

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WITHDRAWN	Noes _____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 27-8-19.8-1.5 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. As used in this chapter,**
- 6 **"business of viatical settlements" means any of the following**
- 7 **activities related to a viatical settlement contract:**
- 8 (1) **Offering to enter into a viatical settlement contract.**
- 9 (2) **Solicitation.**
- 10 (3) **Negotiation.**
- 11 (4) **Procurance.**
- 12 (5) **Effectuation.**
- 13 (6) **Monitoring.**
- 14 (7) **Tracking.**
- 15 SECTION 3. IC 27-8-19.8-2.2 IS ADDED TO THE INDIANA
- 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2008]: **Sec. 2.2. As used in this chapter,**
- 18 **"financing entity" means an underwriter, placement agent, lender,**
- 19 **purchaser of securities, viatical settlement purchaser, credit**
- 20 **enhancer, or another entity that has a:**
- 21 (1) **direct ownership interest in a viaticated policy;**
- 22 (2) **principal function related to a viatical settlement contract**
- 23 **of providing funds to:**
- 24 (A) **effect the viatical settlement contract; or**

- 1                   **(B) purchase a viaticated policy; and**  
 2                   **(3) written agreement with at least one (1) viatical settlement**  
 3                   **provider to finance the acquisition of viatical settlement**  
 4                   **contracts.**

5                   **The term does not include a nonaccredited investor or viatical**  
 6                   **settlement purchaser.**

7                   SECTION 4. IC 27-8-19.8-2.3 IS ADDED TO THE INDIANA  
 8                   CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9                   [EFFECTIVE JULY 1, 2008]: **Sec. 2.3. As used in this chapter,**  
 10                   **"financing transaction" means a transaction in which a viatical**  
 11                   **settlement provider obtains financing from a financing entity,**  
 12                   **including secured or unsecured financing, a securitization**  
 13                   **transaction, or a securities offering that is registered or exempt**  
 14                   **from registration under state and federal securities law.**

15                   SECTION 5. IC 27-8-19.8-2.5 IS ADDED TO THE INDIANA  
 16                   CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17                   [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter,**  
 18                   **"fraudulent viatical settlement act" includes the following:**

- 19                   **(1) Knowingly or with intent to defraud and for the purpose**  
 20                   **of depriving another of property or for pecuniary gain,**  
 21                   **engaging in or permitting one's employees or agents to engage**  
 22                   **in the following:**

- 23                   **(A) Presenting, causing to be presented, or preparing with**  
 24                   **knowledge or belief that it will be presented to or by a**  
 25                   **viatical settlement provider, viatical settlement broker,**  
 26                   **viatical settlement purchaser, financing entity, insurer,**  
 27                   **insurance producer, or another person, any false material**  
 28                   **information, or concealing material information, as part**  
 29                   **of, in support of, or concerning a fact material to at least**  
 30                   **one (1) of the following:**

- 31                   **(i) An application for the issuance of a viatical settlement**  
 32                   **contract or life insurance policy.**  
 33                   **(ii) The underwriting of a viatical settlement contract or**  
 34                   **life insurance policy.**  
 35                   **(iii) A claim for payment or benefit under a viatical**  
 36                   **settlement contract or life insurance policy.**  
 37                   **(iv) Premiums paid on a life insurance policy.**  
 38                   **(v) Payments and changes in ownership or beneficiary**  
 39                   **made in accordance with the terms of a viatical**  
 40                   **settlement contract or life insurance policy.**  
 41                   **(vi) The reinstatement or conversion of a life insurance**  
 42                   **policy.**  
 43                   **(vii) The solicitation, offer, effectuation, or sale of a**  
 44                   **viatical settlement contract or life insurance policy.**  
 45                   **(viii) The issuance of written evidence of a viatical**  
 46                   **settlement contract or life insurance policy.**  
 47                   **(ix) An application for, the existence of, or payments**

