

BILL ANALYSIS

Senate Research Center
76R12758 AJA-F

H.B. 792
By: Maxey (Carona)
Education
5/13/1999
Engrossed

DIGEST

Currently, the Texas Department of Insurance (TDI) regulates the viatical settlement industry. Since the enactment of the regulating legislation, the industry has shifted its original focus on serving the terminally ill and now offers viatical settlements to healthy seniors. The original legislation defines a viatical settlement to apply to the sale of a policy of an individual with a terminal illness, but does not include health seniors. H.B. 792 would amend regulations governing the viatical settlement agreements and life settlement agreements.

PURPOSE

As proposed, H.B. 792 amends regulations regarding the viatical settlement agreements and life settlement agreements.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading of Article 3.50-6A, Insurance Code, as follows:

ARTICLE 3.50-6A. New heading: VIATICAL SETTLEMENTS AND LIFE SETTLEMENTS

SECTION 2. Amends Section 1, Article 3.50-6A, Insurance Code, to define "life settlement."

SECTION 3. Amends Section 2, Article 3.50-6A, Insurance Code by amending Subsections (a), (b), and (c) and adding Subsections (e) and (f), as follows:

(a) Provides that the purpose of this article is to register persons engaged in the business of viatical settlements or the business of life settlements and to provide consumer protection for a person, rather than a person with a catastrophic or life threatening illness or condition, who may sell or otherwise transfer the person's life insurance policy.

(b) Requires the commissioner of insurance (commissioner) to adopt reasonable rules to implement this article as it relates to viatical settlements and as it relates to life settlements.

(c) Provides that the rules adopted by the commissioner under this article must include rules governing registration of a person engaged in the business of life settlements. Provides that the rules adopted by the commissioner under this article must include rules governing the responsibility of a registrant to ensure compliance with this article and rules relating to viatical settlements or life settlements after the registrations is revoked, is suspended, or otherwise lapses. Makes conforming and nonsubstantive changes.

(e) Prohibits the commissioner from adopting rules establishing prices or fees for the sale or purchase of life settlements. Provides that this subsection does not prohibit the commissioner from adopting rules addressing unjust prices or fees for the sale or purchase of life settlements.

(f) Prohibits the commissioner from adopting rules that require regulation of the passive financial actions of an institutional investor or accredited investor, as those terms are defined under regulations adopted under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.).

SECTION 4. Amends Sections 3 and 4, Article 3.50-6A, Insurance Code, as follows:

Sec. 3. New title: APPLICATION OF OTHER INSURANCE LAWS. Provides that Articles 1.10 (Duties of the Department), 1.10A (Cease and Desist Orders), 1.10C (Access to Certain Criminal History Record Information), 1.10D (Insurance Fraud Unit), 1.10E (Administrative Penalties), 1.19 (In Case of Examination), 1.19-1 (Subpoena Authority), 1.24 (To Make Inquiries), and 21.21 (Unfair Competition and Unfair Practices) of this code apply to a person engaged in the business of viatical settlements or life settlements. Deletes existing text regarding enforcement of rules adopted under this article.

Sec. 4. New Title: DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION; ENFORCEMENT. (a) Authorizes the commissioner to suspend or revoke the registration of a registrant or deny an application for registration under this article if the commissioner finds that the registrant or applicant, individually or through any officer, director, or shareholder of the registrant or applicant performs the specified actions.

(b) Prohibits an applicant or registrant whose registration has been denied, suspended, or revoked under this section from filing another application for registration before the first anniversary of the effective date of the denial, suspension, or revocation or, if judicial review of the denial, suspension, or revocation is sought, the first anniversary of the date of the final court order or decree affirming the action. Authorizes an application filed after that period to be denied by the commissioner unless the applicant shows good cause why the denial, suspension, or revocation of the previous license should not bar the issuance of a new license.

(c) Authorizes the commissioner to take any appropriate action against a person engaging in the business of viatical settlements or life settlements who violates this article, an applicable provision of this code or another insurance law of this state, or a rule adopted under this article or under such a provision, in addition to an action taken under Subsections (a) and (b) of this section. Deletes existing text relating to the situations under which this code and any other insurance law does not apply.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 1999.

SECTION 7. Emergency clause.