later
976 than twenty days after entering any agreement, option, promise or any
977 other form of understanding, expressed or implied, to viaticate the
978 policy, the viatical settlement provider shall give written notice to the
979 insurer that issued the policy that the policy has or will become a
980 viaticated policy. The notice shall be accompanied by the documents
981 required by subdivision (3) of this subsection.

982 (3) The viatical settlement provider shall deliver a copy of the
983 medical release required under subparagraph (B) of subdivision (1) of
984 this subsection, a copy of the viator's application for the viatical
985 settlement contract, the notice required under subdivision (2) of this
986 subsection and a request for verification of coverage to the insurer that
987 issued the policy that is the subject of the viatical transaction. The
988 commissioner may adopt regulations, in accordance with chapter 54,
989 to prescribe the form or forms to be used for verification of coverage.]

990 [(4)] (2) The insurer shall respond to a request for verification of
991 coverage submitted on [an approved] a form approved by the
992 commissioner for use by a viatical settlement provider not later than
993 thirty calendar days after the date the request was received and shall
994 indicate whether, based on the medical evidence and documents
995 provided, the insurer intends, at the time of the response, to pursue an

996 investigation regarding the validity of the policy or possible fraud.

997 [(5)] (3) Prior to or at the time of execution of the viatical settlement
 998 contract, the viatical settlement provider shall obtain a witnessed
 999 document in which the viator consents to the viatical settlement
 1000 contract, represents that the viator has a full and complete
 1001 understanding of the viatical settlement contract, that the viator has a
 1002 full and complete understanding of the benefits of the life insurance
 1003 policy, acknowledges that the viator is entering into the viatical
 1004 settlement contract freely and voluntarily and, for persons with a
 1005 terminal or chronic illness or condition, acknowledges that the insured
 1006 has a terminal or chronic illness and that the terminal or chronic illness
 1007 or condition was diagnosed after the life insurance policy was issued.

1008 [(6)] (4) If a viatical settlement broker performs any of the activities
 1009 required of the viatical settlement provider under this section, the
 1010 provider shall be deemed to have fulfilled the requirements of this
 1011 section.

1012 (b) All medical information solicited or obtained by any person
 1013 licensed pursuant to this part shall be subject to applicable provisions
 1014 of law relating to the confidentiality of medical information.

1015 (c) Each viatical settlement contract entered into in this state or
 1016 entered into with residents of this state shall provide that the viator
 1017 [may] has the right to rescind the viatical settlement contract [within]
 1018 before the earlier of thirty calendar days after the date on which the
 1019 viatical settlement contract is executed by all parties or fifteen days
 1020 from the viator's receipt of the [viatical settlement] proceeds [Such
 1021 rescission shall be] of a viatical settlement contract. If exercised by the
 1022 viator, rescission is effective only if both notice of the rescission is
 1023 delivered by the viator to the viatical settlement provider and [a full
 1024 return of funds] repayment of all proceeds and any premiums, loans
 1025 and loan interest to the viatical settlement provider is made before the
 1026 expiration of the applicable rescission period. If the insured dies
 1027 during the rescission period, the viatical settlement contract shall be

1028 deemed to have been rescinded, subject to repayment [to the viatical
1029 settlement provider or viatical settlement purchaser] of all [viatical
1030 settlement] proceeds of a viatical settlement contract, and any
1031 premiums, loans and loan interest that has been paid by the viatical
1032 settlement provider, [or viatical settlement purchaser.]

1033 (d) The viatical settlement purchaser shall have the right to rescind a
1034 viatical settlement contract until the end of the third day after the
1035 disclosures required by subsections (d) and (e) of section 38a-465f, as
1036 amended by this act, are received by the purchaser.

