
ENGROSSED SENATE BILL No. 372

DIGEST OF SB 372 (Updated February 20, 1998 4:37 pm - DI 97)

Citations Affected: IC 2-5; IC 6-3; IC 10-1; IC 22-3; IC 27-1; IC 27-7; IC 27-8; IC 27-12; IC 27-13; noncode.

Synopsis: Makes the following changes to the "living benefits agreement" statute: (1) Renames "living benefits agreements" which are now referred to as "viatical settlements". (2) Changes term "ill individual" to "insured". (3) Defines "viatical settlement agent" as a person that solicits, offers, or attempts to negotiate a viatical settlement contract with a viator. (3) Requires viatical settlement brokers, and persons who solicit, offer, or attempt to negotiate viatical settlement contracts with viators to be licensed life insurance agents. (4) Expands the definition of "viatical settlement provider" to include a person who obtains financing for or sells, assigns, transfers, pledges, hypothecates or disposes of viatical settlement contracts or viaticated policies. (5) Requires disclosure of specified information to viator at time of
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Effective: July 1, 1998.

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(HOUSE SPONSORS — FRY, M. SMITH)

January 12, 1998, read first time and referred to Committee on Rules and Legislative Procedure.

January 22, 1998, amended, reported favorably; reassigned to Committee on Judiciary; Reassigned to Committee on Insurance and Interstate Cooperation.

January 29, 1998, reported favorably — Do Pass.

February 2, 1998, read second time, ordered engrossed. Engrossed.

February 3, 1998, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Insurance, Corporations, and Small Business.

February 17, 1998, amended, reported — Do Pass.

February 20, 1998, read second time, amended ordered engrossed.

SE 372—LS 7209/DI 13+



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application.(6) Defines "viaticated policy" as a life insurance policy or certificate acquired by a viatical settlement provider under a viatical settlement contract. (7) Exempts certain persons from the requirement of licensure as a life insurance agent. (8) Changes the rescission period. (9) Requires contacts with the insured regarding health status to be by mail unless otherwise agreed. (10) Requires confidentiality of viator's identity except under certain circumstances. Provides that a company may not hold itself out as a company in the business of insurance, or conduct the business of insurance under IC 22 or IC 27 unless the company has been issued a certificate of authority. Makes the following changes in the insurance law: (1) Requires the filing of the annual report on the state police pension trust with the state board of accounts rather than the insurance commissioner. (2) Requires an insurance agent whose license is expired for more than 24 months to retake the licensure examination and complete certain educational requirements before the license may be renewed. (Current law provides a limit of 60 months.) (3) Authorizes the insurance commissioner to suspend, revoke, or refuse to renew the license of an insurance agent who pleads guilty or no contest to a felony or a misdemeanor involving moral turpitude. (4) Requires insurers to file quarterly statements, at no charge, with the department of insurance. (5) Requires the department of insurance, which is required to prepare an annual report concerning worker's compensation insurance rates based on information reported by insurers to the worker's compensation rating bureau, to make the report available upon request. (6) Amends the law on mine subsidence insurance to require an insurer to provide information on the availability of mine subsidence coverage only when proposing to issue a new policy. (7) Relieves an insurer of the duty to inform the policyholder of the availability of mine subsidence coverage when proposing to renew a policy already in force. (8) Provides that an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after June 30, 2000. (Under current law, an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after June 30, 1997.) (9) Authorizes the insurance commissioner to disapprove an accident and sickness policy, application, rider, endorsement, or premium rate filing under certain circumstances. (10) Makes a limited service health maintenance organization subject to the law on unfair methods of competition and unfair and deceptive acts and practices. (11) Provides that a health care provider for whom an insurer submits proof of financial responsibility and payment of the surcharge to the department of insurance in an untimely manner may be in compliance with patient compensation fund requirements if certain conditions are met by the insurer. Amends the insurance laws to conform to the federal Health Insurance Portability and Accountability (HIPA) Act of 1996. Provides that a provision concerning guaranteed renewability in compliance with the Health Insurance Portability and Accountability Act must be included in each individual accident and sickness policy and each group accident and sickness policy. Requires the inclusion of a provision concerning group portability in each group accident and sickness policy. Makes the following changes in the law concerning the Indiana comprehensive health insurance association (ICHIA): (1) Adds definitions to the law, including a definition of the term "federally eligible individual". (2) Allows a person to qualify for a health insurance policy issued by ICHIA upon a showing that a conventional insurer has refused to issue the person a policy, except at a rate exceeding the association plan rate, or that the person is a federally eligible individual. (3) Changes the composition of the association board of directors. (4) Removes preexisting condition limitations for individuals other than those previously enrolled in an

