

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1284

Page 3, line 11, replace "and" with "or"

Page 5, line 5, replace "and" with "or"

Page 5, line 26, after "provider" insert "or any affiliate of the provider"

Page 5, line 29, after "owner's" insert "present or future"

Page 5, line 30, after the second "or" insert "ownership of"

Page 13, remove line 4

Page 13, line 18, replace the underscored period with "; and"

Page 13, after line 18, insert:

"f. If a provider or broker, has demonstrated evidence of financial responsibility in a format prescribed by the commissioner through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state or through a deposit of cash, certificates of deposit, or securities or any combination thereof in the amount of one hundred fifty thousand dollars. The commissioner shall accept as evidence of financial responsibility proof that financial instruments in accordance with the requirements of this subdivision have been filed with one or more states in which the applicant is licensed as a provider or broker. The commissioner may ask for evidence of financial responsibility any time the commissioner deems necessary."

Page 15, line 9, after "2." insert "The commissioner may suspend, revoke, or refuse to renew the license of a broker if the commissioner finds that the broker has violated the provisions of this chapter or has otherwise engaged in bad-faith conduct with one or more owners."

3."

Page 22, line 16, after "owners" insert "and insurers"

Page 22, replace line 31 with "before the earlier of sixty calendar days after the date upon which the life settlement contract is executed by all parties or thirty calendar days after the settlement proceeds have been delivered to the escrow agent by or on behalf of the provider, as provided in subsection 10 of section 26.1-33.4-10"

Page 23, line 1, remove "received the disclosures contained herein"

Page 24, line 17, after the underscored period insert "All such contacts must be made only by a provider licensed in the state in which the owner resided at the time of the settlement or by the authorized representative of a duly licensed provider."

Page 24, after line 31, insert:

- "s. If an insurance policy to be settled has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be settled, the owner must be informed of the possible loss of coverage on the other lives under the policy and must be advised to consult with the owner's insurance producer or the insurer issuing the policy for advice on the proposed settlement.
  
- t. The dollar amount of the current death benefit payable to the provider under the policy or certificate. If known, the provider also shall disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the owner's interest in those benefits will be transferred as a result of the life settlement contract.

Page 25, after line 25, insert:

- "4. Before the initiation of a life settlement plan, life settlement transaction, or series of life settlement transactions, a broker or provider shall disclose fully all nonproprietary information to an insurer the details of the plan, transaction, or series of transactions, to which the broker or provider is a party, to originate, renew, continue, or finance a life insurance policy with the insurer for the purpose of engaging in the business of life settlements at any time before, or during the first five years after, issuance of the policy. Any disclosure required under this subsection must be in writing.

Page 25, line 26, replace "to insurer" with "**by insurer to life insurance policy applicants**"

Page 28, line 21, replace "fifteen days after the date it is executed by all" with "the earlier of sixty calendar days after the date upon which the life settlement contract is executed by all parties or thirty calendar days after the settlement proceeds have been delivered to the escrow agent by or on behalf of the provider, as provided in subsection 10 of section 26.1-33.4-10"

Page 28, line 22, remove "parties thereto"

Page 29, remove lines 17 through 31

Page 30, remove lines 1 through 26

Page 30, line 30, after "2." insert "The commissioner may establish standards for evaluating reasonableness of payments under life settlement contracts for individuals who are

terminally or chronically ill. This authority includes regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy insuring the life of an individual who is chronically or terminally ill.

3."

Page 31, line 21, after "1." insert:

"It is in violation of this chapter for any person to enter a life settlement contract at any time before the application for or issuance of a policy that is the subject of a life settlement contract or within a five-year period commencing with the date of issuance of the insurance policy or certificate unless the owner certifies to the provider or it is otherwise conclusively shown by the provider that one or more of the following conditions have been met within the five-year period:

- a. The policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least sixty months. The time covered under a group policy must be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;
- b. The owner submits independent evidence to the provider that one or more of the following conditions have been met within the five-year period:
  - (1) The owner or insured is terminally or chronically ill;
  - (2) The owner's spouse dies or no remaining beneficiaries are then surviving;
  - (3) The owner divorces a spouse;
  - (4) The owner retires from full-time employment; or
  - (5) The owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment;
- c. A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the owner, adjudicating the owner in default, bankrupt, or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee, or liquidator to all or a substantial part of the owner's assets; or
- d. The owner enters a life settlement contract more than two years after the date of issuance of a policy and, with respect to the policy, at all times before the date that is two years after policy issuance, the following conditions are met:
  - (1) Policy premiums have been funded exclusively with unencumbered assets, including an interest in the life insurance policy being financed only to the extent of the policy's net cash surrender value, provided by, or fully recourse liability incurred

by, the insured or a person described in paragraph 5 of subdivision b of subsection 11 of section 26.1-33.4-01;

- (2) There is no agreement or understanding with any other person to guarantee any such liability or to purchase, or stand ready to purchase, the policy, including through an assumption or forgiveness of the loan; and
- (3) Neither the insured nor the policy has been evaluated for settlement in connection with the issuance of the policy.

- 2. Copies of the independent evidence described in subdivision b of subsection 1 and documents required by subsection 1 of section 26.1-33.4-10 must be submitted to the insurer when the provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider.
- 3. If the provider submits to the insurer a copy of the owner's or insured's certification described in and the independent evidence required by subdivision b of subsection 1 when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the provider, the copy must be deemed to conclusively establish that the life settlement contract satisfies the requirements of this section and the insurer shall response timely to the request.
- 4. An insurer may not require, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a life settlement contract, that the owner, insured, provider, or broker sign any forms, disclosures, consent, or waiver form that has not been expressly approved by the commissioner for use in connection with life settlement contracts in this state.
- 5. Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within thirty calendar days with written acknowledgement confirming that the change has been effected or specifying the reasons why the requested change cannot be processed. The insurer may not unreasonably delay effecting change of ownership or beneficiary and may not otherwise seek to interfere with any life settlement contract lawfully entered in this state.
- 6."

Page 33, line 6, replace "2." with "7."

Renumber accordingly