**508E.12 Permitted practices.**

1. Notwithstanding section 508E.11, at any time subsequent to the issuance of the policy, a person may enter into a viatical settlement contract if the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the five-year period:

*a.* The policy was issued upon the viator'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 shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

*b.* The viator submits an affidavit to the viatical settlement provider that one or more of the following conditions exists:

(1) The viator or insured is terminally or chronically ill.

(2) The viator's spouse or child dies.

(3) The viator divorces the viator's spouse.

(4) The viator retires from full-time employment.

(5) The viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment.

(6) The viator has filed for bankruptcy or sought reorganization in a court of competent jurisdiction, or a court of competent jurisdiction has appointed a receiver, trustee, or liquidator to all or a substantial part of the viator's assets.

(7) Other circumstances as established as eligible exemptions by the commissioner by rule, including but not limited to substantial adverse financial circumstances or other factors substantially affecting the viator.

2. Notwithstanding section 508E.11, a person may enter into a viatical settlement contract if at all times prior to the date that is two years after policy issuance, all of the following conditions are met with respect to the policy:

*a.* Policy premiums have been funded exclusively with any of the following:

(1) Unencumbered assets, including an interest in the life insurance policy being financed only to the extent of its net cash surrender value, provided by a person described in section 508E.2, subsection 15, paragraph *"d"*, subparagraph (5).

(2) Fully recourse liability incurred by the insured or a person described in section 508E.2, subsection 15, paragraph *"d"*, subparagraph (5).

*b.* 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.

*c.* Neither the insured nor the policy has been evaluated for settlement.

3. Copies of the affidavits described in this section and documents required by section 508E.10, subsection 1, shall be submitted to the insurer when the viatical settlement provider or viatical settlement broker submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

4. If the viatical settlement provider submits to the insurer a copy of the owner's or insured's or insurer's affidavit described in this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirement of this section and the insurer shall timely respond to the request.

2008 Acts, ch 1155, §12; 2010 Acts, ch 1069, §62
Subsection 2, paragraph a, subparagraphs (1) and (2) amended