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VIATICAL SETTLEMENTS: NO SUICIDE AGREEMENT

House Bill 4764 as introduced
First Analysis (9-30-99)

Sponsor: Rep. Gerald Law
Committee: Insurance and Financial Services

THE APPARENT PROBLEM:

Public Act 386 of 1996 regulates viatical settlement contracts. Such a contract is written between the owner or holder of a life insurance policy who has a terminal illness or condition (known as a "viator") and a person or entity who "buys" the policy at a cost below the amount of the death benefit (known in the act as a "provider"). Under the contract the policyholder gets a proportion of the money while alive that would have been paid out when he or she died, and the purchaser pays the policyholder a discounted amount and then receives the full benefit when the insured dies. The viatical settlement industry reportedly began with AIDS patients but has grown to include policyholders with other life-threatening and terminal diseases. The early access to life insurance proceeds can help to pay for medical care and end-of-life living expenses.

Public Act 386 imposes a number of requirements on providers, mostly requiring certain notifications to policyholders and insurance companies, and providing for a "cooling-off" period during which the contract can rescinded for any reason. The act also specifies what documentation must accompany a contract and allows the insurance commissioner to step in when there are abuses. A new concern has arisen recently: that some people might offer money to others on the condition that they commit suicide. Some people believe that state law should make a strong policy statement against this.

THE CONTENT OF THE BILL:

The bill would amend Public Act 386 of 1996 regulating viatical settlement contracts to prohibit a provider (a person purchasing a policy or death benefit) from offering to provide or from providing any payment to a viator (a policy owner) conditioned on the viator's agreement to commit suicide.

MCL 550.524a

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on state or local government. (Fiscal Note dated 9-28-99)

ARGUMENTS:

For:

The bill makes a policy statement in opposition to the payment of money by one person to another on the condition the second person commit suicide. There might be times when it would be advantageous for someone to pay another to end his or her life and a viatical settlement could be used to achieve that end. The bill would prevent this. The Insurance Bureau, in an analysis of this bill, has pointed to the issue of assisted suicide, noting that those who oppose assisted suicide have raised the specter of health insurers or professionals suggesting suicide as an alternative to costly life-sustaining treatments and offering payments as encouragements.

Against:

It has been suggested that a contract to commit suicide might not be enforceable under the Uniform Commercial Code because the code permits a court to refuse to enforce a contract considered unconscionable when entered into.

POSITIONS:

The Insurance Bureau, within the Department of Consumer and Industry Services, supports the bill. (9-28-99)

Analyst: C. Couch