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association policy which has terminated for greater than ninety (90) days. (5) Requires that preexisting condition limitations be limited to a period no greater than six (6) months after the effective date with reductions of the period based on continuous coverage under a health insurance plan in the twelve (12) month period immediately preceding enrollment. Makes the following changes in the law on small employer group health insurance: (1) Makes the small employer group health insurance laws apply to an employer that employs only two employees. (2) Restricts a small employer insurer's ability to cancel health insurance coverage or to exclude coverage. (3) Reduces the permissible duration of a preexisting condition exclusion by the amount of time an individual applicant for insurance has continuously served under a preexisting condition clause of a small employer group health insurance policy if the individual applies for the new coverage within 63 days of the expiration of the individual's coverage under the policy. (4) Provides that a pregnancy existing at the time of enrollment in a small employer group health insurance plan may not be excluded as a preexisting condition. (5) Repeals a provision that prohibits a small employer insurer from discriminating against an employer based on the nature of the employer's business and replaces it with a provision requiring a small employer insurer to cover any small employer that applies for coverage. (6) Changes the grounds on which a small employer group health insurance policy may be canceled. (7) Amends the definition of "late enrollee" for purposes of the law on small employer group health insurance. Provides that a group contract or an individual contract with a health maintenance organization must include a provision complying with the guaranteed renewability and group portability requirements of the federal Health Insurance Portability and Accountability Act. Makes changes to the independent contractor provisions concerning election of noncoverage under the worker's compensation law.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE ENROLLED ACT No. 372

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-8-19.8-1, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 1. As used in this chapter, "applicant" refers to an applicant for a **viatical settlement provider** license under this chapter.

SECTION 2. IC 27-8-19.8-3, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 3. As used in this chapter, "~~an individual~~" "**insured**" refers to an individual who has a catastrophic or life threatening illness or condition.

SECTION 3. IC 27-8-19.8-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 4.3. As used in this chapter, "viatical settlement agent" means a person that solicits, offers, or attempts to negotiate a viatical settlement contract with a viator.**

SECTION 4. IC 27-8-19.8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 4.5. As used in this chapter, "viatical settlement broker" means a person that represents a**

SEA 372—CC.No.01+



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viator and for a fee, commission, or other valuable consideration, solicits, offers, or attempts to negotiate viatical settlements between a viator and one (1) or more viatical settlement providers.

SECTION 5. IC 27-8-19.8-5, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 5. (a) As used in this chapter, "living benefits **"viatical settlement provider"** means a person, **other than a viator**, that: enters into a living benefits contract with a policyowner **(1) enters into a viatical settlement contract with a viator; or (2) obtains financing for the purchase, acquisition, transfer, or other assignment of one (1) or more viatical settlement contracts, viaticated policies, or interests therein, or otherwise sells, assigns, transfers, pledges, hypothecates, or disposes of one (1) or more viatical settlement contracts, viaticated policies, or interests therein.**

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

- (1) A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.
- (2) The issuer of a life insurance policy that makes a policy loan, permits surrender of the policy, or pays other policy benefits, including accelerated benefits, in accordance with the terms of the policy.

SECTION 6. IC 27-8-19.8-6, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 6. As used in this chapter, "living benefits **"viatical settlement contract"** means a written agreement between a **person viatical settlement provider** and a **policyowner viator** under the terms of which the **person viatical settlement provider** gives anything of value to the **policyowner viator**, which is less than the expected death benefit of the insurance policy, in return for the **policyowner's viator's** assignment, bequest, devise, sale, or transfer of **all of** the death benefit, **certificate**, or ownership of the insurance policy to the **person: viatical settlement provider. The term does not include a loan by a life insurance company under the terms of a life insurance policy, including a loan secured by the cash value of a policy.**

SECTION 7. IC 27-8-19.8-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 6.5. As used in this chapter, **"viaticated policy"** means a life insurance policy or certificate that has been acquired by a viatical settlement provider under a viatical

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settlement contract.