- 1                    related to a loan that is secured directly or indirectly by  
2                    an interest in a life insurance policy.
- 3                    (B) Employing a device, scheme, or artifice to defraud in  
4                    the business of viatical settlements.
- 5                    (C) Failing to disclose to an insurer that requests the  
6                    disclosure that a prospective insured has undergone a life  
7                    expectancy evaluation by a person other than the insurer  
8                    or an authorized representative of the insurer in  
9                    connection with the issuance of a life insurance policy.
- 10                   (D) In the solicitation, application, or issuance of a life  
11                   insurance policy, employing a device, scheme, or artifice in  
12                   violation of insurable interest law.
- 13                   (2) In the furtherance of a fraud or to prevent the detection of  
14                   a fraud, knowingly or intentionally doing or permitting one's  
15                   employees or agents to do any of the following:
- 16                   (A) Removing, concealing, altering, destroying, or  
17                   sequestering from the commissioner the assets or records  
18                   of a licensee or other person engaged in the business of  
19                   viatical settlements.
- 20                   (B) Misrepresenting or concealing the financial condition  
21                   of a licensee, financing entity, insurer, or other person.
- 22                   (C) Transacting the business of viatical settlements in  
23                   violation of laws requiring a license, certificate of  
24                   authority, or other legal authority for the transaction of  
25                   the business of viatical settlements.
- 26                   (C) Filing with the commissioner or the chief insurance  
27                   regulatory official of another jurisdiction a document  
28                   containing false information or otherwise concealing  
29                   information about a material fact from the commissioner.
- 30                   (D) Engaging in embezzlement, theft, misappropriation, or  
31                   conversion of money, funds, premiums, credits, or other  
32                   property of a viatical settlement provider, insurer, insured,  
33                   viator, owner, or another person engaged in the business  
34                   of viatical settlements or insurance.
- 35                   (E) Entering into, brokering or otherwise dealing in a  
36                   viatical settlement contract, the subject of which is a life  
37                   insurance policy that was obtained by knowingly:
- 38                   (i) presenting false information concerning a fact  
39                   material to the life insurance policy; or
- 40                   (ii) concealing, for the purpose of misleading another  
41                   person, information concerning a fact material to the life  
42                   insurance policy;
- 43                   with the intent to defraud the life insurance policy's issuer.
- 44                   (F) Misrepresenting a life insurance policy's owner's  
45                   residency to be another jurisdiction for the purpose of  
46                   evading or avoiding regulation under this chapter.
- 47                   (3) Knowingly or intentionally engaging in any practice or

1           **plan that involves stranger originated life insurance.**

2           **(4) Attempting to commit, assisting, aiding, or abetting in the**  
 3           **commission of, or conspiring to commit an act or omission**  
 4           **described in this section.**

5           SECTION 6. IC 27-8-19.8-3, AS AMENDED BY P.L.223-2005,  
 6           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2008]: Sec. 3. As used in this chapter, "insured" refers to an  
 8           individual whose life is the subject of insurance under a life insurance  
 9           policy. ~~or contract.~~

10          SECTION 7. IC 27-8-19.8-3.3 IS ADDED TO THE INDIANA  
 11          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 12          [EFFECTIVE JULY 1, 2008]: **Sec. 3.3. As used in this chapter,**  
 13          **"licensee" refers to a viatical settlement provider or a viatical**  
 14          **settlement broker that is licensed under this chapter.**

15          SECTION 8. IC 27-8-19.8-3.4 IS ADDED TO THE INDIANA  
 16          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 17          [EFFECTIVE JULY 1, 2008]: **Sec. 3.4. As used in this chapter, "life**  
 18          **insurance policy" refers to an individual or group policy,**  
 19          **certificate, or contract of life insurance.**

20          SECTION 9. IC 27-8-19.8-3.6 IS ADDED TO THE INDIANA  
 21          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 22          [EFFECTIVE JULY 1, 2008]: **Sec. 3.6. As used in this chapter,**  
 23          **"owner" means a person that:**

24               **(1) owns an individual life insurance policy; or**

25               **(2) is the certificate holder under a group life insurance**  
 26               **policy.**

27          SECTION 10. IC 27-8-19.8-5 IS AMENDED TO READ AS  
 28          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) As used in this  
 29          chapter, "viatical settlement provider" means a person, other than a  
 30          viator, that:

31               (1) enters into a viatical settlement contract with a viator; or

32               (2) obtains financing for the purchase, acquisition, transfer, or  
 33               other assignment of one (1) or more viatical settlement contracts,  
 34               viaticated policies, or interests therein, or otherwise sells, assigns,  
 35               transfers, pledges, hypothecates, or disposes of one (1) or more  
 36               viatical settlement contracts, viaticated policies, or interests  
 37               therein.

