

Summary of Comments
Submitted During 45-Day Comment Period
(Appendix 1 to Final Statement of Reasons)

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Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter recommends removal of the word, “Viator” from Section 2548.4, because many of the matters implicated in this section would likely involve the insured, as opposed to the viator.

Response: The Commissioner has incorporated this change.

Section 2548.1

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter believes that the references to authority granted by Sections 10113.1 and 10113.2 of the Insurance Code should delete its reference to Section 10113.1, inasmuch as the specific authority to enact regulations appears in Section 10113.2 only.

Response: Although Insurance Code, Section 10113.2 contains express authority authorizing the Commissioner’s adoption of the regulations, inasmuch as many sections of the proposed regulations also clarify and implement Section 10113.1 of the Insurance Code as well, it is appropriate to also include a reference to the latter provision as well.

Section 2548.2(a)

M. Bryan Freeman
Habersham Funding LLC
415 East Paces Ferry Road NE
Atlanta, GA 30305-33065
(Comment dated June 8, 2006)

This commenter objects to the proposed regulations as being too broad and contends that they would include life settlements, a result not intended by the Legislature. The commenter asserts that the Commissioner’s proposed regulations, specifically at Section

2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. In particular, the commenter objects to Proposed Section 2548.2(a)(iii)'s definition because it includes "any condition that usually requires continuous confinement in a nursing home. . ." or (iv) "a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span." The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and that times have changed and that once fatal conditions are now highly treatable.

Response: The Commissioner has no intention to regulate life settlements in the proposed viatical settlement regulations. It is important for the Commissioner, however, to define what conditions constitute a "catastrophic and life threatening illness or condition" (see Insurance Code, Section 10113.1(a)(1), so that parties involved in viatical settlement transactions are aware that special licensure is required if they are a provider or broker, and that special protections are afforded, if they are a viator.

After careful consideration of the comments, the Commissioner agrees that in the version of the regulations originally noticed that the definition of "catastrophic and life threatening illness or condition" is broad enough to potentially include individuals, while once faced with a highly challenging illness or medical condition (for example, acute infarction or organ transplant), due to advances in medical technology, may no longer fall within the class of vulnerable individuals that the Legislature intended to protect in enacting the viatical settlement statute. For this reason, the Commissioner has modified the definition of "catastrophic or life threatening" so that a presumption of a viatical as opposed to life settlement is effectively created if an individual has certain enumerated highly serious medical conditions; however, the presumption can be overcome if a licensed doctor or independent medical underwriter states that the individual has a life expectancy exceeding 24 months.

Jerry Soderberg
James Terlizzi
Peachtree Life Settlements
3301 Quantum Blvd., 2nd Floor
Boynton Beach, Florida 33428
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and contends that they would include life settlements, a result not intended by the Legislature. The commenter asserts that the Commissioner's proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. In particular, the commenter objects to Proposed Section 2548.2(a)(iii)'s definition because it includes "any condition that usually requires continuous confinement in a nursing home. . ." or (iv) "a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span." The commenter argues that such a broad definition was outside the legislative intent when the

viatical settlement statute was passed, and that times have changed and that once fatal conditions are now highly treatable.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and would include people other than vulnerable people the California Legislature intended to protect. The commenter asserts that the Commissioner’s proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. The commenter also objects to proposed section 2548.2(a)(iii)’s definition as including “*any* condition that usually requires continuous confinement in a nursing home. . .” or (iv) “a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span.” The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and could easily include all assignments of policies, not simply those of the terminally ill.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and would include people other than vulnerable people the California Legislature intended to protect. The commenter asserts that the Commissioner’s proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. The commenter also objects to Proposed Section 2548.2(a)(iii)’s definition as including “*any* condition that usually requires continuous confinement in a nursing home. . .” or (iv) “a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span.” The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and could easily include all assignments of policies, not simply those of the terminally ill.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), above herein at page. 2 of Appendix 1.

Johan L. Lotter
Proverian Capital, LLC
111 Broadway, Suite 603
New York, NY 10006
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and would include people other than vulnerable people the California Legislature intended to protect. The commenter asserts that the Commissioner’s proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. The commenter also objects to Proposed Section 2548.2(a)(iii)’s definition as including “*any* condition that usually requires continuous confinement in a nursing home. . . ” or (iv) “a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span.” The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and could easily include all assignments of policies, not simply those of the terminally ill.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Sarah Loy
Berkshire Settlements, Inc.
3350 Riverwood Parkway, Suite 2270
Atlanta, GA 30339
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and would include people other than vulnerable people the California Legislature intended to protect. The commenter asserts that the Commissioner’s proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. The commenter also objects to Proposed Section 2548.2(a)(iii)’s definition as including “*any* condition that usually requires continuous confinement in a nursing home. . . ” or (iv) “a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span.” The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and could easily include all assignments of policies, not simply those of the terminally ill.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Brian B. Smith
Life Equity
85 Executive Parkway, Suite 100
Hudson, OH 44236
(Comment dated June 9, 2006)

This commenter objects to the proposed regulations as being too broad and would include people other than vulnerable people the California Legislature intended to protect. The commenter asserts that the Commissioner's proposed regulations, specifically at Section 2548.2(a)(ii) seek to broadly define catastrophic and life threatening illness or condition. The commenter also objects to proposed section 2548.2(a)(iii)'s definition as including "any condition that usually requires continuous confinement in a nursing home. . ." or (iv) "a medical condition that in the absence of extensive or extraordinary medical treatment will result in a drastically limited life span." The commenter argues that such a broad definition was outside the legislative intent when the viatical settlement statute was passed, and could easily include all assignments of policies, not simply those of the terminally ill.

Response: See Response to M. Bryan Freeman's comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Karen H. Canoff
Life Settlement Solutions, Inc.
9201 Spectrum Center Blvd, Suite 105
San Diego, CA 92123
(Comment dated June 9, 2006)

The proposed definition of "catastrophic or life-threatening illness or condition" is too broad, not consistent with the intent of the viatical settlement laws, and is inconsistent with contemporary definition of those words used by the insurance and life settlement industry, medical professionals, or the general public. Specifically, the NAIC Viatical Settlements Model Act recognizes that people with grave conditions need extra protection. However, which persons fall into the latter category ought to be narrowly drawn. The proposed definition is too over-inclusive, and will prohibit nearly all California senior citizens from being able to sell their life insurance, as many seniors would have medical conditions that would fall within the broad definition of "catastrophic or life-threatening." The standards used in the NAIC Viatical Settlements Model Act should be used instead. The Department's proposed definitions are not supported by any existing industry or legislative standard, and seek to enlarge the scope of the viatical settlement statute beyond what was intended by the Legislature.

Response: See Response to M. Bryan Freeman's comment dated June 8, 2006, concerning Section 2548.2(a) herein at page 2 of Appendix 1.

Additional Response: it should also be noted that the Commissioner is not bound to follow the language of the NAIC Viatical Settlements Model Act, as Insurance Code

section 10113.1 predates and has different statutory language than the NAIC Viatical Settlements Model Act. For example, the latter does not refer to individuals with “catastrophic or life threatening” illnesses or conditions, and not only includes viatical settlements, but also life settlements. Moreover, individual state insurance commissioners are not bound to follow Model NAIC acts, but can use their suggested language where statutory parallels exist if the commissioners so desire.

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters appreciate the proposed definition of “catastrophic or life threatening illness” and believe the clarity contained in the definition will assist both the Department and parties to a viatical settlement. If the Department desires at a further date to define “chronic illness” the commenters suggest the Department adopt the commenters’ suggested language used in their proposed amendments to the NAIC Model Viatical Settlements Act.

Response: The Commissioner has determined to tighten the definition of “catastrophic or life threatening illness or conditions” (see Commissioner’s response to M. Bryan Freeman’s comment dated June 8, 2006, concerning Section 2548.2(a), herein at page 2 of Appendix 1) so as to remove from the definition of “viatical settlements” those conditions, while highly serious, have responded to advances in medical treatment and technology. However, in order to qualify from the removal from such definition, there is required a physician’s or medical underwriter’s assessment that the individual is projected to live in excess of 24 months. The Commissioner believes that this is consistent with the Legislature’s concern with protecting a unique class of persons defined by their vulnerability due to having a highly serious illness or condition.

