

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1379 be amended to read as follows:

- 1 Page 7, line 38, delete "IC 27-18" and insert "**IC 27-8-19.8**".
- 2 Page 8, delete lines 7 through 42, begin a new paragraph and insert:
- 3 "SECTION 2. IC 27-4-1-6 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If after a hearing
- 5 under IC 4-21.5-3, the commissioner determines that the method of
- 6 competition or the act or practice in question is defined in section 4 of
- 7 this chapter and that the person complained of has engaged in such
- 8 method of competition, act, or practice in violation of this chapter, he
- 9 shall reduce his findings to writing and shall issue and cause to be
- 10 served on the person charged with the violation an order requiring such
- 11 person to cease and desist from such method of competition, act, or
- 12 practice, and the commissioner may at his discretion order one (1) or
- 13 more of the following:
- 14 (1) **Except as provided in subsection (c)**, payment of a civil
- 15 penalty of not more than twenty-five thousand dollars (\$25,000)
- 16 for each act or violation. If the person knew or reasonably should
- 17 have known that he was in violation of this chapter, the penalty
- 18 may be not more than fifty thousand dollars (\$50,000) for each act
- 19 or violation.
- 20 (2) Suspension or revocation of the person's license, or certificate
- 21 of authority, if he knew or reasonably should have known he was
- 22 in violation of this chapter.
- 23 (b) In determining the amount of a civil penalty under subsection
- 24 (a)(1), the commissioner shall consider the remediation efforts

1 undertaken by the person.

2 **(c) For a violation specified in section 4(a)(30) of this chapter,**
 3 **the civil penalty is an amount equal to the face value of the life**
 4 **insurance policy that is the subject of the viatical settlement**
 5 **contract (as defined in IC 27-8-19.8-6) or proposed viatical**
 6 **settlement contract that is related to the violation.**

7 ~~(c)~~ **(d)** All civil penalties imposed and collected under this section
 8 shall be deposited in the state general fund.

9 SECTION 3. IC 27-8-19.8-19 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** After a hearing
 11 under IC 4-21.5, the department may suspend, revoke, or refuse to
 12 renew a viatical settlement provider's license, or impose a civil penalty,
 13 or both, if the department finds any of the following:

- 14 (1) There was a misrepresentation in the application for the
 15 license.
- 16 (2) The viatical settlement provider is untrustworthy or
 17 incompetent to act as a viatical settlement provider.
- 18 (3) The viatical settlement provider demonstrates a pattern of
 19 unreasonable payments to viators.
- 20 (4) The viatical settlement provider has been convicted of, or
 21 pleaded guilty or nolo contendere to, an offense the definition of
 22 which includes fraudulent acts as an element of the offense
 23 regardless of whether a judgement has been entered by the court.
- 24 (5) The viatical settlement provider no longer meets the
 25 requirements for initial licensure.
- 26 (6) The viatical settlement provider has failed to honor the
 27 contractual obligations of a viatical settlement contract.
- 28 (7) The viatical settlement provider has violated this chapter.

29 **(b) A violation of this chapter by a viatical settlement provider,**
 30 **a viatical settlement broker, or an insurance producer is an unfair**
 31 **and deceptive act or practice in the business of insurance under**
 32 **IC 27-4-1-4.**

33 SECTION 4. IC 27-8-19.8-27 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2008]: **Sec. 27. (a) This section does not apply**
 36 **to a viatical settlement contract that was entered into before July**
 37 **1, 2008.**

38 **(b) A person shall not engage in any activity in relation to a**
 39 **viatical settlement contract.**

40 **(c) A viatical settlement contract that is entered into after June**
 41 **30, 2008, is void.**

1 **(d) A person that violates this section commits an unfair and**
2 **deceptive act or practice in the business of insurance under**
3 **IC 27-4-1-4."**

4 Delete pages 9 through 58.
 (Reference is to HB 1379 as printed January 25, 2008.)

Representative Fry