

February 19, 2008

The Honorable Ruth Teichman, Chairperson
Senate Committee on Financial Institutions and Insurance
Statehouse, Room 241-E
Topeka, Kansas 66612

Dear Senator Teichman:

SUBJECT: Fiscal Note for SB 624 by Senate Committee on Financial Institutions and Insurance

In accordance with KSA 75-3715a, the following fiscal note concerning SB 624 is respectfully submitted to your committee.

SB 624 would amend the Viatical Settlement Act. A viatical settlement is a written agreement in which a life insurance policy is sold to a settlement provider at a discount on the face value of the policy before the death of the insured. The bill permits the Commissioner of Insurance to conduct examinations of licensees as often as the Commissioner considers appropriate. The bill outlines the Commissioner's authority and powers with regard to conducting an examination of an individual licensed to conduct viatical settlement business. The bill requires that these licensees retain certain documentation concerning viatical settlement transactions for at least five years. The bill also addresses the confidentiality of information obtained in the course of examinations.

SB 624 outlines the procedures that must be followed by a viatical settlement provider entering into a viatical settlement contract. In addition, the bill prohibits certain actions by viatical settlement brokers. For example, the bill would prohibit a person from issuing, soliciting, marketing, or otherwise promoting the purchase of an insurance policy for the purpose of, or with an emphasis on, settling the policy. The bill would amend the definition of "fraudulent viatical settlement act" to include "stranger-originated life insurance." "Stranger-originated life insurance" is defined in the bill as a practice or a plan to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured.

The bill would deem that the following individuals meet the necessary licensing requirements to operate as a viatical settlement broker: (1) a life insurance producer who has

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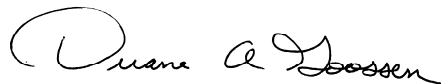
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been duly licensed in this state as a resident insurance producer with a life insurance line of authority; or (2) a life insurance producer who has been duly licensed as a resident insurance producer with a life insurance line of authority for at least one year in the producer's home state and who is licensed as a non-resident producer in this state. An applicant for a license could be required by the Commissioner of Insurance to provide proof of financial responsibility through either a surety bond or a deposit of cash, certificates of deposit, or securities. Any individual licensed as a viatical settlement broker must complete at least 15 hours of training related to viatical settlements and transactions on a biennial basis.

SB 624 would require that for any policy settled within five years of the policy's date of issuance, each licensed viatical settlement broker must file an annual statement with the Commissioner of Insurance. The bill lists the information that must be included in the annual statement. A viatical settlement broker would be required to represent the policy holder exclusively. The viatical settlement broker would owe fiduciary responsibility to the policy holder.

The Kansas Insurance Department indicates that SB 624 could be implemented within the agency's existing resources.

Sincerely,

A handwritten signature in black ink that reads "Duane A. Goossen". The signature is written in a cursive style with a large initial "D".

Duane A. Goossen
Director of the Budget

cc: John Campbell, Insurance