

SUBCHAPTER R. Viatical And Life Settlements
28 TAC §§3.1701 – 3.1717

1. INTRODUCTION. The Texas Department of Insurance proposes the repeal of Chapter 3, Subchapter R, §§3.1701 – 3.1717, concerning viatical and life settlements. Repeal of the subchapter is necessary because Insurance Code Chapter 1111, Subchapter A, was repealed by House Bill (HB) 2277, 82nd Legislature, Regular Session, effective September 1, 2011. In conjunction with this repeal, the department is proposing new Subchapter R, §§3.1701 - 3.1703, 3.1720 - 3.17²⁰~~27~~, 3.1740 - 3.1744, and 3.1760, to implement the new Life Settlements Act, Insurance Code Chapter 1111A, also published in this issue of the *Texas Register*.

2. FISCAL NOTE. Godwin Ohaechesi, director of Company Licensing and Registration, has determined that for each year of the first five years the proposed repeal of the sections will be in effect, there will be no fiscal impact to state government and no impact to local governments as a result of the enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Ohaechesi also has determined that for each year of the first five years the repeal of the sections is in effect, the public benefit anticipated as a result of administration and enforcement of the repealed sections will be the elimination of obsolete regulations. There is no anticipated

economic cost to persons required to comply with the proposed repeal. There is no anticipated difference in cost of compliance between small and large businesses.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY

ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), TDI has determined that this proposed repeal will not have an adverse economic effect on small or micro business carriers because it is simply a repeal of unnecessary rules. In accord with the Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, so, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on January 28, 2013, to Sara Waitt, General Counsel, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment must be simultaneously submitted to Godwin Ohaechesi, Director

of Company Licensing and Registration, Mail Code 112-FM, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing should be submitted separately to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, before the close of the public comment period.

The commissioner will consider the proposed repeal of §§3.1701 - 3.1717 and new §§3.1701 - 3.1703, 3.1720 - 3.1730, 3.1740 - 3.1744, and 3.1760 in a public hearing under Docket No. 2748 scheduled for January 29, 2013, at 9:30 a.m. in Room 100 of the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas. TDI will consider written and oral comments presented at the hearing.

The
7. STATUTORY AUTHORITY. Repeal of ~~§3.1701 - 3.1717~~ is proposed pursuant to HB 2277, 82nd Legislature, Regular Session, effective September 1, 2011, and Insurance Code §36.001. SECTION 17 of HB 2277 repealed Insurance Code Chapter 1111, Subchapter A. Insurance Code Chapter 1111A was added by HB 2277. Section 1111A.015 of the Insurance Code provides that the commissioner may adopt rules implementing Chapter 1111A and regulating the activities and relationships of providers, brokers, insurers, and their authorized representatives. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

8. CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal:

<u>Rule</u>	<u>Statute</u>
§3.1701 – 3.1717	Insurance Code Chapter 1111A

9. TEXT.

Subchapter R. Viatical and Life Settlements

§3.1701. Purpose and Severability.

§3.1702. Definitions.

§3.1703. Application for Certificate of Registration for Viatical or Life Settlement Providers, Provider Representatives, or Brokers; Fees.

§3.1704. Renewal; Fees.

§3.1705. Reporting Requirements.

§3.1706. Form Filing Requirements and Approval, Disapproval, or Withdrawal of Forms.

§3.1707. Advertising, Sales and Solicitation Materials; Filing Prior to Use.

§3.1708. Required Disclosure.

§3.1709. Application and Contract Forms: Required Provisions and Escrow/Trust Agreements.

§3.1710. Prohibited Practices Relating to Advertising and Solicitation; Applications and Contracts.

§3.1711. Payment of Commissions or Other Forms of Compensation: Disclosure and Prohibited Practices.

§3.1712. Contacting the Viator, Life Settlor, or Owner for Health Status Inquiries: Limits and Prohibited Practices.

§3.1713. Assignment, Sale, or Transfer of Policies: Disclosure.

§3.1714. Confidentiality.

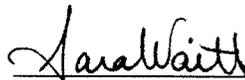
§3.1715. Prohibition Against Doing Business with an Unregistered or Unlicensed Viatical or Life Settlement Provider, Provider Representative, or Broker, Escrow Agent or Trustee.

§3.1716. Denial, Suspension, or Revocation of Certificate of Registration; Enforcement.

§3.1717. Examinations.

10. CERTIFICATION. This agency certifies that legal counsel has reviewed the proposed repeal and found it to be within the agency's authority to adopt.

Issued at Austin, Texas, on December 11, 2012.



Sara Waitt
General Counsel
Texas Department of Insurance