38          (b) The term does not include any of the following:

39               (1) A bank, savings bank, savings association, credit union, or  
 40               other licensed lending institution that takes an assignment of a life  
 41               insurance policy as collateral for a loan.

42               (2) The issuer of a life insurance policy that makes a policy loan,  
 43               permits surrender of the policy, or pays other policy benefits,  
 44               including accelerated benefits, in accordance with the terms of the  
 45               **life insurance** policy.

46          SECTION 11. IC 27-8-19.8-6 IS AMENDED TO READ AS

1       FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. **(a)** As used in this  
 2       chapter, "viatical settlement contract" means ~~an~~ **a written** agreement  
 3       **for that:**

4               **(1) is entered into between a viatical settlement provider and**  
 5               **an owner; and**

6               **(2) establishes the terms under which the ~~purchase, sale,~~**  
 7               **~~assignment, transfer, devise, or bequest of owner:~~**

8                       **(A) receives payment of compensation that is:**

9                               **(i) less than the expected death benefit of the owner's life**  
 10                               **insurance policy; and**

11                               **(ii) more than the cash surrender value or accelerated**  
 12                               **death benefit of the owner's life insurance policy at the**  
 13                               **time the application for the written agreement is made;**  
 14                               **and**

15                       **(B) sells, assigns, transfers, devises, or bequeaths the death**  
 16                       **benefit or a portion of the death benefit or ownership of a the**  
 17                       **life insurance policy or contract in exchange for consideration**  
 18                       **that is less than the expected death benefit of the life insurance**  
 19                       **policy. or contract. the compensation described in clause**  
 20                       **(A).**

21       **(b) The term includes the following:**

22               **(1) A written agreement for a loan or other lending**  
 23               **transaction that is secured primarily by a life insurance**  
 24               **policy.**

25               **(2) A premium finance loan made for a life insurance policy**  
 26               **on or before the date of issuance of the life insurance policy in**  
 27               **a situation in which:**

28                       **(A) the premium finance loan proceeds are not used solely**  
 29                       **to pay:**

30                               **(i) premiums for the life insurance policy; or**

31                               **(ii) costs or expenses incurred by the lender or borrower**  
 32                               **in connection with the premium finance loan;**

33                       **(B) the owner receives on the date of the premium finance**  
 34                       **loan a guarantee of the future viatical settlement value of**  
 35                       **the life insurance policy; or**

36                       **(C) the owner agrees on the date of the premium finance**  
 37                       **loan to sell the life insurance policy or any part of the life**  
 38                       **insurance policy's death benefit on any date after the date**  
 39                       **of issuance of the life insurance policy.**

40               **(3) A transfer, for compensation or value, of ownership or**  
 41               **beneficial interest in a trust or other entity that:**

42                       **(A) owns a life insurance policy; and**

43                       **(B) was formed or availed of for the principal purpose of**  
 44                       **acquiring at least one (1) life insurance policy.**

45       **(c) The term does not include the following:**

46               **(1) A policy loan by an insurer under the terms of:**

47                       **(A) a life insurance policy including a loan secured by the cash**