Further, unlike the NAIC Model Viatical Settlements Act, Insurance Code, section 10113.1(a)(1) does not use the phrase, “chronic illness;” thus, there is no need to attempt to define such phrase.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The proposed definition of “catastrophic or life-threatening illness or condition” is too broad, not consistent with the intent of the viatical settlement laws, and is inconsistent with contemporary definition of those words used by the insurance and life settlement industry, medical professionals, or the general public. Specifically, the NAIC Viatical

Settlements Model Act recognizes that people with grave conditions need extra protection. However, which persons fall into the latter category ought to be narrowly drawn. The proposed definition is too over-inclusive, and will prohibit nearly all California senior citizens from being able to sell their life insurance, as many seniors would have medical conditions that would fall within the broad definition of “catastrophic or life-threatening.” The standards used in the NAIC Viatical Settlements Model Act should be used instead. The Department’s proposed definitions are not supported by any existing industry or legislative standard, and seek to enlarge the scope of the viatical settlement statute beyond what was intended by the Legislature.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2 (a) herein at page 2 of Appendix 1.

Additional Response: it should also be noted that the Commissioner is not bound to follow the language of the NAIC Viatical Settlements Model Act, as Insurance Code section 10113.1 predates and has different statutory language than the NAIC Viatical Settlements Model Act. For example, the latter does not refer to individuals with “catastrophic or life threatening” illnesses or conditions.

Diane Lawton, CEO
Sterling Advantage, LLC
234 East Colorado Blvd, Suite M120
Pasadena, CA 91101
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

R. Laken Mitchell, President
CMG Surety LLC
1016 Collier Center Way, Suite 100
Naples, FL 34110
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Michael T. Rodman, CFP
Advanced Planning Services, Inc.
1500 State Street, Suite 220
San Diego, CA 92101
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Deborah A. Wilcox, CEO
The Stamford Group
19200 Von Karman Ave., Suite 400
Irvine, CA 92612
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Craig Seitel
Abacus Settlements
708 Third Avenue, Suite 500
New York NY 10017
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 9, 2006 with respect to Section 2548.2(a) herein at page 2 of Appendix 1.

Paul W. Bowen
Ashar Group, LLC
555 Winderly Place, Number, #300
Maitland, FL 32751
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Robert Settlow
The Life Settlement Company of America, LLC
101 Eisenhower Parkway, Suite 300
Roseland, NJ 07068
(Comment date June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 concerning Section 2548.2(a), herein at page 2 of Appendix 1.

Mier Eliav
Legacy Benefits
Empire State Building
350 Fifth Avenue, Suite 4320
New York, NY 10118
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 herein at page 2 of Appendix 1.

Mark Carillo
Ben Levine
Ken Crossman
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201
Westlake Village, CA 91362
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment June 8, 2006, herein at page 2 of Appendix 1.

John Welcom
Daniel Ohman
Welcom(e) Funds
301 Yamoto Road, Suite 2110
Boca Raton, FL 3431-4929
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Morris Fishman
ISO Services
17755 U.S. Highway 19 North, Suite 100
Clearwater, FL 33764
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language

defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Blaine Cook
Montage Financial Group
27201 Puerta Real, Suite 130
Mission Viejo, CA 92691
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 herein at page 2 of Appendix 1.

James Turney, Director
VieVestment Europe, Ltd.
P.O. box 57389
3305 Limassol, Cyprus
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 herein at page 2 of Appendix 1.

Rick. B. Johnson
Erwin & Johnson
2603 Main Street, Suite 1180
Irvine, CA 92614
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language

defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at Page 2 of Appendix 1.

David Bintner
AMG, Inc./Neuma
7366 Lincoln Ave., Suite 202
Lincolnwood, IL 60712
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, above, herein at Page 2 of Appendix 1.

Joseph A. Fede
Senior Settlements LLC
303 Harper Drive
Moorestown, NJ 08057
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Gary G. Last
SCG
660 Beachland Blvd.
Vero Beach, FL 32963
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now

treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Steven Biggs
Unique Settlements
14425 N. 7th Street, Suite 105
Phoenix, AZ 85022
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Paul H. Nagelberg
ELA Settlement Services LLC
1435 Morris Avenue
P.O.Box 3137
Union, NJ 07083
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Kenneth Klein
FairMarket Life Settlements
110 E. 59th Street, Suite 3202
New York, NY 10022
(Comment dated June 9, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now

treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Larry Simon
Life Settlement Solutions
9201 Spectrum Center Blvd., Suite 105
San Diego, CA 92123
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006 herein at page 2 of Appendix 1.

Eugene Weiss
Progressive Capital Solutions, LLC
780 Third Ave., 6th Floor
New York, NY
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Peter Gaynor
Life Insurance Settlements, Inc.
550 West Cypress Creek Road
Ft. Lauderdale, FL 33309
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language

defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Raul Cores Gaviria
Lexington Settlements
Hamilton, Bermuda
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1.

Paul S. Permison
The Ardan Group, Ltd
111 St. Joseph’s Terrace
Woodbridge, NJ 07095
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8 2006, herein at page 2 of Appendix 1.

Erez Rotem
Integrity Life Settlements LLC
Empire State Building
350 Fifth Ave., Suite 1816
New York, NY 10118
(Comment dated June 8, 2006)

The regulation goes beyond the intent of the Legislature in protecting a class of persons who were particularly vulnerable when selling an asset. Once fatal conditions are now treatable and the victim can live for along time. The proposed regulatory language

defining “catastrophic or life-threatening” is so broad that it could easily cover all assignments of policy for value.

Response: See Response to M. Bryan Freeman’s comment dated June 8, 2006, page 2 at Appendix 1 herein.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter believes that the reference to “not exceeding 24 months” and “dramatically limited” in section 2548.2(a)(i) is redundant and confusing. The commenter also believes that life expectancies should be in writing and determined by a licensed physician. The commenter offers suggested language incorporating these suggestions.

Response: The Commissioner does not believe that “drastically limited” and “not exceeding 24 months” to be redundant. An extremely elderly person could have a life expectancy not exceeding 24 months, but this would not necessarily be “drastically limited.” The Commissioner believes that it is prudent to have life expectancies determined by a licensed physician, but also wants to allow the latitude of using an independent medical underwriter, as it is understood that this is an industry norm. Inasmuch as it would not be reasonably expected for a physician or independent medical underwriter to render life expectancy determinations in anything other than in writing, the Commissioner believes that is unnecessary to spell the latter out in the regulation.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter recommends that section 2548.2(a)(iv) be removed in its entirety, and offers the following substitute language be used for section 2548.2(a)(ii): “a medical condition that has required and continues to require extensive or extraordinary medical intervention or treatment, such as a major organ transplant or continuous artificial life support, with which a licensed physician reasonably believes, and certifies in writing, would result in the life span of the person insured under the subject life insurance policy not exceeding 24 months.”

Response: The Commissioner has modified the definition of “catastrophic or life threatening illness or condition” (see response to M. Bryan Freeman’s comment dated June 8, 2006, herein at page 2 of Appendix 1), in a manner substantially consistent with the commenter’s suggestion. The Commissioner, however, has preserved an enumeration

of the list of conditions described in Proposed Section 2548.2(a)(iv) to make clear that certain conditions are presumed to be catastrophic or life threatening and that the presumption will stand unless it is effectively rebutted by a physician/medical underwriter's statement that the individual is expected to live longer than 24 months.

Section 2548.2(b)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters believe that the clarification of the phrase "entering into" provides the Department with greater precision in determining whether a vaitical settlement transaction is legitimate.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain a "drafting issue" in the definition of "entering into."

Response: The commenter has not provided sufficient specificity to enable the Commissioner to respond to this comment.

Section 2548.2(c)

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter suggests the insertion of a comma after the word, "corporations."

Response: The Commissioner agrees, and has inserted a comma accordingly.

Section 2548.2(d)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

These commenters support the addition of the reference to “viatical settlement investments” in Section 2548.2(d) of the proposed regulations, as this would allow the Commissioner to review the emerging trend of marketing viatical settlements as a secondary investment vehicle.