SECTION 8. IC 27-8-19.8-7, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 7. As used in this chapter, "person" means an individual, an association, a corporation, **a limited liability corporation**, an estate, a partnership, a trust, or any other business or legal entity.

SECTION 9. IC 27-8-19.8-8, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 8. As used in this chapter, "~~policyowner~~" "**viator**" refers to the owner of a life insurance policy **or a certificate holder under a group policy** that insures the life of an ~~an individual~~ **insured who enters or seeks to enter into a viatical settlement contract.**

SECTION 10. IC 27-8-19.8-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 8.5. The following must be licensed as a life insurance agent under IC 27-1-15.5:**

- (1) **A viatical settlement broker.**
- (2) **A person who solicits, offers, or attempts to negotiate a viatical settlement contract with a viator.**

SECTION 11. IC 27-8-19.8-8.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 8.6. The following are exempt from the licensing requirement under IC 27-8-19.8-8.5:**

- (1) **An accountant, an attorney, or a financial planner retained to represent the viator, and whose compensation is paid directly by or at the direction of the viator.**
- (2) **A regularly salaried officer or employee of a viatical settlement broker or viatical settlement provider, if the officer or employee's duties and responsibilities do not include the solicitation or negotiation of viatical settlement contracts.**
- (3) **The following persons, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the person's employees or the employees of the person's subsidiaries or affiliates involving the use of viatical settlement contracts issued by a licensed viatical settlement provider, if the person is not in any manner directly or indirectly compensated by the viatical settlement provider:**
 - (A) **An employer.**
 - (B) **An officer or employee of an employer.**



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(C) A trustee of an employee trust plan.

SECTION 12. IC 27-8-19.8-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 8.7. A viatical settlement broker:**

- (1) represents only the viator; and
 - (2) owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator;
- regardless of the manner in which the viatical settlement broker is compensated.**

SECTION 13. IC 27-8-19.8-9, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 9. After ~~December 31, 1994~~ **December 31, 1998**, a person may not act as a ~~living benefits~~ **viatical settlement** provider or enter into, or solicit a living benefits contract unless the person holds an unexpired license issued under this chapter.

SECTION 14. IC 27-8-19.8-10, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 10. (a) An applicant must do the following to obtain a license as a ~~living benefits~~ **viatical settlement** provider:

- (1) Apply for the license on forms prescribed by the department.
- (2) Provide information required by the department.
- (3) Pay the license fee.

(b) The application must include the name of each officer, member, or employee of the applicant who will be authorized by the applicant to act as a ~~living benefits~~ **viatical settlement** provider under the license if issued to the applicant.

(c) The department shall adopt rules under IC 4-22-2 to set the licensing fee required by this section.

SECTION 15. IC 27-8-19.8-11, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 11. The department shall investigate an applicant and issue a license to the applicant if the department finds all of the following:

- (1) The applicant is competent and trustworthy and intends to act in good faith as a ~~living benefits~~ **viatical settlement** provider.
- (2) The applicant has a good business reputation.
- (3) The applicant has had the experience, training, or education to qualify the applicant as a ~~living benefits~~ **viatical settlement** provider.
- (4) If the applicant is a corporation, ~~or limited liability corporation, it the corporation~~ is either:



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- (A) incorporated under Indiana law; or
- (B) authorized to do business in Indiana.

SECTION 16. IC 27-8-19.8-14, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 14. A license issued under this chapter authorizes all officers, members, and employees of the license holder designated under section 10(b) of this chapter to act as ~~living benefits~~ **viatical settlement** providers under the license.

SECTION 17. IC 27-8-19.8-15, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 15. (a) A license issued or renewed under this chapter expires on July 1 after its issuance or renewal.

- (b) A ~~licensee~~ **viatical settlement provider** may renew a license by:
 - (1) applying for renewal on forms prescribed by the department; and
 - (2) paying the renewal fee.

(c) The department shall adopt rules under IC 4-22-2 to do the following:

- (1) Set the renewal fee required by this section.
- (2) Set a date before July 1 and before which receipt of a license renewal application can be processed without a lapse in the license.

(d) A ~~licensee~~ **viatical settlement provider** that submits an application for renewal after the date set under subsection (c)(2):

- (1) is not entitled to have the license renewed before July 1; and
- (2) may not act as a ~~living benefits~~ **viatical settlement** provider until the department issues the license renewal, if the department is unable to process the renewal before July 1.