- 1 value of a or rider; or  
 2 **(B) accelerated death benefit provisions contained in a life**  
 3 **insurance policy or rider.**
- 4 **(2) An agreement with A premium finance loan or another loan**  
 5 **made by a bank savings bank, savings and loan association,**  
 6 **credit union, or other licensed lending financial institution that**  
 7 **takes an assignment of a life insurance policy as collateral for a**  
 8 **loan: if:**
- 9 **(A) a default on the loan; or**  
 10 **(B) a transfer of the life insurance policy in connection**  
 11 **with a default on the loan;**  
 12 **does not occur in connection with an agreement or**  
 13 **understanding with another person for the purpose of evading**  
 14 **regulation under this chapter.**
- 15 **(3) The provision of accelerated death benefits by an insurer to an**  
 16 **insured under the provisions of a life insurance contract.**
- 17 **(4) Agreements between an insurer and a reinsurer:**
- 18 **(5) An agreement by a person who enters into not more than one**  
 19 **(1) such agreement in any five (5) year period to purchase a life**  
 20 **insurance policy or contract for the transfer of a life insurance**  
 21 **policy for a value that is less than the expected death benefit.**
- 22 **(3) A collateral assignment of a life insurance policy by the**  
 23 **owner.**
- 24 **(4) A loan that:**
- 25 **(A) is made by a lender;**  
 26 **(B) does not violate Indiana law related to insurance**  
 27 **premium finance loans; and**  
 28 **(C) is not described in subsection (a) or (b).**
- 29 **(5) An agreement in which all parties to the agreement:**
- 30 **(A) are closely related to the insured by blood or law;**  
 31 **(B) have a lawful substantial economic interest in the**  
 32 **continued life, health, and bodily safety of the insured; or**  
 33 **(C) are trusts established primarily for the benefit of the**  
 34 **trusts.**
- 35 **(6) A designation, consent, or agreement by an insured who is**  
 36 **an employee of an employer in connection with the purchase**  
 37 **by:**
- 38 **(A) the employer; or**  
 39 **(B) a trust established by the employer;**  
 40 **of life insurance under which the employee is an insured.**
- 41 **(7) A bona fide business succession planning arrangement:**
- 42 **(A) between:**
- 43 **(i) at least two (2) shareholders in a corporation; or**  
 44 **(ii) a corporation and at least one (1) of the corporation's**  
 45 **shareholders or at least one (1) trust established by the**  
 46 **corporation's shareholders;**  
 47 **(B) between:**

- 1 (i) at least two (2) partners in a partnership; or  
 2 (ii) a partnership and at least one (1) of the partnership's  
 3 partners or at least one (1) trust established by the  
 4 partnership's partners; or  
 5 (C) between:  
 6 (i) at least two (2) members in a limited liability  
 7 company; or  
 8 (ii) a limited liability company and at least one (1) of the  
 9 limited liability company's members or at least one (1)  
 10 trust established by the limited liability company's  
 11 members.  
 12 (8) An agreement entered into by:  
 13 (A) a service recipient, or a trust established by a service  
 14 recipient; and  
 15 (B) a service provider, or a trust established by a service  
 16 provider, who performs significant services for the service  
 17 recipient's trade or business.  
 18 (9) Another contract, transaction, or arrangement exempted  
 19 from the definition of "viatical settlement contract" by the  
 20 commissioner based on a determination that the contract,  
 21 transaction, or arrangement is not intended to be regulated  
 22 under this chapter.

23 SECTION 12. IC 27-8-19.8-6.3 IS ADDED TO THE INDIANA  
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2008]: **Sec. 6.3. As used in this chapter,**  
 26 **"viatical settlement purchaser" means a person that provides**  
 27 **consideration for:**

- 28 (1) a beneficial interest in a trust that is vested with; or  
 29 (2) the assignment, transfer, or sale of;  
 30 an ownership or other interest in a viaticated policy.

31 SECTION 13. IC 27-8-19.8-6.5 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.5. As used in this**  
 33 **chapter, "viaticated policy" means a life insurance policy or certificate**  
 34 **that has been acquired by a viatical settlement provider under a viatical**  
 35 **settlement contract.**

36 SECTION 14. IC 27-8-19.8-7.4 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2008]: **Sec. 7.4. As used in this chapter,**  
 39 **"premium finance loan" means a loan that is:**

- 40 (1) made primarily for the purpose of making premium  
 41 payments on a life insurance policy; and  
 42 (2) secured by an interest in the life insurance policy.