Section 2548.2(e)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

These commenters believe that the definition of viatical settlement should be modified consistent with the commenters’ proposed revisions to Section 2.N. of the NAIC Viatical Settlements Model Act. Specifically, the commenters propose that “viatical settlement contract” include any agreement under which the viator is to receive consideration in exchange for consent to transfer, and any collateral premium financing transaction where the latter provides either a guaranty of the policy’s viatical settlement value, or protection to the premium financing lender against loss with respect to the loan. The commenters’ proposed revisions to the NAIC Viatical Settlements Model Act also carve out a series of exceptions to the definition of what constitutes a viatical settlement, including: (1) a policy loan or accelerated benefit provided by the insurer; (2) a licensed lending institution’s loan that takes a collateral assignment of a policy solely as security for the loan, and not in connection with the agreement; (3) an agreement where the parties are closely related to the insured by blood or law; (4) a designation by an insured who is an employee of an employer in connection with the employer’s purchase of life insurance policy on the life of the employee; (5) a bona fide business succession planning arrangement; or (6) an agreement between a service recipient and a service provider who performs significant services for the service recipient’s trade or business.

Response: The changes suggested by Messers Mangan and Wenger appear to be tailored to avoiding the abusive practices of the transaction of “manufactured life insurance” or “stranger owned life insurance.” This issue, of great interest now to the life insurance industry, involves an investor soliciting individuals to procure a life insurance policy for the sole purpose of assigning the policy for value to that investor with no insurable interest in the life of the insured. Such “manufactured life insurance” schemes are

generally disfavored on public policy grounds, and are potentially illegal inasmuch as they likely violate state insurable interest statutes. However, it is the Commissioner's belief that manufactured life insurance schemes are extremely rare, if they occur at all, in the viatical context because individuals with highly serious, life threatening illnesses have great difficulty procuring life insurance due to their medical conditions. Even if they were to find an insurer to underwrite the policy, the high premiums required to maintain the policy would make the policy highly unattractive to any investor, who, once the policy is assigned to them, must take over the premium payments. The Commissioner, therefore, does not believe that the commenters' suggested revision is necessary or prudent.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain a "drafting issue" in the definition "viatical settlement."

Response: The commenter has not provided sufficient specificity to enable the Commissioner's response to this comment.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter recommends that there are two parties identified in the first clause Section 2548.2(d), since there is the word, "between." The commenter suggests that the definition be revised to "an agreement entered into between a viatical settlement provider and a viator."

Response: The Commissioner agrees, and has accepted this change.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter believes that there could be some confusion in the proposed regulation's references to "viatical settlement agreement" since this is not a specifically defined term. To avoid ambiguity, the commenter recommends that the Commissioner do one of the

following: (1) include “viatical settlement agreement” in the introductory clause at Section 2548.2(e); (2) add a new definition section relating to “viatical settlement agreement” or (3) change all references to “viatical settlement agreement” to “viatical settlement.”

Response: The Commissioner has accepted the commenter’s first suggestion, and has modified the regulation accordingly.

Section 2548.2(f)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters do not oppose the definition of viatical settlement broker; however, they would also like the definition to include a distinction between the roles of the viatical settlement broker and the life insurance producer as contained in Section 2.M. of the commenter’s proposed NAIC Model Viatical Settlements Act amendments. Thus, the commenters would like the definition to read “viatical settlement broker means a person, including a life insurance producer as provided for in Section 3 of this Act. . .” In addition, the commenters would like to clarify that the viatical settlement broker is deemed to represent only the viator, and not the insurer or the viatical settlement provider.

Response: The Commissioner does not believe that it is prudent to add the clause, “including a life insurance producer” to define viatical settlement broker. Under the NAIC Model Viatical Settlements Act (“hereinafter “Model Act”), life insurance producers are allowed to broker viatical settlement transactions; this is in sharp distinction from Insurance Code, section 10113.2(b)(1), which requires a viatical settlement license before one is allowed to transact viatical settlement business. The Commissioner believes that adding commenters’ suggested language would allow regulated parties to believe that they need not obtain a viatical settlement broker’s license, as long as they are licensed as a life agent.

With respect to the commenters’ suggestion that it would be useful to clarify that a viatical settlement broker represents only the viator and not the insurer or the viatical settlement provider, note that the Commissioner has modified Proposed Section 2548.2(f) to make this explicit.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain a “drafting issue” with respect to exceptions to the definition of “viatical settlement broker.”

Response: The commenter has not provided sufficient specificity to enable the Commissioner’s response to this comment.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter believes that the phrase, “availability of viatical settlements” should instead read, “availability of viatical settlements to one or more viators.” The commenter also recommends the addition of the phrase, “Regardless how or by whom a viatical settlement broker is compensated,” to the beginning of the second sentence of Section 2548.2(f). In addition, the commenter recommends a change in the third sentence of Section 2548.2(f) to “A person must obtain licensure from the Commissioner to act as a viatical settlement broker.” The commenter also recommends revised language with respect to Section 2548.2(f)(2).

Response: The Commissioner does not believe that it is necessary to add the additional language “to one or more viators,” as the latter is clear from the context. The Commissioner agrees that it is prudent to add the phrase, “Regardless of how or by whom a viatical settlement broker is compensated” and has accordingly, modified the regulations. The Commissioner prefers the formulation “A person acting as a viatical settlement broker must obtain a license from the Commissioner” to that suggested by the commenter. The Commissioner, however, agrees with the commenter’s revised phrasing with respect to section 2548.2(f)(2), and has modified the regulations accordingly.

AnneMarie Liu
Corporations Counsel
Office of Law and Legislation
1515 K Street, Suite 200
Sacramento, CA 95814-4052
(Comment dated June 9, 2006)

This commenter suggests revising Proposed Section 2548.2(f) to add the sentence, “The requirements of this rule are in addition to any other requirements provided by the Corporate Securities Law of 1968.” The addition of this sentence will: (1) benefit Department of Insurance licensees by alerting them to the possible additional requirements under the Corporate Securities Law; (2) will help Department of Insurance licensees avoid Corporate Securities Law qualification and licensee violations, and (3)

will help create consistency between the Insurance Code and the Corporate Securities Law.

Response: The Commissioner agrees and has incorporated this commenter's revision.

Section 2548.2(g)

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain a "drafting issue" with respect to the definition of "viatical settlement investment broker."

Response: The commenter has not provided sufficient specificity to enable the Commissioner's response to this comment.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter: (1) suggests that there be an insertion of the definition of "viatical settlement investments," (2) suggests language adopting the same standard as that contained in the California Corporations Code, Section 25023, (3) suggests removal of a comma following "California," (4) suggests the insertion of a comma following the word, "who," (5) suggests substituting of the word "purpose" for "purposes," (6) suggests changing the phrasing of sentence number 4 in Section 2548.2(g); and (7) suggests having the last clause in last sentence of Section 2548.2(g) read "viatical settlement investment."

Response: The Commissioner agrees that viatical settlement investments should be defined and has, accordingly, added Section 2548.2(g) to the proposed regulations. The Commissioner rejects adopting a definition identical to that contained in California Corporations Code; nor can the Commissioner locate any definition of viatical settlement investment in Section 25023, although the latter provision does define a viatical settlement contract. Investment contracts, including fractionalized interests in viatical settlement contracts are generally deemed to constitute securities and are subject to the qualification requirements of California Corporations Code Section 25110. However, California Corporations Code, Section 25102(q) carves out an exemption from the qualification requirements for viatical settlement investments that are offered to natural persons meeting certain minimum gross income or net worth requirements, among other exemptions.

In the Commissioner's experience, there has been rampant fraud in the context of the marketing of investments in viatical settlements, particularly with respect to unsuspecting senior citizen investors. These schemes are often perpetrated by life insurance agents who offer senior citizens an interest in a viatical settlement investment, while failing to disclose that the viator's life expectancy projection has been deliberately manipulated and understated.

The Insurance Code does not contain the same language as that contained in Corporations Code, Section 25102(q) and in light of the rampant fraud in this context, the Commissioner believes that it is prudent to adopt a broad standard of what constitutes a viatical settlement investment. This in no manner conflicts with the standards contained in the California Corporations Code. However, those marketing viatical settlement investments will have to follow the regulatory requirements of both the California Department of Insurance and the California Department of Corporations.

With respect to the commenter's suggestion of a removal of a comma following, "California," the Commissioner agrees with this change.

As to the commenter's request for the Commissioner to insert a comma following the word, "who," the Commissioner does not feel that this change is required.

Regarding the commenter's suggestion of substituting the word "purpose" for "purposes," the Commissioner agrees with this change.