1037 (e) The viatical settlement provider shall instruct the viator to send
1038 the executed documents required to effect the change in ownership,
1039 assignment or change in beneficiary directly to the independent
1040 escrow agent. Not later than two business days after the date the
1041 escrow agent receives the document, or not later than two business
1042 days after the date the viatical settlement provider receives the
1043 documents if the viator erroneously provides the documents directly
1044 to the provider, the provider shall pay or transfer the proceeds of the
1045 viatical settlement into an escrow or trust account maintained in a state
1046 or federally-chartered financial institution whose deposits are insured
1047 by the Federal Deposit Insurance Corporation. Upon payment of the
1048 settlement proceeds into the escrow account, the escrow agent shall
1049 deliver the original change in ownership, assignment or change in
1050 beneficiary forms to the viatical settlement provider or related
1051 provider trust. Upon the escrow agent's receipt of the acknowledgment
1052 of the properly completed transfer of ownership, assignment or
1053 designation of beneficiary from the insurance company, the escrow
1054 agent shall pay the settlement proceeds to the viator.

1055 (f) Failure to tender consideration to the viator for the viatical
1056 settlement contract within the time set forth in section 38a-465f, as
1057 amended by this act, shall render the viatical settlement contract
1058 voidable by the viator for lack of consideration until the time such
1059 consideration is tendered to, and accepted by, the viator.

1060 (g) No viatical settlement broker shall receive from a viatical
1061 settlement provider a fee, commission or other valuable consideration
1062 for services rendered to or in connection with viators resident in this
1063 state unless such viatical settlement provider is licensed in this state.

1064 (h) Viatical settlement proceeds received by a viator from a licensed
1065 viatical settlement provider pursuant to a viatical settlement contract
1066 shall not be subject to state taxation under title 12.

1067 (i) Following the [consummation] execution of a viatical settlement
1068 contract by all parties, no person may initiate contact with the insured
1069 under the viaticated policy for purposes of determining the insured's
1070 health status (1) more than one time during each consecutive three-
1071 month period following the date the viatical settlement proceeds are
1072 released to the viator if the insured has an estimated life expectancy of
1073 more than one year from such date, or (2) more than one time during
1074 each month following such date if the insured has an estimated life
1075 expectancy of one year or less. The viatical settlement provider shall
1076 notify the viator of said limitations on contacts with the insured prior
1077 to the [consummation] execution of the viatical settlement contract by
1078 all parties in accordance with section 38a-465f, as amended by this act.
1079 The limitations set forth in this subsection shall not apply to any
1080 contacts with an insured under a viaticated policy for reasons other
1081 than determining the insured's health status. Viatical settlement
1082 providers [and viatical settlement brokers] shall be responsible for the
1083 actions of their authorized representatives.

1084 (j) An insured shall have the right, where permitted under the [life
1085 insurance policy or certificate,] policy, to assign, transfer, sell or
1086 bequest the net death benefit payable under or ownership of a [life
1087 insurance] policy [or certificate] for any remaining portion of such
1088 coverage. An insured shall also have the right, where permitted under
1089 the [life insurance policy or certificate,] policy, to assign, transfer, sell
1090 or bequest the net death benefit payable under or ownership of a [life
1091 insurance] policy [or certificate] at any time such coverage is on

1092 disability waiver of premium.

1093 (k) Unless otherwise agreed to in writing by the viator and the
 1094 viatical settlement provider, the amount payable to a viatical
 1095 settlement provider upon the insured's death shall be the amount (1)
 1096 which would have been payable to the viatical settlement provider if
 1097 the insured had died on the first day following the date of the viatical
 1098 settlement contract, less (2) (A) any double or additional indemnity
 1099 amount, if any, payable under the viaticated policy if the insured's
 1100 death is accidental, and (B) all other amounts required to be deducted
 1101 from the death benefit. Any other additional amounts shall remain
 1102 payable to the beneficiary last named by the viator prior to entering
 1103 into the viatical settlement contract, or to such other beneficiary, other
 1104 than the viatical settlement provider, as the viator may designate after
 1105 entering into the viatical settlement contract, or in the absence of a
 1106 designation, to the estate of the viator.

1107 Sec. 10. Section 38a-465h of the general statutes is repealed and the
 1108 following is substituted in lieu thereof (*Effective October 1, 2006*):

1109 (a) No person who invests in a viaticated policy, including, but not
 1110 limited to, a participant in a financing transaction, may influence the
 1111 treatment of the insured's illness.

1112 (b) (1) No life insurance policy or certificate issued or delivered in
 1113 this state which permits assignment may in any way restrict the owner
 1114 of the policy or holder of the certificate from making an assignment of
 1115 rights under said contract or certificate as a gift without consideration.