43 SECTION 15. IC 27-8-19.8-7.6 IS ADDED TO THE INDIANA  
 44 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 45 [EFFECTIVE JULY 1, 2008]: **Sec. 7.6. As used in this chapter,**  
 46 **"related provider trust" means a trust that:**

- 47 (1) is established by a viatical settlement provider or a

1           **financing entity for the sole purpose of holding the ownership**  
 2           **or beneficial interest in viaticated policies in connection with**  
 3           **a financing transaction; and**

4           **(2) is evidenced by a written agreement between the trust and**  
 5           **the viatical settlement provider described in subdivision (1)**  
 6           **under which:**

7               **(A) the viatical settlement provider is responsible for**  
 8               **ensuring compliance with all statutory and regulatory**  
 9               **requirements; and**

10              **(B) the trust agrees to make all records and files related to**  
 11              **viatical settlement transactions available to the**  
 12              **commissioner as if the records and files were maintained**  
 13              **directly by the viatical settlement provider.**

14           SECTION 16. IC 27-8-19.8-7.7 IS ADDED TO THE INDIANA  
 15           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 16           [EFFECTIVE JULY 1, 2008]: **Sec. 7.7. As used in this chapter,**  
 17           **"special purpose entity" means a corporation, partnership, trust,**  
 18           **limited liability company, or another legal entity formed solely to**  
 19           **provide direct or indirect access to institutional capital markets:**

20               **(1) for a financing entity or viatical settlement provider; or**  
 21               **(2) in connection with a transaction in which the securities in**  
 22               **the corporation, partnership, trust, limited liability company,**  
 23               **or other entity:**

24               **(A) are acquired by a viator or by qualified institutional**  
 25               **buyers (as defined under the federal Securities Act of 1933,**  
 26               **as amended (17 CFR 144)); or**

27               **(B) pay a fixed rate of return commensurate with**  
 28               **established asset-backed institutional capital markets.**

29           SECTION 17. IC 27-8-19.8-7.8 IS ADDED TO THE INDIANA  
 30           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31           [EFFECTIVE JULY 1 2008]: **Sec. 7.8. (a) As used in this chapter,**  
 32           **"stranger originated life insurance" means a practice or plan to**  
 33           **initiate a life insurance policy for the benefit of a third party**  
 34           **investor who, at the time the life insurance policy is originated, has**  
 35           **no insurable interest in the insured.**

36           **(b) The term includes the following:**

37               **(1) An arrangement under which, at the time of life insurance**  
 38               **policy inception:**

39               **(A) a life insurance policy is purchased with resources or**  
 40               **guarantees from or through a person that is not legally**  
 41               **permitted to initiate the life insurance policy; and**

42               **(B) a written or verbal arrangement or agreement is made**  
 43               **to transfer the ownership of the life insurance policy or**  
 44               **policy benefits to a third party.**

45               **(2) A trust that is:**

46               **(A) created to give an appearance of the existence of an**  
 47               **insurable interest; and**



1                   **(B) used to initiate a life insurance policy for an investor.**  
 2                   **(c) The term does not include an arrangement described in**  
 3                   **section 6(c) of this chapter.**

4                   SECTION 18. IC 27-8-19.8-8 IS AMENDED TO READ AS  
 5                   FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. As used in this  
 6                   chapter, "viator" refers to the owner of a life insurance policy ~~or a~~  
 7                   ~~certificate holder under a group policy~~ that insures the life of an insured  
 8                   who enters or seeks to enter into a viatical settlement contract.

9                   SECTION 19. IC 27-8-19.8-9.2, AS ADDED BY P.L.223-2005,  
 10                   SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11                   JULY 1, 2008]: Sec. 9.2. An insurance producer that:

12                   (1) is licensed under IC 27-1-15.6; and  
 13                   (2) sells a life insurance policy ~~or contract~~ that, less than two (2)  
 14                   years after the insurance producer sells the **life insurance** policy,  
 15                   ~~or contract~~, is the subject of a viatical settlement contract;  
 16                   shall not accept a commission or other remuneration in connection with  
 17                   the viatical settlement contract.