With respect to changing the phrasing of the sentence number 4 in Proposed Section 2548.2(g) to "A person must obtain licensure from the Commissioner to act as a viatical settlement investment broker," the Commissioner has substantially adopted the commenter's suggestion.

The Commissioner agrees with the commenter's final suggestion of adding the word "investment" to "viatical settlement" in the last line of Section 2548.2(g).

AnneMarie Liu
Corporations Counsel
Office of Law and Legislation
California Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814-4052
(Comment dated June 9, 2006)

This commenter suggests adding to Section 2548.2(g) the sentence, "The requirements of this rule are in addition to any other requirements provided by the Corporate Securities Law of 1968." The addition of this sentence will: (1) benefit Department of Insurance licensees by alerting them to the possible additional requirements under the Corporate

Securities Law; (2) help Department of Insurance licensees avoid Corporate Securities Law qualification and licensee violations, and (3) help create consistency between the Insurance Code and the Corporate Securities Law.

Response: The Commissioner agrees and has accordingly made the change suggested by the commenter.

Section 2548.2(h)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters believe that the proposed definition of viatical settlement provider should add language similar to the commenters' proposed revisions to the NAIC Model Viatical Settlement Act at Section 2.0. Specifically, the commenters' latter proposed revision clarifies that a viatical settlement provider does not include a "bank [. . .] that takes an assignment of a policy solely as collateral for a loan and not part of any transaction or agreement defined [. . .] as a viatical settlement." The changes are designed to help the regulator evaluate the actual purposes of certain loans entered into for the purpose of acquiring an interest in a life insurance policy through viatical settlements.

Response: The Commissioner agrees with the commenters' change and has, accordingly, added the suggested language at section 2548.2(i) (1) (remembered from former Section 2548.2(h) (1).)

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter is concerned that a viator could fall within the definition of "viatical settlement provider." The commenter therefore offers an alternative definition of viatical settlement provider to clarify that the latter does not include a viator. In addition, the commenter's suggested revision to the definition of viatical settlement provider: (1) adds additional language to 2548.2(h)(1); (2) adopts an "accredited investor/qualified institutional buyer" exception to the definition of viatical settlement provider; (3) adopts the exception of a person consummating no more than one viatical settlement a year to the definition of viatical settlement provider.

Response: The Commissioner believes it is highly unlikely that a person would reasonably conclude that a viator was intended to also fall within the definition of viatical settlement provider and that an alternative definition so clarifying is therefore not required, and would needlessly make the regulations more verbose.

With respect to the commenter's additional language to Section 2548.2(h)(1), the Commissioner rejects the adoption of "accredited investor/qualified institutional buyer" exception to the definition of viatical settlement provider. Although such exemptions exist in the NAIC Model Viatical Settlements Act, Insurance Code Sections 10113.1 and 10113.2 do not support the existence of this exemption. In fact, Insurance Code, Section 10113.2(b)(1) expressly states "No person may enter into or solicit viatical settlement pursuant to Section 10113.1, unless that person has been licensed by the commissioner." Moreover, the Commissioner believes that it is prudent, as a matter of public policy, to avoid allowing a nonlicensed entity acquire an ownership interest in the death benefits of a gravely ill insured. For the same reasons as stated above, the Commissioner rejects carving an exemption from licensure for a natural person who consummates only one viatical settlement a year, as such an exemption is not consistent with Insurance Code, Section 10113.2(b)(1).

AnneMarie Liu
Corporations Counsel
Office of Law and Legislation
California Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814-4052
(Comment dated June 9, 2006)

This commenter suggests the addition to Proposed Section 2548.2(h) of the sentence, "The requirements of this rule are in addition to any other requirements provided by the Corporate Securities Law of 1968." The addition of this sentence will: (1) benefit Department of Insurance licensees by alerting them to the possible additional requirements under the Corporate Securities Law; (2) help Department of Insurance licensees avoid Corporate Securities Law qualification and licensee violations, and (3) help create consistency between Insurance Code and Corporate Securities Law.

Response: The Commissioner agrees and has accordingly incorporated the commenter's suggested revisions.

Section 2548.2(i)

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters assert that the definition of a viator should be consistent with the commenters' proposed revisions to the NAIC Model Viatical Settlement Act, at Section 2.Q.(1). Specifically, the commenters assert that the definition of a licensee clearly includes a "life insurance producer operating as a viatical settlement broker." This will ensure that there is no conflict of interest between the role of life insurance producer and viatical settlement broker.

Response: This comment lacks sufficient clarity for the Commissioner to formulate a response. It may be that the commenters are suggesting that the definition of "Viator" not include "a life insurance producer operating as a viatical settlement broker." Inasmuch as the latter would not be a reasonable interpretation of "Viator" it is not necessary to follow the Model Act in this regard.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain "drafting issues" by failing to clarify that the viator must be a California resident for the regulations to apply.

Response: The Commissioner agrees and has, accordingly, inserted language requiring the viator to be a resident of California state who owns a life insurance policy.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter offers a revised definition of the term, "viator." The revised definition: (1) clarifies that a viator is a resident of the state; and (2) removes the word "original" to describe "owner of the policy." The latter suggested revision is to avoid having an owner of a policy transfer their life insurance to other California residents to engage in a viatical transaction, but is allowed to escape the regulatory requirements because they would not be deemed the "original" owner.

Response: The Commissioner agrees with the commenter's suggested revisions and accordingly makes this change.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court

Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter believes that the regulations should include a definition of the word, “licensee” and “applicant.”

Response: The Commissioner believes that it is clear from the general context of the regulations that “licensee” refers to a viatical settlement broker, viatical settlement investment broker, and viatical settlement provider, and “applicant” refers to someone that is applying for such licensees. The Commissioner thus believes that adding definitions would not be useful and would needlessly extend the length of the regulations.

Section 2548.3

M. Bryan Freeman
Habersham Funding LLC
415 East Paces Ferry Road NE
Atlanta, GA 30305-3306
(Comment dated June 8, 2006)

This commenter objects to Proposed Section 2548.3’s prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: Insurance Code, Section 10113.2(b)(1) expressly states: “No person may *enter into* or solicit viatical settlements pursuant to Section 10113.1 unless that person has been licensed by the commissioner. . .” It has been the Commissioner’s long-standing interpretation of this provision that all entities acquiring a legal ownership interest in a viaticated policy must be licensed as providers, as acquiring such interest constitutes “entering into” a viatical settlement. The latter interpretation is not only supported by the language of Sections 10113.1(a)(1) and 10113.2(b)(1), but also by sound public policy considerations. That is, the assignment of a policy in a viatical settlement transaction involves a third party unrelated to the insured acquiring an ownership interest in the life insurance policy on the life of a very ill individual. At such point, the purchaser becomes financially interested in the death of the viator, as this is the point in time when the purchaser’s investment “matures.” In such a sensitive matter involving highly vulnerable individuals, the Commissioner believes that it is appropriate for all persons purchasing such an interest to be licensed by the commissioner.

Moreover, those providers wishing to use outside capital are free to assign a beneficial interest to such financing entities. This has long been the Commissioner’s position, and Proposed Section 2548.3 has been modified to make this explicitly clear. If financing

entities do not wish to have simply a beneficial interest assigned, they are free to themselves become licensed as providers.

Viatical settlement providers and brokers are currently required to file annual statements with the Commissioner that report the licensee's viatical business transacted for the preceding year. The volume of transactions reported in the annual statement are evidence that there does exist a market for viatical settlements even where there is a prohibition on assigning an interest in the policy to a nonlicensed third party.

Finally, the Commissioner acknowledges that the life settlement and viatical settlement laws of many other states do allow outside funding sources to be used, without the requirement that they themselves be licensed. Similarly, AB 243, a now defunct bill introduced by the California Legislature in 2005 which regulated life settlements, similarly contained express language allowing the use of outside funding sources, and exempting the latter from the definition of "provider." The Commissioner must follow the California Insurance Code, however, and not the separate statutory schemes of other states or provisions in now defunct legislative bills dealing with a life settlement as opposed to viatical settlements.

Jerry Soderberg, Esq.
James Terlizzi
Peachtree Life Settlements
3301 Quantum Blvd., 2nd Floor
Boynton Beach, Florida 33428
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibitions does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3 herein at pages 27-28 of Appendix 1.