1116 (2) [Any provision in any life insurance policy or certificate which
 1117 places restrictions on assignments described in subdivision (1) of this
 1118 subsection may be waived with written consent from the administrator
 1119 or insurer of such policy or certificate.] No life insurance policy or
 1120 certificate issued or delivered in this state which permits assignment
 1121 may in any way restrict the owner of the policy or holder of the
 1122 certificate from making an assignment pursuant to a viatical settlement

1123 contract or otherwise entering into a viatical settlement contract in
1124 accordance with this part.

1125 (c) The assignee of an individual life insurance policy or of rights
1126 under a certificate pursuant to a viatical settlement contract shall have
1127 all rights at law or in equity held by the assignor under such policy or
1128 certificate, including, but not limited to, the right to: (1) Convert the
1129 coverage evidenced by the certificate to an individual policy; (2)
1130 receive timely notice of such right to convert; (3) take such other action
1131 as may be necessary under the policy or certificate in order to preserve
1132 the value of the assigned coverage; (4) receive information concerning
1133 the coverage under the policy or certificate; (5) receive notice of a lapse
1134 or discontinuation of coverage; (6) exercise any option relating to the
1135 assigned coverage during an open enrollment period; and (7) all such
1136 other rights and privileges vested in the assignor under the terms of
1137 the policy or certificate.

1138 (d) If a certificate is assigned pursuant to a viatical settlement
1139 contract and the administrator of the group life insurance policy to
1140 which the certificate relates fails to give notice to the viatical settlement
1141 provider that the insured is no longer a covered person under the
1142 group life insurance policy or of the right to convert the certificate to
1143 an individual life insurance policy, the period of time during which the
1144 viatical settlement provider may apply for conversion under the terms
1145 of the group life insurance policy shall begin from the date such notice
1146 is received by the viatical settlement provider.

1147 (e) If a certificate acquired pursuant to a viatical settlement contract
1148 is converted to an individual life insurance policy, where permitted
1149 under the life insurance policy or certificate and when the face amount
1150 does not exceed the original group coverage, for the purposes of
1151 measuring the period of incontestability or determining application of
1152 the suicide exclusion, the date of issue of the policy shall be the first
1153 day coverage was provided under the group life insurance policy to
1154 which the certificate related and not the date of issue of the individual

1155 life insurance policy issued following conversion, provided the
1156 information relevant to the determination of eligibility of conversion
1157 can be contested.

1158 Sec. 11. Section 38a-465i of the general statutes is repealed and the
1159 following is substituted in lieu thereof (*Effective October 1, 2006*):

1160 (a) Each life insurance company licensed in this state shall promptly
1161 respond to reasonable requests for policy or certificate information
1162 following the receipt of the following documents by the insurer or its
1163 agent:

1164 (1) An instruction executed by the viator requiring the insurer to
1165 release specified information regarding the policy or certificate to a
1166 named viatical settlement provider or viatical settlement broker; and

1167 (2) A written request for such information from the named viatical
1168 settlement provider or viatical settlement broker.

1169 (b) Requests for the following items are deemed to be reasonable: (1)
1170 Ownership of and death benefits payable under the viaticated policy;
1171 (2) premium information on the viaticated policy; (3) liens on and
1172 assignments and additional benefits of the viaticated policy; (4) waiver
1173 of premium of the viaticated policy; and (5) ownership of and
1174 assignment provisions under the viaticated policy. The commissioner
1175 may adopt regulations, in accordance with chapter 54, to identify
1176 additional requests for information which shall also be deemed
1177 reasonable.

1178 (c) An insurer or third party administrator of a group life insurance
1179 policy shall promptly issue an individual conversion policy if the
1180 conversion is being requested for the purpose of entering into a viatical
1181 settlement contract.

1182 (d) Nothing in this section shall be construed to prohibit a policy
1183 owner or certificate holder, pursuant to the provisions of the policy or
1184 certificate, from assigning rights or benefits under the policy or

1185 certificate to a viatical settlement provider or from converting such
1186 coverage to an individual life insurance policy.

