

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1040

Short Title: Amend Viatical Settlement Contract Definition. (Public)

Sponsors: Representative Dockham.

Referred to: Insurance, if favorable, Judiciary I.

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEFINITION OF A VIATICAL SETTLEMENT CONTRACT
3 TO INCLUDE AN EXCEPTION FOR CERTAIN ACCREDITED INVESTORS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 78A-2 reads as rewritten:

6 "**§ 78A-2. Definitions.**

7 When used in this Chapter, unless the context otherwise requires:

8 ...

9 (13) "Viatical settlement contract" means an agreement for the purchase, sale,
10 assignment, transfer, devise, or bequest of all or any portion of the death
11 benefit or ownership of a life insurance policy or contract for consideration
12 which is less than the expected death benefit of the life insurance policy or
13 contract. "Viatical settlement contract" does not include:

- 14 a. The assignment, transfer, sale, devise, or bequest of a death benefit
15 of a life insurance policy or contract made by the viator to an
16 insurance company or to a viatical settlement provider or broker
17 licensed pursuant to the Viatical Settlements Act (Part 5 of Article 58
18 of Chapter 58 of the General Statutes);
- 19 b. The assignment of a life insurance policy or contract to a bank,
20 savings bank, savings and loan association, credit union, or other
21 licensed lending institution as collateral for a loan; ~~or~~
- 22 c. The exercise of accelerated benefits pursuant to the terms of a life
23 insurance policy or contract and consistent with applicable ~~law.~~ law;
24 or
- 25 d. The assignment, transfer, devise, or bequest, offer to sell, or sale of a
26 viaticated policy to any of the following: (i) a bank, trust company,
27 or savings institution, (ii) an insurance company which has qualified
28 under Chapter 58 of the General Statutes to transact life insurance
29 business in this State, (iii) a dealer, as defined in this section, (iv) an
30 investment company as defined in the Investment Company Act of
31 1940, 15 U.S.C. §§ 80a-1, et seq., (v) a pension or profit-sharing
32 trust, (vi) a qualified institutional buyer as defined in rules
33 promulgated by the United States Securities Exchange Commission
34 under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq.,
35 or (vii) a person who affirmatively represents that they are an
36 accredited investor, as defined in rules promulgated by the United



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1 States Securities Exchange Commission under the Securities
2 Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq."
3 **SECTION 2.** This act becomes effective October 1, 2009.