Mark Carrillo
Ben Levine
Ken Crossman
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201
Westlake Village, CA 91362
(Comment dated June 8, 2006)

These commenters object to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenters argue that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at pages 27-28 Appendix 1.

K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at pages 27-28 Appendix 1.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at pages 27-28 Appendix 1.

Johan L. Lotter
Proverian Capital, LLC
111 Broadway, Suite 603

New York, NY 10006
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at page 27-28 Appendix 1.

Sarah Loy
Berkshire Settlements, Inc.
3350 Riverwood Parkway, Suite 2270
Atlanta, GA 30339
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at pages 27-28 Appendix 1.

John Welcom
Daniel Ohman
Welcom(e) Funds
301 Yamoto Road, Suite 2110
Boca Raton, FL 3431-4929
(Comment dated June 9, 2006)

These commenters object to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenters argue that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman concerning Section 2548.3, herein at pages 27-28 of Appendix 1.

Morris Fishman
ISO Services
17755 U.S. Highway 19 North, Suite 100
Clearwater, FL 33764
(Comment dated June 9, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28 of Appendix 1.

Blaine Cook
Montage Financial Group
27201 Puerta Real, Suite 130
Mission Viejo, CA 92691
(Comment dated June 8, 2006)

This commenter objects to Proposed Section 2548.3's prohibition against transfers of an interest in a viatical settlement by a provider to a person or entity that is not licensed as a viatical settlement provider. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28 of Appendix 1.

Karen H. Canoff
Life Settlement Solutions, Inc.
9201 Spectrum Center Blvd, Suite 105
San Diego, CA 92123
(Comment dated June 9, 2006)

The proposed prohibition against a life settlement provider transferring any interest in a viaticated policy to anyone other than another licensed life settlement provider is not reasonable or necessary. Most other states allow providers to use institutional funding sources; without access to such, the settlement industry will be destroyed. The consumer can be adequately protected if the class of persons that can enter into agreement with the viator is limited, and the originating settlement provider retains responsibility for post-settlement contacts with the insured. There is no further advantage to requiring the provider's funding source to be limited to licensed viatical

settlement providers. The commenter supports, however, stricter controls on the activities of any providers that seek to sell viatical settlement interests to California consumers.

Response: See Response to M. Bryan Freeman's comment dated June 8, 2006 herein at pages 27-28 of Appendix 1.

Additional response: These regulations do not attempt to regulate life settlements, but rather, viatical settlements. Further, the regulations do not prevent the use of institutional funding sources, provided that the latter are not transferred an ownership interest in a viatical settlement. The regulations, at Section 2548.3 make specific allowance for the transfer of a beneficial interest to a party, without the latter required to be separately licensed. However, if a legal, ownership interest is transferred, the Commissioner has consistently interpreted Insurance Code, Sections 10113.1(a)(1) and 10113.2(b)(1) to require the assignee to be licensed as a viatical settlement provider.

It is acknowledged that other states, as well as the NAIC's Model Act may allow providers to use institutional funding sources, and to specifically exempt such sources meeting specific criteria from the definition of a provider. For example the NAIC Model Viatical Settlements Act makes a specific provision for the exemption of specially defined "financing entities" and "special purpose entities" from the definition of provider. Similarly, AB 243, a bill introduced by the California Legislature in January of 2005 governing life settlements, also made a provision for such exemptions. However, Insurance Code Sections 10113.1 and 10113.2 contain no such express exemptions, and Commissioner therefore believes it more than appropriate to require all purchasing entities to be licensed as viatical settlement providers until such time that the Insurance Code is amended to expressly allow for such an exemption or exemptions.

Karen H. Canoff
Life Settlement Solutions, Inc.
9201 Spectrum Center Blvd, Suite 105
San Diego, CA 92123
(Comment dated June 9, 2006)

This commenter believes that the effect of the proposed regulations' expansive definitions and prohibition against the retransfer of any interest to an institutional capital provider works a forfeiture of property rights and impinges upon rights afforded to California citizens under the California Insurance Code.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28 of Appendix 1.

Additional response: the regulations, at Proposed Section 2548.3 allow the transfer of a beneficial interest in a viaticated policy to an institutional capital provider. The commenter's remaining comments about forfeiture of property rights and impingement on rights afforded under the California Insurance Code lack sufficient clarity and

specificity to allow the Commissioner to make further comment. If the commenter is perhaps contending that the Commissioner's interpretation of the Insurance Code is violative of the principles set forth in *Grigsby v. Russell*, 222 U.S. 149, 156 (1911), the Commissioner disagrees. While *Grigsby* stands for the proposition that life insurance is an assignable interest in property, the Legislature has determined that certain assignments of life insurance made by a highly vulnerable population are a matter to be regulated, and the parties accepting such assignments are required to be licensed.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The effect of the proposed regulations' expansive definitions and prohibition against re-transfer of any interest to an institutional capital provider is inconsistent with the United States Supreme Court decision, *Grigsby v. Russell*, 222 U.S. 149,156 (1911), works a forfeiture of property rights and impinges upon rights afforded to California citizens under the California Insurance Code.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28 of Appendix 1.

Additional Response: The *Grigsby* decision protects the right of an individual to assign an interest in a life insurance policy to a third party. The proposed regulations in no way undermine the basic premise of *Grigsby*. The viatical settlement statute does, however, constitute the California Legislature's statement that certain assignments of life insurance policies; namely those involving people who are grievously ill, involve special protections and require all parties involved in the transaction to follow specific rules and be licensed.

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment date June 9, 2006)

The commenters support the clarification in Proposed Section 2548.3 that a viaticated life insurance policy cannot be transferred to a third party that is not licensed, nor without the consent of the viator.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain a “drafting issue” by prohibiting a transfer of policy interests to an institutional financing entity on the basis that the latter is not licensed because in reality the entity plays only a passive role.

Response: The comment lacks sufficient clarity to enable the Commissioner to formulate a response. The commenter perhaps intends to state that the Commissioner should allow the transfer of an interest in a viaticated policy to a third party funding entity without requiring the latter to be licensed as a provider, because the funding entity fulfills only a passive role in providing capital. If this is the commenter’s intended point, the Commissioner believes that Insurance Code, Sections 10113.1(a)(1) and 10113.2(b)(1) prohibit allowing a nonlicensed funding entity to acquire a legal, ownership interest in a life insurance policy. The entity is free to acquire, however, a beneficial interest, (see Proposed Section 2548.3), or to itself become licensed as a provider.

Diane Lawton, CEO
Sterling Advantage, LLC
234 East Colorado Blvd, Suite M120
Pasadena, CA 91101
(Comment dated June 9, 2006)

The comment objects to Section 2548.3’s prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

R. Laken Mitchell, President
CMG Surety LLC
1016 Collier Center Way, Suite 100
Naples, FL 34110
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3’s prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

James Turney, Director
VieVestment Europe Ltd.
P.O. Box 57389
3306 Limassol Cyprus
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Michael T. Rodman, CFP
Advanced Planning Services, Inc.
1500 State Street, Suite 220
San Diego, CA 92101
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Paul W. Bowen
Ashar Group, LLC
555 Winderly Place, # 300
Maitland, FL 32751
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Deborah A. Wilcox, CEO
The Stamford Group
19200 Von Karman Ave., Suite 400
Irvine, CA 92612

(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Craig Seitel
Abacus Settlements
608 Third Avenue, Suite 600
New York, NY 10017
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Robert Settlow
The Life Settlement Company of America, LLC
101 Eisenhower Parkway, Suite 300
Roseland, NJ 07068
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401

(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Meir Eliav
Legacy Benefits
Empire State Building
350 Fifth Avenue, Suite 4320
New York, NY 10118
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Rick B. Johnson
Erwin & Johnson
2603 Main Street, Suite 1180
Irvine, CA 92614
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M.. Bryan Freeman, herein at pages 27-28 of Appendix 1.

David Bintner
Neuma
7336 North Lincoln Ave., suite 202
Lincolnwood IL 6012

(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Joseph A. Fede
Senior Settlements LLC
303 Harper Drive
Moorestown, NJ 08057
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at page 27-28 of Appendix 1.

Gary G. Last
Strategic Capital Group LLC
660 Beachland Blvd.
Vero Beach, FL 32963
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M.. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Steven Biggs
Unique Settlements
14425 N. 7th Street, Suite 105
Phoenix, AZ 85022
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Paul H. Nagelberg
ELA Settlement Services LLC
1435 Morris Avenue
P.O.Box 3137
Union, NJ 07083
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 of Appendix 1.

