

40-5010. Same; two year prohibition on entering into viatical settlement; exceptions. No person at any time prior to, or at the time of, the application for or issuance of a policy, or during a two-year period commencing with the date of issuance of the policy, shall enter into a viatical settlement [contract] regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest or surrender of the policy is to occur. This prohibition shall not apply if the viator certifies to the viatical settlement provider that:

(a) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

(b) The viator submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the two-year period:

(1) The viator or insured is terminally or chronically ill;

(2) the viator's spouse dies;

(3) the viator divorces such viator's spouse;

(4) the viator retires from full-time employment;

(5) the viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment;

(6) a final order, judgment or decree is entered by a court of competent jurisdiction, on the application of a creditor of the viator, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization of the viator or appointing a receiver, trustee or liquidator to all or a substantial part of the viator's assets; or

(7) the beneficiary of the policy is a family member of the viator and the beneficiary dies.

(c) Copies of the independent evidence described in subsection (b) and documents required by subsection (a) of K.S.A. 2016 Supp. 40-5009a, and amendments thereto, shall be submitted to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider. No provision in this section shall prohibit an insurer from exercising its right to contest the validity of any policy.

(d) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in subsection (b) when provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.

History: L. 2002, ch. 158, § 10; L. 2008, ch. 96, § 8; July 1.