SECTION 18. IC 27-8-19.8-16, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 16. The department may at any time require a ~~licensee~~ **viatical settlement provider** or an applicant for a license to disclose fully the identity of all of the ~~licensee's~~ **viatical settlement provider's** or applicant's officers, employees, partners, and stockholders.

SECTION 19. IC 27-8-19.8-17, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 17. (a) A ~~licensee~~ **viatical settlement provider** shall file with the department an annual report containing information prescribed in rules adopted by the department under IC 4-22-2.

- (b) The rules adopted by the department under subsection (a) shall

SEA 372—CC.No.01+



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set the date by which annual reports must be submitted.

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

SECTION 20. IC 27-8-19.8-18, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 18. (a) When the department reasonably considers it necessary for the protection of the public, the department may examine the business and other affairs of a **licensee viatical settlement provider** or an applicant.

(b) The department may order a **licensee viatical settlement provider** or an applicant to produce records, books, files, or other information reasonably necessary to ascertain whether the **licensee viatical settlement provider** or the applicant has violated or is violating the law or otherwise has acted or is acting contrary to the public interest.

(c) The **licensee viatical settlement provider** or applicant shall pay the expenses of an examination conducted under this section.

SECTION 21. IC 27-8-19.8-19, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 19. After a hearing under IC 4-21.5, the department may suspend, revoke, or refuse to renew a **licensee's viatical settlement provider's license, or impose a civil penalty, or both**, if the department finds any of the following:

- (1) There was a misrepresentation in the application for the license.
- (2) The **licensee viatical settlement provider** is untrustworthy or incompetent to act as a **living benefits viatical settlement provider**.
- (3) The **licensee viatical settlement provider** demonstrates a pattern of unreasonable payments to **policyowners viators**.
- (4) The **licensee viatical settlement provider** has been convicted of, **or pleaded guilty or nolo contendere to**, an offense the definition of which includes fraudulent acts as an element of the offense **regardless of whether a judgement has been entered by the court**.
- (5) **The viatical settlement provider no longer meets the requirements for initial licensure.**
- (6) **The viatical settlement provider has failed to honor the contractual obligations of a viatical settlement contract.**
- (7) The **licensee viatical settlement provider** has violated this chapter.



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SECTION 22. IC 27-8-19.8-21, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 21. (a) A **living benefits viatical settlement** contract must establish the terms under which the **living benefits viatical settlement** provider will pay value, in return for the **policyowner's viator's** assignment, bequest, devise, sale, or transfer of the death benefit, **certificate**, or ownership of the insurance policy to the **living benefits viatical settlement** provider.

(b) A **living benefits viatical settlement** contract must provide for the unconditional rescission of the contract by the **policyowner viator for the longer of the following:**

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

(c) **A viatical settlement contract is rescinded if the insured dies during the rescission period, subject to repayment of all proceeds to the viatical settlement provider.**

SECTION 23. IC 27-8-19.8-22, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 22. (a) A **living benefits provider person** may not use a **living benefits viatical settlement** contract form **or a disclosure form** in Indiana unless the contract form **or disclosure form** has been filed with and approved by the department.

(b) A **living benefits viatical settlement** contract form **or disclosure form** filed with the department is considered approved if the department has not disapproved the form within sixty (60) days after the filing.

(c) The department shall disapprove a **living benefits viatical settlement** contract form **or disclosure form** if the department finds that the contract form, **disclosure form**, or the provisions of the contract are:

- (1) misleading or unfair to the **policyowner viator**;
- (2) **not in compliance with this chapter**; or
- (3) otherwise contrary to the public interest.

SECTION 24. IC 27-8-19.8-23, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 23. A **living benefits viatical settlement** provider **or viatical settlement broker** shall disclose the following information to the **policyowner viator** not later than the date ~~the living benefits contract is entered into:~~ **of application:**

- (1) Possible alternatives to **living benefits viatical settlement**



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contracts, including accelerated benefits offered by the issuer of the life insurance policy.

(2) Tax consequences that may result from entering into a **living benefits viatical settlement** contract.

(3) ~~Consequences of Possible~~ interruption of assistance provided by medical or public assistance programs **as a consequence of entering into a viatical settlement contract.**

(4) The ~~policyowner's~~ **viator's** right to rescind a **living benefits viatical settlement** contract as provided in section 21 of this chapter.