Kenneth Klein
FairMarket Life Settlements
110 E. 59th Street, Suite 220
New York, NY 10022
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28 Appendix 1.

Larry Simon
Life Settlement Solutions
9201 Spectrum Center Blvd., Suite 105
San Diego, CA 92123
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28.

Eugene Weiss
Progressive Capital Solutions, LLC
780 Third Ave., 6th Floor
New York, NY 10017
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28.

Peter Gaynor
Life Insurance Settlements, Inc.
550 West Cypress Creek Rd.
Ft. Lauderdale, FL 33309
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28.

Raul Cores Gaviria
Lexington Settlements
Hamilton, Bermuda
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28.

Paul S. Permison
Ardan Group
111 St. Joseph's Terrace
Woodbridge, NJ 07095
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman herein at pages 27-28.

Erez Rotem
Integrity Life Settlements LLC
Empire State Building
350 Fifth Ave., Suite 1816
New York, NY 10118
(Comment dated June 8, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 9, 2006 of M. Bryan Freeman, herein at pages 27-28.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter offers a proposed revision to the regulation's provision dealing with transfers to unlicensed persons, consistent with the commenter's perspective that some persons are exempt from the definition of "provider," and to avoid having a financing source designated as a beneficiary as being deemed as constituting an indirect assignment.

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28.

Additional Response: the Commissioner has rejected this commenter's suggestions as to classifications of persons who are exempt from the definition of provider; therefore, it is unnecessary to accept the commenter's revisions in this respect. The Commissioner agrees, however, that it is acceptable for a licensed viatical settlement provider to assign a beneficiary interest in a viaticated policy without the person or entity to which the beneficial interest is assigned being required to be a licensed provider; therefore, the Commissioner accepts commenter's suggested revision in this regard.

Brian B. Smith
Life Equity
85 Executive Parkway, Suite 100
Hudson, OH 44236
(Comment dated June 9, 2006)

The commenter objects to Section 2548.3's prohibition against assigning an interest in a viaticated policy to a nonlicensed person. The commenter argues that this prohibition does not conform to the standard business practice allowing such transfers, and persons wishing to sell their policies are ultimately damaged by the limitations imposed upon a provider in transferring their interest in viatical settlements

Response: See Response to comment dated June 8, 2006 of M. Bryan Freeman, herein at pages 27-28.

AnneMarie Liu
Corporations Counsel
Office of Law and Legislation
California Department of Corporations
1515 K Street, Suite 200
Sacramento, CA 95814-4052
(Comment dated June 9, 2006)

This commenter suggests that Proposed Section 2548.3 add the sentence, "The requirements of this rule are in addition to any other requirements provided by the Corporate Securities Law of 1968." The addition of this sentence will: (1) benefit Department of Insurance licensees by alerting them of the possible additional requirements under the Corporate Securities Law; (2) help Department of Insurance

licensees avoid Corporate Securities Law qualification and licensee violations, and (3) help create consistency between Insurance Code and the Corporate Securities Law.

Response: The Commissioner accepts the commenter's suggested revision.

Section 2548.4

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

This commenter offers a revision to the proposed regulation's provision dealing with designation of a third party contact. The purpose of the suggested revision is to recognize that the viator is not necessarily the same party as the insured and that it is the insured who should have authority to decide who will be able to contact him or her and who is authorized to allow the disclosure of confidential medical information. In addition, the proposed revision recognizes that viatical settlement brokers or designees of providers often assist in servicing life insurance policies and that it is the viatical settlement provider, and not the broker, to deliver notice in writing about how contacts can be maintained.

Response: The Commissioner agrees with the commenter's suggested revision and has accordingly modified Section 2548.4.

Section 2548.5

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters believe that the added disclosures required in Proposed Section 2548.5 will provide transparency and, therefore, protection to consumers evaluating a potential viatical settlement.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The settlement provider should not have to disclose to the viator any affiliation between the broker and the insurer, the broker instead should be the one required to disclose such affiliation, if any.

Response: The regulations contemplate many potential affiliated relationships that ought to be disclosed. They include any affiliation between the insurer providing coverage, and the viatical settlement broker, and/or viatical settlement provider; and any affiliation existing between the viatical settlement provider and broker. The Commissioner has added language to apply these disclosure requirements in a flexible fashion; that is, if a broker makes these disclosures, the provider does not have to, provided that the provider maintains on file a copy of the disclosures provided by the broker.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment of June 9, 2006)

The commenter offers a suggested modification to the disclosure requirement of Section 2548.5. The commenter's revisions provide for a series of disclosures "prior to or at the time the viator executes a viatical settlement contract" as opposed to the regulation's current requirement that the disclosures are made at the time an offer is made to the viator. The required disclosures include: (1) affiliation between insurer and viatical settlement broker; (2) affiliation between insurer and viatical settlement provider; (3) affiliation between viatical settlement broker and provider; (4) insured's right to designate a third party to receive contacts; (5) method and frequency of contacts with the insurer; (6) amount of commission to be received by the viatical settlement broker; (7) estimates of life expectancy of insured; (8) notice that a viaticated policy may be resold, and when such is allowed; (9) notice of alternatives to a viatical settlement transaction..

Response: Insurance Code, Section 10113.1(c) refers generally to disclosures to be made during the course of a viatical settlement transaction. The Commissioner believes that it is the most meaningful to have disclosures occur at the time of an offer, as opposed to "at the time the viator executes a contract" because the viator should have the benefit of receiving all disclosures before he or she makes a decision to accept a contract. The commenter's list of required disclosures otherwise offer only minimal substantive difference from those contained in Section 2548.5, and the Insurance Commissioner believes that the statements contained in the regulations are preferred to the commenter's text, as the former is a bit simpler.

Section 2548.6

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065

(Comment dated June 9,2006)

The party commenting offers several revisions to the provision covering an escrow account. Namely: (1) “life insurance policy” should be substituted for “insurance policy” in the first sentence; (2) rather than “the . . . provider shall pay the proceeds of the viatical settlement into an escrow or trust account . . .” the language should read, “the provider . . . shall deposit the proceeds payable to the viator. . .”; (3) “An attorney or law firm representing the viatical settlement provider” should be substituted for “an attorney;” (4) 2 or 3 business days should be substituted for 15 calendar days; and (5) the obligation to deposit should be triggered by a “transfer of ownership or beneficial interests in the insurance policy or rights under the policy to the viatical settlement provider.”

Response: The Commissioner agrees with the suggested changes and has accordingly made the revisions.

Section 2548.7

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters believe that proposed section 2548.7 contain higher standards for viatical settlement licensees and the commenters do not object to this provision.

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 2001
(Comment dated June 9, 2006)

The commenters believe that the Department should include the commenters’ proposed revision at Section 10 to the NAIC Viatical Settlements Model Act. The commenters’ revision at Section 10 clarifies that it is a violation of California law “for any person to enter into a viatical settlement contract at any time prior to the application or issuance of a policy which is the subject of a viatical settlement contract or for a two year period commencing with the date of issuance of the policy or certificate unless the viator certifies to the viatical settlement provider that the insured is terminally or chronically ill.” The commenters state the latter language clarifies that transactions entered into for the sole purpose of effecting a later settlement are prohibited under California law.

Response: The changes suggested by Messers Mangan and Wenger appear to be tailored to avoiding the abusive practices of the transaction of “manufactured life insurance” or

“stranger owned life insurance.” This issue, of great interest now to the life industry, involves the instance of an investor soliciting individuals to procure a life insurance policy for the sole purpose of assigning the policy for value to an investor with no insurable interest in the life of the insured. Such schemes are generally disfavored on public policy grounds, and are potentially illegal inasmuch as they likely do violate various state insurable interest statutes. However, it is the Commissioner’s belief that these schemes are extremely rare, if they occur at all, in the viatical context because extremely ill individuals have great difficulty procuring life insurance due to their grave medical conditions. In fact, with respect to the commenters’ suggestion that the viator certify that the insured is terminally or chronically ill, the latter would be unnecessary, as a viatical settlement, by its very definition involves persons with “catastrophic or life threatening” illnesses or conditions. The NAIC Model Act, on the other hand, is much broader, embracing both viatical settlements for the chronically ill *and* settlements for persons who have no known illnesses. Finally, Proposed Section 2548.7(h) already contains a general ban on any licensee participating in a viatical settlement involving a life insurance policy within its contestable period. The Commissioner, therefore, does not believe that the commenter’s suggested revision is necessary..