1187 (e) No person may enter into a viatical settlement contract [within]
1188 at any time prior to the application for or issuance of a policy that is
1189 the subject of a viatical settlement contract or for a two-year period
1190 from the date of issuance of an insurance policy or certificate unless
1191 the viator certifies to the viatical settlement provider that one or more
1192 of the following conditions have been met within the two-year period:

1193 (1) The policy was issued upon the viator's exercise of conversion
1194 rights arising out of a group or individual policy, provided the total of
1195 the time covered under the conversion policy plus the time covered
1196 under the prior policy is at least twenty-four months. The time covered
1197 under a group policy shall be calculated without regard to any change
1198 in insurance carriers, provided the coverage has been continuous and
1199 under the same group sponsorship;

1200 (2) (A) The viator submits independent evidence to the viatical
1201 settlement provider that one or more of the following conditions have
1202 been met within the two-year period:

1203 (i) The viator or insured is terminally or chronically ill; or

1204 (ii) [The viator disposes of the viator's entire ownership interests in
1205 a closely held corporation pursuant to the terms of a buyout or other
1206 similar agreement in effect at the time the insurance policy was
1207 initially issued;] A final order, judgment or decree is entered by a court
1208 of competent jurisdiction, on the application of a creditor of the viator,
1209 adjudicating the viator bankrupt or insolvent or approving a petition
1210 seeking reorganization of the viator or appointing a receiver, trustee or
1211 liquidator to all or a substantial part of the viator's assets;

1212 (B) Copies of the independent evidence described in subparagraph
1213 (A) of this subdivision and documents required by subsection (a) of
1214 section 38a-465g, as amended by this act, shall be submitted to the

insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

(f) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in subdivision (2) of subsection (e) of this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.

Sec. 12. Section 38a-465k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

[No viatical settlement provider may sell, assign, transfer or pledge a viaticated policy except to a viatical settlement provider licensed pursuant to section 38a-465a, or a person not required to be licensed under sections 38a-465 to 38a-465m, inclusive.]

(a) (1) A person shall not commit a fraudulent viatical settlement act.

(2) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this part or investigations of suspected or actual violations of this part.

(3) A person engaged in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

(b) (1) Viatical settlement contracts and applications for viatical settlement contracts, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

1245 "Any person who knowingly presents false information in an
1246 application for insurance or viatical settlement contract is guilty of a
1247 crime and may be subject to fines and confinement in prison."

1248 (2) The omission of a statement as required by subdivision (1) of this
1249 subsection does not constitute a defense in any prosecution for a
1250 fraudulent viatical settlement act.

1251 (c) (1) Any person engaged in the business of viatical settlements
1252 having knowledge or a reasonable belief that a fraudulent viatical
1253 settlement act is being, will be or has been, committed, shall provide to
1254 the commissioner the information required by, and in a manner
1255 prescribed by, the commissioner.

1256 (2) Any other person having knowledge or a reasonable belief that a
1257 fraudulent viatical settlement act is being, will be or has been,
1258 committed, may provide to the commissioner the information required
1259 by, and in a manner prescribed by, the commissioner.

1260 (d) (1) No civil liability shall be imposed on and no cause of action
1261 shall arise from a person's furnishing information concerning
1262 suspected, anticipated or completed fraudulent viatical settlement acts
1263 or suspected or completed fraudulent insurance acts, if the information
1264 is provided to or received from:

1265 (A) The commissioner or the commissioner's employees, agents or
1266 representatives;

1267 (B) Federal, state or local law enforcement or regulatory officials or
1268 their employees, agents or representatives;

1269 (C) A person involved in the prevention and detection of fraudulent
1270 viatical settlement acts or such person's agents, employees or
1271 representatives;

1272 (D) The National Association of Insurance Commissioners, National
1273 Association of Securities Dealers or the North American Securities

1274 Administrators Association or their employees, agents or
 1275 representatives, or other regulatory body overseeing life insurance,
 1276 viatical settlements, securities or investment fraud; or

1277 (E) The insurer that issued the policy.

