## HOUSE RESEARCH =

## Bill Summary =

**DATE:** April 2, 2009

FILE NUMBER: H.F. 1719

**Version:** First engrossment

**Authors:** Atkins

**Subject:** Viatical settlements

**Analyst:** Tom Pender, (651) 296-1885

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

## Overview

This bill involves viatical settlements, which are transactions in which a person sells a life insurance policy insuring the person's life to a third-party. Minnesota first regulated this type of transaction in 1995, and this bill enacts an updated version recommended by the National Association of Insurance Commissioners (NAIC).

## Section

- Viatical settlements data. Updates a reference to a section concerning viatical settlements data repealed in this bill to reflect a new provision in this bill.
- **Definition.** Sets forth definitions of key terms, to include Advertising, Business of viatical settlements, Chronically ill, Terminally ill, Financing entity, Fraudulent viatical settlement act, Life insurance producer, Person, Related provider trust, Special purpose entity, Viatical settlement broker, Viatical settlement investment agent, Viatical settlement provider, Viatical settlement contract, Viatical settlement purchase agreement, Viatical settlement purchaser, Viaticaled policy, Viator.
- 3 [60A.9572] License and bond requirements. Sets forth licensing requirements. Training required.
- 4 [60A.9573] License revocation and denial. Sets forth the criteria for license enforcement actions and denial and or revocation of license.
- [60A.9574] Approval of viatical settlement contracts and disclosure statements. A viatical settlement contract form and a disclosure statement form must be filed and approved by the commissioner prior to use.
- 6 [60A.9575] Reporting requirements and privacy. Adds annual statement reporting. Adds identity disclosure restrictions.
- [60A.9577] Disclosure to viator. Requires a series of disclosures: Application disclosures by provider and broker; Contract disclosures by provider; Contract disclosures by broker; Ownership and beneficiary changes; Contract disclosures by provider or agent; Transfer or sale disclosures by provider or agent. The viatical settlement purchase agreement is

- voidable by the purchaser at any time within three days after the disclosures are received by the purchaser.
- [60A.9579] General rules. This section includes provider requirements that a provider must obtain certain information, and concern the following items: Confidentiality of personal information; General right of rescission; Right to rescind after mandated disclosures; Payment of settlement proceeds; All personal information solicited or obtained by any licensee is subject to the Minnesota Fair Information Reporting Law.
- [60A.9581] Prohibited practices and conflicts of interest. Solicitations and Payments to a "controlled broker" are regulated; Violations result in a "Fraudulent viatical settlement act." Prior to entering into a viatical settlement contract any promotional, advertising, and marketing materials must be filed with the commissioner.
- [60A.9582] Advertising for viatical settlements and viatical settlements purchase agreements. This section regulates advertising.
- [60A.9583] Fraud Prevention and control. Makes fraud in viatical settlement transactions a crime. It can be a misdemeanor, gross misdemeanor, or felony, depending upon the amount of money involved in the fraud.
- 12 [60A.9585] Unfair trade practices. Makes a violation of this act an unfair trade practice under the insurance laws.
- Amount. Sets a licensing fee for viatical settlement brokers and investment agents.
- **Repealer.** Repeals the current laws replaced by this bill.
- Effective date; application. Makes the bill effective August 1, 2009. Allows viatical-related businesses to continue doing business after that, so long as they apply for a license by the end of 2009.