Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 404** DATE: **May 29, 2008**

STATUS: **As Passed by the Senate** SPONSOR: **Reps. Hottinger and Barrett**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Makes changes to the law governing viatical settlements**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
General Revenue Fund			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -
Department of Insurance Operating Fund			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- The bill requires viatical settlement brokers to complete at least 15 hours of continuing education every two years under the direction of the Superintendent of Insurance. Department officials believe that this provision would create, at most, a minimal amount of additional revenue to the Department of Insurance Operating Fund and that there would be no additional cost from the provision.

- The bill designates that certain actions are fraudulent viatical settlement acts. Such acts may incur a civil penalty up to $10,000 per violation, with any revenue resulting from such penalties deposited into the GRF. The amount of revenue that might be raised by these provisions would depend on the compliance of industry participants with the new provisions of viatical settlement law.

- The bill establishes new reporting requirements to the Superintendent of Insurance. It also authorizes the Superintendent to impose fees to accompany some of the reports, and penalties of up to $25,000 for failure to file some of the reports. The bill does not designate a fund to receive any revenue that may result from the penalties. Department officials expect any costs or revenue resulting from these provisions to be minimal.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

H.B. 404 makes several changes to the law governing viatical settlements. A viatical settlement, generally speaking, is an arrangement for someone to purchase the rights to the death benefits from a life insurance policy while the insured individual remains alive.

The bill establishes a requirement that viatical settlement brokers complete at least 15 hours of continuing education biennially under the supervision of the Department of Insurance (ODI). The Superintendent of Insurance would be required to adopt rules governing this requirement, and any fees that might be associated with the continuing education program would apparently be paid into the Department of Insurance Operating Fund (Fund 5540). Existing law requires all viatical settlement contract forms and disclosure statement forms to be approved by the Superintendent prior to usage. The bill specifies that any such forms shall be considered approved if they are not disapproved within 45 days. The bill prohibits viatical settlement brokers and producers that are business affiliates from dealing with each other on a given viatical settlement, except under specified circumstances, and defines doing so to be a fraudulent viatical settlement act. Certain other actions, detailed in section 3916.171 of the bill, are also newly designated to be fraudulent viatical settlement acts.

The bill establishes new reporting requirements for certain industry participants. Viatical settlement providers and brokers are currently required to file annual statements with the Superintendent of Insurance. The bill establishes certain contents that must be included in the annual statements, and it provides that any viatical settlement provider that failed to file the annual statement on time would be subject to a penalty of $250 per day, up to $25,000. The bill does not specify a fund that would receive any receipts from the penalty. The bill requires viatical settlement providers to file financial statements with the Superintendent quarterly and annually. The bill also requires all life insurers to file (electronically) an annual report with the Superintendent describing the measures taken by that insurer to detect and prevent stranger-originated life insurance.

The bill makes a number of other changes to the conditions under which viatical settlements may be made, and to the statutes governing viatical settlement providers and brokers. These other changes have no direct fiscal effects.

Fiscal effects

Department officials do not expect the continuing education provision of the bill to create a "meaningful" increase in revenue, nor do they expect it to create costs for the Department. They also do not expect the new reporting requirements to create more than a minimal increase in costs and revenue.

The provision that establishes new fraudulent viatical settlement acts could lead to a civil penalty (under section 3916.19 of the Revised Code) of up to $10,000 per violation. Any revenue resulting from such a penalty would be deposited into the GRF. The amount of any such revenue would depend on compliance of viatical settlement providers and brokers with this provision of the bill.

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