18                   SECTION 20. IC 27-8-19.8-17 IS AMENDED TO READ AS  
 19                   FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) A viatical  
 20                   settlement provider shall, **not later than March 1 of each year**, file  
 21                   with the department an annual report containing information  
 22                   **concerning the immediately preceding calendar year** as prescribed  
 23                   in rules adopted by the department under IC 4-22-2.

24                   **(b) The rules adopted by the department under subsection (a) shall set**  
 25                   **the date by which annual reports must be submitted:**

26                   **(b) This subsection applies to viatical settlement contracts**  
 27                   **involving a life insurance policy issued less than five (5) years**  
 28                   **before the viatical settlement contract is entered into. An annual**  
 29                   **report filed under subsection (a) must include at least the**  
 30                   **following:**

31                   (1) **The total number of viatical settlement contracts entered**  
 32                   **into by the viatical settlement provider.**

33                   (2) **The aggregate face amount of policies that were the**  
 34                   **subject of viatical settlement contracts.**

35                   (3) **The aggregate amount of proceeds of viatical settlement**  
 36                   **contracts.**

37                   (4) **Aggregate information described in subdivisions (1)**  
 38                   **through (3) for each policy issue year of life insurance policies**  
 39                   **that were the subject of viatical settlement contracts.**

40                   (5) **The names of the:**

41                   (A) **insurers that issued life insurance policies that were the**  
 42                   **subject of viatical settlement contracts; and**

43                   (B) **viatical settlement brokers that represented the viators**  
 44                   **in the viatical settlement contracts.**

45                   **(c) The information required under subsection (b) is limited**  
 46                   **only to transactions in which the insured is a resident of Indiana.**

47                   **(d) Individual transaction data regarding the business of viatical**

1 settlements or data that could compromise the privacy of personal,  
 2 financial, and health information of a viator or insured are  
 3 confidential.

4 (e) Except as otherwise allowed or required by law, a viatical  
 5 settlement provider, viatical settlement broker, insurer, insurance  
 6 producer, information bureau, rating agency or company, or any  
 7 other person with actual knowledge of an insured's identity shall  
 8 not disclose the identity of the insured or information from which  
 9 there is a reasonable basis to believe could be used to identify the  
 10 insured or the insured's financial or medical information to  
 11 another person unless:

12 (1) the disclosure is necessary to effect a viatical settlement  
 13 between the viator and a viatical settlement provider, and the  
 14 viator and insured have provided prior written consent to the  
 15 disclosure;

16 (2) the disclosure is necessary to effectuate the sale of a  
 17 viatical settlement contract or an interest in a viatical  
 18 settlement contract as an investment, the sale is conducted in  
 19 accordance with state and federal securities law, and the  
 20 viator and insured have provided prior written consent to the  
 21 disclosure;

22 (3) the information is provided in response to an investigation  
 23 or examination by the commissioner or another governmental  
 24 officer or agency;

25 (4) the disclosure is required under a term of or condition to  
 26 the transfer of a life insurance policy from one (1) viatical  
 27 settlement provider to another viatical settlement provider  
 28 and the receiving viatical settlement provider complies with  
 29 the confidentiality requirements of this section;

30 (5) the disclosure is necessary to allow the viatical settlement  
 31 provider, viatical settlement broker, or an authorized  
 32 representative of a viatical settlement provider or viatical  
 33 settlement broker that:

34 (A) does not have a financial interest in the viatical  
 35 settlement contract other than as a viatical settlement  
 36 provider, viatical settlement broker, financing entity,  
 37 related provider trust, or special purpose entity; and

38 (B) is required by the viatical settlement provider or  
 39 viatical settlement broker to agree in writing to adhere to  
 40 the privacy requirements of this chapter;

41 to make contacts for the purpose of determining health status;  
 42 or

43 (6) the disclosure is required for the purchase of stop loss  
 44 coverage or financial guaranty insurance.

45 ~~(f)~~ (f) A viatical settlement provider shall maintain records of each  
 46 viatical settlement at least five (5) years after the death of the insured.