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(June 8, 2006)

The commenter objects to Section 2548.7(f)’s prohibition with respect to a life insurance agent acting as a viatical settlement broker on a policy he or she originally sold as an agent. The commenter also objects to Section 2548.7’s “strict liability” for the acts of others.

Response: the Commissioner believes that could be a conflict of interest for a viatical settlement broker to be involved in the viatication of the same policy that the broker produced as a life insurance agent. The Commissioner believes, however, that the latter may occur, provided that the potential conflict of interest is disclosed to the viator, and the regulations have been modified accordingly.

With respect to Section 2548.7’s “strict liability” the comment lacks sufficient clarity or specificity to enable the Commissioner to formulate a response.

Adam C. Altman, Esq.
Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter offers a revised version of Section 2548.7’s prohibited practices. The commenter’s suggestions are substantially similar to the language currently contained in

Section 2548.7, although the commenter slightly changes the structure of the provision by having each prohibition begin with “Shall not.” Other than the latter, the commenter’s changes can be summarized as follows: (1) a slight rephrasing in the prohibition against offering to pay any finder’s fee, etc., to an unlicensed person; (2) a slight rephrasing in the prohibition against a deduction of the viatical settlement broker’s fee from the amount paid or quoted to the viator; (3) the commenter requires that the Commissioner’s consent be given in advance and in writing whenever a licensee acts in the capacity as both viatical settlement broker and provider in the same viatical settlement transaction; (4) the commenter has revised Proposed Section 2548.7(f) to prohibit an insurance agent or broker from acting as a viatical settlement broker with respect to the same life insurance policy unless written disclosure of the potential conflict of interest is given; (5) the commenter requires licensees to retain for five years in physical, electronic or other form copies of key documents in the viatical settlement transaction; (6) the commenter’s revisions prohibit a licensee from acting as a provider, viatical settlement broker or viatical settlement investment broker on a viatical settlement concerning a policy which is still within its two-year contestability period; (7) the revisions also prohibit a broker from acting in ways that are contrary to the interest of the viator; (8) the revisions prohibit paying a viator an amount less than an amount which is less than the cash surrender value or accelerated death benefit; (9) the revisions insert the requirement that forms cannot be used unless they are approved in advance by the Commissioner; (10) the commenter suggests the substitution of “in a viatical settlement broker or viatical settlement provider” for “viatical settlement business” in Section 2548.7(l)’s prohibition against selling a viatical business to a nonlicensed entity.

Response: The Commissioner accepts the commenter’s suggestions with respect to Sections 2548.7(a); 2548.7(d); 2548.7(e); 2548.7(f); 2548.7(h); and 2548.7(k). The Commissioner is of the view, however, that the commenter’s suggested language on records retention is unnecessarily complicated, and believes that the commenter’s suggested revision for Section 2548.7(l) is less clear than the version originally noticed by the Commissioner.

Section 2548.8

John W. Mangan, ACLI
Brad Wenger, ACLHIC
101 Constitution Avenue, Suite 700
Washington, DC 20001
(Comment dated June 9, 2006)

The commenters believe that Proposed Section 2548.8 contain enhanced enforcement provisions for engaging in prohibited practices, and the commenters do not object to this provision.

Altman & Associates
8820 Northwest 39th Court
Coral Springs, FL 33065

The commenter believes that Section 2548.8(f) is too broad in that some entities with which a licensee would do business, such as medical review companies and escrow agents, are not required to obtain licensure by the Commissioner. Section 2548(c), as currently proposed, would address violations by licensees who do business with entities that should be licensed but are not licensed. This commenter also makes the following suggested revisions to 2548.8: (1) slight rephrasing in 2548.8(e) to “no longer meets the criteria for licensure held by it and issued to it by the Commissioner;” (2) slight rephrasing of section 2548.8(g) to “the licensee has failed to honor its contractual obligations set out in a viatical settlement agreement;” (3) slight rephrasing of section 2548.8(h) to “the viatical settlement provider has failed to establish and maintain an escrow account. . .;” (4) insertion of specific references to Section 2548.8(b), 2548.8(c) or Section 2548.8(d) in proposed section 2548.8(i); (5) deletion of the word, “previously” and insertion of the word, “knowingly” in proposed section 2548.8(j); (6) slight revision of section 2548.8(j) to “terms or effect of a viatical settlement or investment in viatical settlement;” (7) slight rephrasing of section 2548.8(m) to “who is an employee of the licensee.”

Response: The Department agrees that Section 2548.8(f) may be considered too broad, and has accordingly changed this provision to insert the phrase “where licensing in the capacity for which the company or individual acts is required.” This clarifies that the Commissioner has no intention of requiring individuals to always deal with “licensed” entities; only where licensing is actually required. The Commissioner believes that this is an approach that is preferred over the commenter’s suggestion that Section 2548.8(c) be used to address those occurrences where a viatical licensee has done business with an unlicensed company, where licensure is required.

With respect to the commenter’s slight rephrasing of Sections 2548.8(e) and 2548.8(g) the Commissioner prefers its own formulation of these provisions as was originally noticed in the regulations.

The Commissioner agrees with commenter’s changes concerning Section 2548.8(h) and has accordingly modified this provision so that it now reads that a viatical settlement provider has failed to “establish and maintain” an escrow account.

With respect to the commenter’s suggestion regarding Section 2548.8(i), the Commissioner would prefer to not incorporate references to other sections of the regulations. The Commissioner has modeled Section 2548.8(i) after California Insurance Code, Section 1668(f) which contains broad grounds for discipline of an insurance agent’s license where the licensee has had any other professional license subjected to discipline. This separate provision is contained in the Insurance Code, without specifically incorporating other discipline provisions, including those covering criminal convictions, violation of the Insurance Code or regulations, or a licensee/applicant’s incompetent untrustworthy conduct. The Commissioner would prefer to borrow this structure so as to ensure that even if a licensee’s conduct does not specifically fall within Sections 2548.8(b), (c) or (d), if it is sufficiently detrimental to the public so that it

constitutes grounds for the discipline of a license, the Commissioner should have the latitude to use it. A viatical licensee would always be entitled to a hearing pursuant to Insurance Code, Section 10113.2(b)(2) to present any defenses as to why discipline is not appropriate.

The Commissioner also rejects the commenter's suggestion that there be inserted a "knowingly" standard; this would impose upon the Department a requirement that is very difficult to prove. It should be enough that the licensee conducted business in a dishonest fashion. This is how the licensing discipline sections of the Insurance Code are structured. (See Insurance Code, Sections 1668 and 1669.) For the same reasons, the Commissioner rejects the commenter's suggestion that a "knowingly" requirement be added also at Sections 2548.8(j), (k) or (l).

With respect to commenter's suggestion for a slight rephrasing of Section 2548.8(k) (numbered as Section 2548.8(j) in commenter's comments), the Commissioner can discern no appreciable advantage to commenter's revised language.

With respect to Section 2548.8(m), the Commissioner agrees that it is preferred to state "who is an employee" and has accordingly made this change.

Miscellaneous / Should Adopt the NAIC Model

M. Bryan Freeman
Habersham Funding LLC
415 East Paces Ferry Road NE
Atlanta, GA 30305-3306
(Comment dated June 8, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: California Insurance Code, Sections 10113.1 and 10113.2 differ in many material ways from the NAIC's Model Viatical Settlements Act, including: (1) the California viatical statute relates only to persons with a catastrophic or life threatening illness or condition; the NAIC law relates to persons who are chronically ill *and* to persons who are perfectly healthy; (2) the NAIC Model law permits an exemption from the definition of "provider" for certain institutional funding sources; the Insurance Code does not provide such an exemption; and (3) the NAIC law allows a life insurance producer to broker viatical settlements, the Insurance Code does not and prescribes a specific license. (See Insurance Code, Section 10113.2.) In certain areas where the acts are similar, however, the Commissioner has incorporated general concepts from the Model law. While the Commissioner is free to do so, the NAIC Model laws are not binding in any fashion on the individual state insurance commissioners.