1278 (2) The provisions of subdivision (1) of this subsection shall not
 1279 apply to statements made with actual malice. In an action brought
 1280 against a person for filing a report or furnishing other information
 1281 concerning a fraudulent viatical settlement act or a fraudulent
 1282 insurance act, the party bringing the action shall plead specifically any
 1283 allegation that subdivision (1) of this subsection does not apply
 1284 because the person filing the report or furnishing the information did
 1285 so with actual malice.

1286 (3) A person identified in subdivision (1) of this subsection shall be
 1287 entitled to an award of attorney's fees and costs if he or she is the
 1288 prevailing party in a civil cause of action for libel, slander or any other
 1289 relevant tort arising out of activities in carrying out the provisions of
 1290 this part and the party bringing the action was not substantially
 1291 justified in doing so. For purposes of this section, a proceeding is
 1292 "substantially justified" if it had a reasonable basis in law or fact at the
 1293 time that it was initiated.

1294 (4) The provisions of this section do not abrogate or modify
 1295 common law or statutory privileges or immunities enjoyed by a person
 1296 identified in subdivision (1) of this subsection.

1297 (5) The provisions of subdivision (1) of this subsection do not apply
 1298 to a person's furnishing information concerning his or her own
 1299 suspected, anticipated or completed fraudulent viatical settlement acts
 1300 or suspected, anticipated or completed fraudulent insurance acts.

1301 (e) (1) The documents and evidence provided pursuant to
 1302 subsection (d) of this section or obtained by the commissioner in an
 1303 investigation of suspected or actual fraudulent viatical settlement acts

1304 shall be privileged and confidential and shall not be a public record or
1305 subject to discovery or subpoena in a civil or criminal action.

1306 (2) The provisions of subdivision (1) of this subsection do not
1307 prohibit release by the commissioner of documents and evidence
1308 obtained in an investigation of suspected or actual fraudulent viatical
1309 settlement acts:

1310 (A) In administrative or judicial proceedings to enforce laws
1311 administered by the commissioner:

1312 (B) To federal, state or local law enforcement or regulatory agencies,
1313 to an organization established for the purpose of detecting and
1314 preventing fraudulent viatical settlement acts or to the National
1315 Association of Insurance Commissioners; or

1316 (C) At the discretion of the commissioner, to a person in the
1317 business of viatical settlements that is aggrieved by a fraudulent
1318 viatical settlement act.

1319 (3) Release of documents and evidence under the provisions of
1320 subdivision (2) of this subsection does not abrogate or modify the
1321 privilege granted in subdivision (1) of this subsection.

1322 (f) Nothing in sections 38a-465 to 38a-465q, inclusive, as amended
1323 by this act, shall: (1) Preempt the authority or relieve the duty of other
1324 law enforcement or regulatory agencies to investigate, examine and
1325 prosecute suspected violations of law;

1326 (2) Prevent or prohibit a person from disclosing voluntarily
1327 information concerning viatical settlement fraud to a law enforcement
1328 or regulatory agency other than the Insurance Department; or

1329 (3) Limit the powers granted elsewhere by the laws of this state to
1330 the commissioner or an insurance fraud unit to investigate and
1331 examine possible violations of law and to take appropriate action
1332 against wrongdoers.

1333 (g) Viatical settlement providers and viatical settlement brokers
 1334 shall establish antifraud initiatives reasonably calculated to detect,
 1335 prosecute and prevent fraudulent viatical settlement acts. At the
 1336 discretion of the commissioner, the commissioner may order, or a
 1337 licensee may request and the commissioner may grant, such
 1338 modifications of the following required initiatives as necessary to
 1339 ensure an effective antifraud program. The modifications may be more
 1340 or less restrictive than the required initiatives so long as the
 1341 modifications may reasonably be expected to accomplish the purposes
 1342 of this section. Antifraud initiatives shall include:

1343 (1) Fraud investigators who may be viatical settlement provider or
 1344 viatical settlement broker employees or independent contractors; and

1345 (2) An antifraud plan that shall be submitted to the commissioner.
 1346 The antifraud plan shall include, but not be limited to:

1347 (A) A description of the procedures for detecting and investigating
 1348 possible fraudulent viatical settlement acts and procedures for
 1349 resolving material inconsistencies between medical records and
 1350 insurance applications;

1351 (B) A description of the procedures for reporting possible
 1352 fraudulent viatical settlement acts to the commissioner;

1353 (C) A description of the plan for antifraud education and training of
 1354 underwriters and other personnel; and

1355 (D) A description or chart outlining the organizational arrangement
 1356 of the antifraud personnel who are responsible for the investigation
 1357 and reporting of possible fraudulent viatical settlement acts and
 1358 investigating unresolved material inconsistencies between medical
 1359 records and insurance applications.