(5) **The amount of any fees paid by a viatical settlement provider to a viatical settlement broker.**

(6) **A statement that proceeds of the viatical settlement could be subject to claims of creditors.**

(7) **A statement that entering into a viatical settlement contract may cause other rights or benefits under the policy, including conversion rights, waiver of premium benefits, family riders, or coverage of a life other than an ill individual, to be forfeited by the viator.**

(8) **The procedure for contacts with the insured.**

SECTION 25. IC 27-8-19.8-24, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 24. A **living benefits viatical settlement** provider shall obtain the following before entering into a **living benefits viatical settlement** contract: ~~with a policyowner who is an ill individual~~

(1) **If the viator is the insured**, a written statement from a licensed attending physician that the ~~individual~~ **insured** is of sound mind and under no constraint or undue influence.

(2) A document signed by the ~~individual~~ **viator** and witnessed by two (2) disinterested witnesses in which the ~~individual~~ **viator** does the following:

(A) Consents to the **living benefits viatical settlement** contract.

(B) Acknowledges the catastrophic or life threatening illness.

(C) Represents that the ~~individual~~ **viator** has a full and complete understanding of the **living benefits viatical settlement** contract.

(D) Represents that the ~~individual~~ **viator** has a full and complete understanding of the benefits of the life insurance policy.

(E) Releases the individual's medical records. IC 16-39 applies



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to the release of the individual's medical records under this clause.

(F) (E) Acknowledges that the individual viator has entered into the living benefits viatical settlement contract freely and voluntarily.

(F) Discloses the identity of any person that served as a viatical settlement broker in connection with the viatical settlement contract.

(3) A document in which the insured consents to the release of the insured's medical records.

SECTION 26. IC 27-8-19.8-24.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 24.2. (a) Immediately upon a viatical settlement provider's receipt of a signed viatical settlement contract, the viatical settlement provider shall pay the proceeds of the viatical settlement to a trust or escrow account in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. The account shall be managed by a trustee or escrow agent independent of the parties to the contract.**

(b) Within two (2) business days after the viatical settlement provider's receipt of the insurer's or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated according to the viatical settlement contract, the trustee or escrow agent shall transfer the proceeds to the viator.

SECTION 27. IC 27-8-19.8-24.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 24.7. Except as otherwise provided by law, a person with actual knowledge of a viator's identity may not disclose that identity to another person unless the disclosure is:**

- (1) necessary to effect a viatical settlement contract and the viator has provided written consent to the disclosure;
- (2) provided in response to an investigation by the commissioner or other governmental officer or agency; or
- (3) in connection with a transfer of a viatical settlement contract or viaticated policy to another licensed viatical settlement provider or to an entity that provides financing to effect the viatical settlement contract under a written agreement with a licensed viatical settlement provider.

SECTION 28. IC 27-8-19.8-24.9 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 24.9. (a) The viatical settlement provider or viatical settlement broker may contact the insured for the purpose of determining the health status of the insured not more than:**

- (1) one (1) time every three (3) months for an insured with a life expectancy of more than one (1) year; or**
- (2) one (1) time every month for an insured with a life expectancy of not more than one (1) year.**

(b) Contacts made with an insured under subsection (a) must be made by mail unless the parties agree to another method of contact.

SECTION 29. IC 27-8-19.8-24.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 24.8. IC 16-39 applies to the release of an insured's medical records under this chapter.**

SECTION 30. IC 27-8-19.8-25, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: **Sec. 25. The department shall may adopt rules under IC 4-22-2 to establish standards for evaluating the reasonableness of payments under living benefits viatical settlement contracts, including regulation of discount rates used to determine the amount paid in exchange for an assignment, a bequest, a devise, a sale, or a transfer of a benefit under a life insurance policy.**

SECTION 31. [EFFECTIVE JANUARY 1, 1999] **(a) Notwithstanding IC 27-8-19.8-9, as amended by this act, a person who holds a valid license under IC 27-8-19.8-11 (before its amendment by this act) on December 31, 1998, is considered to have a valid license under IC 27-8-19.8-9, as amended by this act, and does not need to reapply or renew the license until the date the license is due for renewal.**

(b) This SECTION expires January 1, 2000.

SECTION 32. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 1999]: IC 27-8-19.8-4; IC 27-8-19.8-20.

SECTION 33. **An emergency is declared for this act.**

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