



Ohio Revised Code

Section 3916.171 Fraudulent viatical settlement acts prohibited.

Effective: September 11, 2008

Legislation: House Bill 404 - 127th General Assembly

(A) No person shall commit a fraudulent viatical settlement act.

(B) All of the following acts are fraudulent viatical settlement acts when committed by any person who, knowingly and with intent to defraud and for the purpose of depriving another of property or for pecuniary gain, commits, or permits any of its employees or its agents to commit them:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, life expectancy provider, viatical settlement purchaser, financing entity, insurer, insurance broker, insurance agent, or any other person, any false material information, or concealing any material information, as part of, in support of, or concerning a fact material to, one or more of the following:

(a) An application for the issuance of a viatical settlement contract or a policy;

(b) The underwriting of a viatical settlement contract or a policy;

(c) A claim for payment or benefit pursuant to a viatical settlement contract or a policy;

(d) Any premiums paid on a policy;

(e) Any payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or a policy;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer, effectuation, or sale of a viatical settlement contract or a policy;

(h) The issuance of written evidence of a viatical settlement contract or a policy;



(i) A financing transaction;

(j) Any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a policy.

(2) Failing to disclose to the insurer, where the insurer has requested such disclosure, that the prospective insured has undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representatives in connection with the application, underwriting, and issuance of the policy.

(3) In the furtherance of a fraud or to prevent the detection of a fraud, doing any of the following:

(a) Removing, concealing, altering, destroying, or sequestering from the superintendent of insurance the assets or records of a licensee or another person engaged in the business of viatical settlements;

(b) Misrepresenting or concealing the financial condition of a licensee, financing entity, insurer, or any other person;

(c) Transacting the business of viatical settlements in violation of any law of this state requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements;

(d) Filing with the superintendent of insurance or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing from the superintendent any information about a material fact.

(4) Recklessly entering into, negotiating, brokering, or otherwise dealing in a viatical settlement contract involving a policy that was obtained by presenting false, deceptive, or misleading information of any fact material to the policy, or by concealing information concerning any fact material to the policy, for the purpose of misleading and with the intent to defraud the issuer of the policy, the viatical settlement provider, or the viator;



- (5) Committing any embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, policyowner, or any other person engaged in the business of viatical settlements or insurance;
- (6) Employing any plan, financial structure, device, scheme, or artifice to defraud in the business of viatical settlements;
- (7) Misrepresenting the state of residence or facilitating the change of the state in which a person owns a policy or the state of residency of a viator to a state or jurisdiction that does not have laws similar to this chapter for the express purposes of evading or avoiding the provisions of this chapter;
- (8) In the solicitation, application, or issuance of a policy, employing any device, scheme, or artifice in violation of sections 3911.09 or 3911.091 of the Revised Code;
- (9) Engaging in any conduct related to a viatical settlement contract if the person knows or should have known that the intent of the transaction was to avoid the disclosure and notice requirements of section 3916.06 of the Revised Code;
- (10) Entering into a premium finance agreement with any person pursuant to which the person will receive, directly or indirectly, any proceeds, fees, or other considerations from the policy, the owner of the policy, the issuer of the policy, or from any other person with respect to the premium finance agreement or any viatical settlement contract, or from any transaction related to the policy, that are in addition to the amount required to pay the principal, interest, costs, and expenses related to the policy premiums pursuant to the premium finance agreement or subsequent sale of the agreement. Any payments, charges, fees, or other amounts in addition to the amounts required to pay the principal, interest, costs, and expenses related to policy premiums paid under the premium finance agreement shall be remitted to the original owner of the policy or, if the owner is not living at the time of the determination of the overpayment, to the estate of the owner.
- (11) With respect to any viatical settlement contract or a policy, for a viatical settlement broker or an agent registered under this chapter as operating as a viatical settlement broker to knowingly solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement



provider, viatical settlement purchaser, financing entity, or related provider trust that is controlling, controlled by, or under common control with such viatical settlement broker or registered agent unless both of the following are true:

(a) The viatical settlement broker or agent disclosed that affiliation to the viator.

(b) The viatical settlement broker or agent is controlled by or under common control with a person that is regulated under the "Securities Act of 1933" or the "Securities Act of 1934," 15 U.S.C. 77a et seq., as amended.

(12) With respect to any viatical settlement contract or a policy, for a viatical settlement provider to knowingly enter into a viatical settlement contract with a viator if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker or an agent registered under this chapter as operating as a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract unless both of the following are true:

(a) The viatical settlement broker or agent disclosed that affiliation to the viator.

(b) The viatical settlement broker or agent is controlled by or under common control with a person that is regulated under the "Securities Act of 1933" or the "Securities Act of 1934," 15 U.S.C. 77a et seq., as amended.

(13) Issuing, soliciting, marketing, or otherwise promoting the purchase of a policy for the purpose of or with emphasis on settling the policy;

(14) Issuing or using a pattern of false, misleading, or deceptive life expectancies;

(15) Issuing, soliciting, marketing, or otherwise promoting stranger-originated life insurance;

(16) Attempting to commit, assisting, aiding or abetting in the commission of, or conspiracy to commit any act or omission specified in divisions (B)(1) to (15) of this section.