VIATICAL SETTLEMENT CONTRACTS

508E.1 Authority of the commissioner.

The commissioner shall regulate, but not prohibit, the sale of viatical settlements as provided in this chapter.

2000 Acts, ch 1147, §35

508E.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Chronically ill"* means any of the following:

a. Being unable to perform or maintain at least two activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence.

b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

c. Having a level of disability similar to that described in paragraph *"a"* as determined by the United States secretary of health and human services.

2. *"Commissioner"* means the commissioner of insurance.

3. *"Terminally ill"* means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

4. *"Viatical settlement contract"* means a written agreement entered into between a viatical settlement provider and a person who owns or is insured under a life insurance policy or certificate, or who owns or is covered under a group life insurance policy. *"Viatical settlement contract"* does not mean a written agreement entered into between a viator and a person having an insurable interest in the viator's life.

5. *"Viator"* means a person selling a life insurance policy or certificate.

2000 Acts, ch 1147, §36

508E.3 Viatical settlement contract limitations.

1. *a.* Subject to paragraph *"b"*, a viatical settlement contract shall not be entered into until after the contestable period of the life insurance policy or certificate has expired.

b. If a viatical settlement contract is entered into during the contestable period of the life insurance policy or certificate, a rebuttable presumption arises that it was the intent of the person entering into such contract with a viatical settlement provider to enter into such contract at the time the life insurance policy or certificate was originally purchased. If such person fails to rebut the presumption, the viatical settlement contract is void.

2. A viatical settlement contract shall only be entered into with an individual who owns a life insurance policy or certificate which covers the life of an individual who is either terminally ill or chronically ill, or as otherwise provided pursuant to rules adopted by the commissioner.

2000 Acts, ch 1147, §37

508E.3A Immunity from liability.

1. A person acting without malice, fraudulent intent, or bad faith is not liable civilly as a result of filing a report, or otherwise furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, or the administrative rules that implement this chapter, if the report or information is provided to or received from any of the following:

a. Law enforcement officials, and their agents or employees.

b. The national association of insurance commissioners, the insurance division of the department of commerce, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance or viatical settlement acts, or any other organization established for such purpose, and their agents, employees, or designees.

c. An authorized representative of the life insurer that issued the insurance policy covering the life of the insured.

2. This section does not affect in any way any common law or statutory privilege or immunity applicable to such person or entity.

2002 Acts, ch 1111, §11; 2003 Acts, ch 44, §91

508E.4 Rulemaking authority.

The commissioner shall adopt rules as necessary to administer this chapter. Rules shall be adopted relating to all of the following:

1. Advertising standards.

2. Disclosure.

3. Examinations.

4. Insurance company practices.

5. License requirements.

6. Prohibited practices.

7. Refund provisions.

8. Reporting.

9. Standards for reasonableness of payment.

10. Unfair trade practices.

11. Viatical settlement contracts.

2000 Acts, ch 1147, §38