

JAN 25 2012

A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, article 8, Hawaii Revised
2 Statutes, is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§431:8- Viatical settlements. (a) No person shall act
5 as, be appointed as, or hold oneself out to be a viatical
6 settlement provider without first obtaining a viatical
7 settlement provider license from the commissioner.

8 (b) The commissioner shall:

9 (1) Establish appropriate licensing requirements, fees,
10 and standards for licensure for viatical settlement
11 providers;

12 (2) Establish standards for evaluating the reasonableness
13 of payments under a viatical settlement contract. The
14 standards shall include regulation of discount rates
15 used to determine the amount paid in exchange for
16 assignment, transfer, sale, devise, or bequest of a
17 benefit under a policy;



1 (3) Require a bond or other mechanism for financial
2 accountability for a viatical settlement provider;

3 (4) Adopt rules governing the relationship and
4 responsibilities of an insurer, a viatical settlement
5 provider, and others in the business of viatical
6 settlements during the period of consideration or
7 effectuation of a viatical settlement contract; and

8 (5) Adopt other rules as necessary to carry out the
9 purposes of this section.

10 (c) As used in this section:

11 "Viatical settlement contract" means a written agreement
12 entered into between a viatical settlement provider and a viator
13 in which the provider will pay consideration that is less than
14 the expected death benefit of the viator's policy in return for
15 the viator's assignment, transfer, sale, devise, or bequest of
16 the death benefit or ownership of the policy to the provider.

17 "Viatical settlement provider" means a person or entity,
18 other than a viator, who enters into or effectuates a viatical
19 settlement contract.

20 "Viator" means the owner or holder of a policy who has a
21 terminal illness or condition and who enters into a viatical
22 settlement contract."



1 SECTION 2. Section 431:2-303, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431:2-303 Examination of producers, adjusters,
4 promoters, [and] independent bill reviewers[-], and viatical
5 settlement providers. For the purpose of ascertaining its
6 condition, or compliance with this code, the commissioner may as
7 often as the commissioner deems advisable examine the insurance
8 accounts, records, documents, and transactions of:

- 9 (1) Any insurance producer, adjuster, or independent bill
10 reviewer, including insurance agencies and surplus
11 lines agencies; [e~~x~~]
- 12 (2) Any person engaged in, proposing to be engaged in, or
13 assisting in the promotion or formation of a domestic
14 insurer, a stock corporation to finance a domestic
15 mutual insurer or the production of its business, or a
16 corporation to be attorney-in-fact for a domestic
17 reciprocal insurer[-]; or
- 18 (3) Any viatical settlement provider who enters into or
19 effectuates a viatical settlement contract."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY: Resaly H. Bal



S.B. NO. 3062

Report Title:

Insurance; Insurance Commissioner; Viatical Settlements

Description:

Requires viatical settlement providers to be licensed by the insurance commissioner. Requires the insurance commissioner to establish licensing requirements, fees, and standards for viatical settlement providers. Permits the commissioner to examine the insurance accounts, records, documents, and transactions of viatical settlement providers.

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