1360 (3) Antifraud plans submitted to the commissioner shall be
 1361 privileged and confidential and shall not be a public record or subject
 1362 to discovery or subpoena in a civil or criminal action.

1067

1363 Sec. 13. Section 38a-465l of the general statutes is repealed and the
1364 following is substituted in lieu thereof (*Effective October 1, 2006*):

1365 [Any viatical settlement provider or viatical settlement broker who
1366 is acting in such capacity in this state as of January 1, 1998, may
1367 continue to operate in such capacity pending approval or disapproval
1368 of such provider's or broker's application for a license pursuant to
1369 section 38a-465a, provided such application is filed with the
1370 commissioner not later than thirty days after January 1, 1998.] Any
1371 person violating any provision of this part shall be deemed to be
1372 engaging in an unfair trade practice and may be subject to the
1373 proceedings and penalties set forth in chapter 735a.

1374 Sec. 14. Section 38a-465m of the general statutes is repealed and the
1375 following is substituted in lieu thereof (*Effective October 1, 2006*):

1376 (a) The commissioner may adopt regulations, in accordance with
1377 the provisions of chapter 54, to implement the provisions of sections
1378 38a-465 to 38a-465l, inclusive, as amended by this act, and sections 38a-
1379 465n to 38a-465q, inclusive.

1380 (b) Such regulations may establish standards for evaluating
1381 reasonableness of payments under viatical settlement contracts [for
1382 persons who are] in which the insured under the policy that is the
1383 subject of a viatical settlement contract is terminally or chronically ill.
1384 Such regulations may include, but are not limited to, the regulation of
1385 discount rates used to determine the amount paid in exchange for
1386 assignment, transfer, sale, devise or bequest of a benefit under a life
1387 insurance policy. For viatical settlement contracts where the insured
1388 under the policy that is the subject of a viatical settlement contract is
1389 not terminally or chronically ill, the payment shall be an amount
1390 greater than the cash surrender value or accelerated death benefit then
1391 available.

1392 (c) Such regulations may establish appropriate licensing
1393 requirements and standards for continued licensure for viatical

1394 settlement providers [] and viatical settlement brokers. [and viatical
1395 settlement investment agents.]

1396 (d) The commissioner may require a bond or other mechanism for
1397 financial accountability for licensed viatical settlement providers and
1398 viatical settlement brokers.

1399 (e) Such regulations may adopt rules governing the relationship and
1400 responsibilities of [both] insurers, [and] viatical settlement providers,
1401 viatical settlement brokers and viatical settlement investment agents
1402 during the viatication of a [life insurance policy or certificate] policy.

This act shall take effect as follows and shall amend the following sections:		
This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section
Sec. 2	October 1, 2006	36b-3
Sec. 3	October 1, 2006	38a-465
Sec. 4	October 1, 2006	38a-465a
Sec. 5	October 1, 2006	38a-465b
Sec. 6	October 1, 2006	38a-465c
Sec. 7	October 1, 2006	38a-465d
Sec. 8	October 1, 2006	38a-465f
Sec. 9	October 1, 2006	38a-465g
Sec. 10	October 1, 2006	38a-465h
Sec. 11	October 1, 2006	38a-465i
Sec. 12	October 1, 2006	38a-465k
Sec. 13	October 1, 2006	38a-465l
Sec. 14	October 1, 2006	38a-465m

Statement of Purpose:

To protect the property and contractual rights of life insurance policyowners in this state; to establish comprehensive fraud prevention and enforcement measures; to establish protections to

[106]

Raised Bill No. 615

prevent investor-initiated life insurance schemes; and to specifically define investments in viatical settlements as securities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

CONNECTICUT
STATE LIBRARY
LEGISLATIVE REFERENCE
SECTION