47 SECTION 21. IC 27-8-19.8-20.1 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2008]: **Sec. 20.1. (a) A person shall not issue,  
 3 solicit, market, or otherwise promote the purchase of a life  
 4 insurance policy for the purpose of or with an emphasis on making  
 5 the life insurance policy the subject of a viatical settlement  
 6 contract.**

7 **(b) A person shall not commit a fraudulent viatical settlement  
 8 act.**

9 **(c) A violation of this chapter is an unfair and deceptive act or  
 10 practice in the business of insurance under IC 27-4-1-4.**

11 SECTION 22. IC 27-8-19.8-21, AS AMENDED BY P.L.223-2005,  
 12 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2008]: Sec. 21. (a) A viatical settlement contract must  
 14 establish the terms under which the viatical settlement provider will  
 15 pay value, in return for the viator's assignment, bequest, devise, sale,  
 16 or transfer of the death benefit, certificate, or ownership of the life  
 17 insurance policy to the viatical settlement provider.

18 (b) A viatical settlement contract must provide for the unconditional  
 19 rescission of the contract by the viator for the longer of the following:

- 20 (1) the period ending not more than fifteen (15) days after the
- 21 receipt of the viatical settlement proceeds by the viator; or
- 22 (2) the period ending not more than thirty (30) days after
- 23 execution of the contract.

24 (c) A viatical settlement contract is rescinded if the insured dies  
 25 during the rescission period, subject to repayment to the viatical  
 26 settlement provider of all proceeds and any premiums, loans, and loan  
 27 interest that have been paid by the viatical settlement provider.

28 SECTION 23. IC 27-8-19.8-23, AS AMENDED BY P.L.223-2005,  
 29 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2008]: Sec. 23. (a) A viatical settlement provider or viatical  
 31 settlement broker shall, not later than the date of application, provide  
 32 to a viator a brochure approved by the commissioner and describing the  
 33 viatical settlement process. If a brochure describes only a viatical  
 34 settlement contract in which the insured does not have a catastrophic  
 35 or life threatening illness or condition, the brochure may use the term  
 36 "life settlement" in place of the term "viatical settlement".

37 (b) A viatical settlement provider or viatical settlement broker shall,  
 38 in a separate document that is signed by the viator and the viatical  
 39 settlement provider or viatical settlement broker, disclose the following  
 40 information to the viator not later than the date of application:

- 41 (1) Possible alternatives to viatical settlement contracts, including
- 42 accelerated benefits or policy loans offered by the issuer of the
- 43 life insurance policy.
- 44 (2) Federal and state tax consequences that may result from
- 45 entering into a viatical settlement contract, and that the viator
- 46 should seek assistance from a professional tax advisor.

- 1 (3) Possible:
- 2 (A) adverse effect on eligibility for; or
- 3 (B) interruption of assistance provided by;
- 4 medical or public assistance programs as a consequence of
- 5 entering into a viatical settlement contract, and that the viator
- 6 should seek advice from the appropriate government agencies.
- 7 (4) The viator's right to rescind a viatical settlement contract as
- 8 provided in section 21 of this chapter.
- 9 (5) The amount of any fees paid by a viatical settlement provider
- 10 to a viatical settlement broker.
- 11 (6) A statement that proceeds of the viatical settlement could be
- 12 subject to claims of creditors.
- 13 (7) A statement that:
- 14 (A) entering into a viatical settlement contract may cause other
- 15 rights or benefits under the **life insurance** policy, including
- 16 conversion rights, waiver of premium benefits, family riders,
- 17 or coverage of a life other than the insured, to be forfeited by
- 18 the viator; and
- 19 (B) the viator should seek advice from a financial advisor.
- 20 (8) The procedure for contacts with the insured.
- 21 (9) That the proceeds of the viatical settlement will be transferred
- 22 to the viator as provided in section 24.2 of this chapter.
- 23 (10) A statement containing the following language:
- 24 "All medical, financial, or personal information solicited or
- 25 obtained by a viatical settlement provider or viatical settlement
- 26 broker about an insured, including the insured's identity or the
- 27 identity of family members, a spouse, or a significant other
- 28 may be disclosed as necessary to effect the viatical settlement
- 29 between the viator and the viatical settlement provider. If you
- 30 are asked to provide this information, you will be asked to
- 31 consent to the disclosure. The information may be provided to
- 32 someone who buys the policy or provides funds for the
- 33 purchase. You may be asked to renew your permission to share
- 34 information every two years."
- 35 (11) That the insured may be contacted by the viatical settlement
- 36 provider or viatical settlement broker to determine the health
- 37 status of the insured in accordance with section 24.9 of this
- 38 chapter.
- 39 (c) The viatical settlement provider shall disclose the following
- 40 information to the viator, conspicuously displayed in the viatical
- 41 settlement contract or in a separate document signed by the viatical
- 42 settlement provider and the viator, before a viatical settlement contract
- 43 is signed:
- 44 (1) Any affiliation between the viatical settlement provider and
- 45 the insurer that issued the life insurance policy ~~or certificate~~ that
- 46 is the subject of the viatical settlement contract.

- 1 (2) The name, address, and telephone number of the viatical  
2 settlement provider.
- 3 (3) If the life insurance policy ~~or certificate~~ that is the subject of  
4 the viatical settlement contract was issued as a joint policy or  
5 includes family riders or any coverage of an individual other than  
6 the insured:
- 7 (A) the possible loss of coverage of the other individuals under  
8 the **life insurance** policy; ~~or certificate~~; and  
9 (B) that the viator should consult with the viator's insurance  
10 producer or the insurer that issued the **life insurance** policy ~~or~~  
11 ~~certificate~~ for advice concerning the proposed viatical  
12 settlement contract.
- 13 (4) The:
- 14 (A) dollar amount of the current death benefit payable to the  
15 viatical settlement provider; and  
16 (B) if known, the:
- 17 (i) availability of any additional guaranteed insurance  
18 benefits;
- 19 (ii) dollar amount of any accidental death and  
20 dismemberment benefits; and  
21 (iii) viatical settlement provider's interest in the benefits  
22 described in items (i) and (ii);  
23 under the **life insurance** policy. ~~or certificate~~.
- 24 (5) The:
- 25 (A) name, business address, and telephone number of the  
26 trustee or escrow agent described in section 24.2 of this  
27 chapter; and  
28 (B) right of the viator or insured to inspect or receive copies of  
29 the relevant escrow or trust agreements or documents.
- 30 (d) A viatical settlement broker shall disclose to the viator,  
31 conspicuously displayed in the viatical settlement contract or in a  
32 separate document signed by the viatical settlement broker and the  
33 viator before a viatical settlement contract is signed, the amount and  
34 method of calculation of the viatical settlement broker's compensation.
- 35 (e) If a viatical settlement provider transfers ownership or changes  
36 the beneficiary of a viaticated policy, the viatical settlement provider  
37 shall, not more than twenty (20) days after the transfer or change  
38 occurs, inform the insured of the transfer or change.
- 39 SECTION 24. IC 27-8-19.8-24.2 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24.2. (a) Immediately  
41 upon a viatical settlement provider's receipt of a signed viatical  
42 settlement contract, the viatical settlement provider shall pay the  
43 proceeds of the viatical settlement to a trust or escrow account in a  
44 state or federally chartered financial institution whose deposits are  
45 insured by the Federal Deposit Insurance Corporation. The account  
46 shall be managed by a trustee or escrow agent independent of the

- 1 parties to the contract.
- 2 (b) Within two (2) business days after the viatical settlement
- 3 provider's receipt of the insurer's or group administrator's
- 4 acknowledgment that ownership of the **life insurance** policy or interest
- 5 in the certificate has been transferred and the beneficiary has been
- 6 designated according to the viatical settlement contract, the trustee or
- 7 escrow agent shall transfer the proceeds to the viator."
- 8 Delete pages 9 through 58.  
(Reference is to HB 1379 as printed January 25, 2008.)

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Representative Ripley