Jerry Soderberg, Esq.
James Terlizzi
Peachtree Life Settlements
3301 Quantum Blvd., 2nd Floor
Boynton Beach, Florida 33428
(Comment dated June 9, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman, herein at page 49.

John Welcom
Daniel Ohman
Welcom(e) Funds
301 Yamoto Road, Suite 2110
Boca Raton, FL 3431-4929
(Comment dated June 9, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Morris Fishman
ISO Services
17755 U.S. Highway 19 North, Suite 100
Clearwater, FL 33764
(Comment dated June 9, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Mark Carrillo
Ben Levine
Ken Crossman
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201
Westlake Village, CA 91362

The commenters believe that the Commissioner's viatical settlement rule should instead

conform to the NAIC's draft regulation governing viatical settlements.

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K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Paul W. Bowen
Ashar Group, LLC
555 Winderley Place #300
Maitland, FL 32751
(Comment dated June 8 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 8, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Johan L. Lotter
Proverian Capital, LLC
111 Broadway, Suite 603
New York, NY 10006
(Comment dated June 9, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Sarah Loy
Berkshire Settlements, Inc.
3350 Riverwood Parkway, Suite 2270
Atlanta, GA 30339
(Comment dated June 8, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Diane Lawton, CEO
Sterling Advantage, LLC
234 East Colorado Blvd, Suite M120
Pasadena, CA 91101
(Comment dated June 9, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

R. Laken Mitchell, President
CMG Surety LLC
1016 Collier Center Way, Suite 100
Naples, FL 34110
(Comment dated June 8, 2006)

The commenter believes that the Commissioner's viatical settlement rule should instead conform to the NAIC's draft regulation governing viatical settlements.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

James Turney, Director
VieVestment Europe Ltd.
P.O. Box 57389
3306 Limassol Cyprus

(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Michael T. Rodman, CFP
Advanced Planning Services, Inc.
1500 State Street, Suite 220
San Diego, CA 92101
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Deborah A. Wilcox, CEO
The Stamford Group
19200 Von Karman Ave., Suite 400
Irvine, CA 92612
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Craig Seitel
Abacus Settlements
708 Third Avenue, Suite 600
New York, NY 10017

(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Brian B. Smith

Life Equity
85 Executive Parkway, Suite 100
Hudson, OH 44236
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 9.

Robert Settlow
The Life Settlement Company of America, LLC
101 Eisenhower Parkway, Suite 300
Roseland, NJ 87068
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

James, D. Terlizzi
Jerry Soderberg
Peachtree Life Settlements
3301 Quantum Boulevard, 2nd Floor
Boynton Beach, FL 33426-8669
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Blaine Cook
Montage Financial Group
27201 Puerta Real, Suite 130
Mission Viejo, CA 92691
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Mark Carillo
Ken Crossman
Ben Levine
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201
Westlake Village, CA 91362
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Rick B. Johnson
Erwin & Johnson
2603 Main Street, Suite 1180
Irvine, CA 92614
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

David Binter
AMG, Inc./ Neuma
7366 Lincoln Ave., Suite 202
Lincolnwood, IL 60712
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Joseph A. Fede
Senior Settlements LLC
303 Harper Drive
Moorestown, NJ 08057
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Gary G. Last
Strategic Capitol Group LLC
660 Beachland Blvd.
Vero Beach, FL 32963
(Comment dated June 9, 2006)

(The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Steven Biggs
Unique Settlements
14425 N. 7th Street, Suite 105

Phoenix, AZ 85022
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Paul H. Nagelberg
ELA Settlement Services LLC
1435 Morris Avenue
P.O. Box 3137
Union, NJ 07083
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Kenneth Klein
FairMarket Life Settlements
110 E. 59th Street, Suite 3202
New York, NY 10022
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Larry Simon
Life Settlement Solutions
9201 Spectrum Center Blvd. Suite 105
San Diego, CA 92123
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Eugene Weiss
Progressive Capital Solutions, LLC
780 Third Ave., 6th Floor
New York, NY 10017
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Peter Gaynor
Life Insurance Settlements, Inc.
550 West Cypress Creek Rd.
Ft. Lauderdale, FL 33309
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Raul Cores Gaviria
Lexington Settlements
Hamilton, Bermuda
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Paul S. Permison
Arday Group
111 St. Joseph's Terrace
Woodbridge, NJ 07095
(Comment dated June 9, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Erez Rotem
Integrity Life Settlements LLC
Empire State Building
350 Fifth Ave., Suite 1816
New York, NY 10118
(Comment dated June 8, 2006)

The commenter believes that the viatical settlement rule should instead conform to the NAIC's draft regulation.

Response: See Commissioner's response to the same comment of M. Bryan Freeman herein at page 49.

Miscellaneous/AB 243

M. Bryan Freeman
Habersham Funding LLC
415 East Paces Ferry Road NE
Atlanta, GA 30305-3306
(Comment dated June 8, 2006)

The commenter believes that the Department should wait for the outcome of AB 243, which regulates life settlements, before adopting this regulation.

Response: AB 243 is no longer active legislation. Even if it were active legislation, it nearly exclusively deals with life as opposed to viatical settlements.

Jerry Soderberg
James Terlizzi
Peachtree Life Settlements
3301 Quantum Blvd., 2nd Floor
Boynton Beach, Florida 33428
(Comment dated June 9, 2006)

The commenters believe that the matters contained in the proposed regulation could best be addressed in pending legislation.

Response: AB 243 is no longer active legislation. Even if it were active legislation, it nearly exclusively deals with life as opposed to viatical settlements.

Karen H. Canoff
Life Settlement Solutions, Inc.
9201 Spectrum Center Blvd, Suite 105
San Diego, CA 92123

(Comment dated June 9, 2006)

The commenter believes that action on the regulation should be deferred until the adoption of AB 243, which regulates life settlements. AB 243 covers the same topics as are addressed in the proposed regulations, and AB 243 has earned the substantial support of interested parties and lawmakers.

Response: AB 243 is no longer active legislation. Even if it were active legislation, it nearly exclusively deals with life as opposed to viatical settlements.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The commenter believes that action on the regulation should be deferred until the adoption of AB 243, which regulates life settlements. AB 243 covers the same topics as are addressed in the proposed regulations, and AB 243 has earned the substantial support of interested parties and lawmakers.

Response: AB 243 is no longer active legislation. Even if it were active legislation, it nearly exclusively deals with life as opposed to viatical settlements.

Miscellaneous/Greater Study

M. Bryan Freeman
Habersham Funding LLC
415 East Paces Ferry Road NE
Atlanta, GA 30305-3306
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: The Commissioner believes that it is in the best interest of the public to proceed toward the adoption of these regulations, rather than tabling them indefinitely for greater study. The Commissioner has had ample time to become familiar with the industry and its concerns, as well as the Commissioner's own regulatory concerns during the several years that have transpired since the adoption of the viatical settlement statute.

Paul W. Bowen
Ashar Group, LLC

555 Winderley Place #300
Maitland, FL 32751
(Comment dated June 8 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Sarah Loy
Berkshire Settlements, Inc.
3350 Riverwood Parkway, Suite 2270
Atlanta, GA 30339
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Diane Lawton, CEO
Sterling Advantage, LLC
234 East Colorado Blvd, Suite M120
Pasadena, CA 91101
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

R. Laken Mitchell, President
CMG Surety LLC
1016 Collier Center Way, Suite 100

Naples, FL 34110
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

James Turney, Director
VieVestment Europe Ltd.
P.O. Box 57389
3306 Limassol Cyprus
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Michael T. Rodman, CFP
Advanced Planning Services, Inc.
1500 State Street, Suite 220
San Diego, CA 92101
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Deborah A. Wilcox, CEO
The Stamford Group
19200 Von Karman Ave., Suite 400
Irvine, CA 92612
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Craig Seitel
Abacus Settlements
708 Third Avenue, Suite 600
New York, NY 10017

(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Brian B. Smith
Life Equity
85 Executive Parkway, Suite 100
Hudson, OH 44236

(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Meir Eliav
Legacy Benefits
Empire State Building
350 Fifth Avenue, Suite 4320
New York, NY 10118

(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Blaine Cook
Montage Financial Group
27201 Puerta Real, Suite 130
Mission Viejo, CA 92691

(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Mark Carrillo
Ben Levine
Ken Crossman
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201

Westlake Village, CA 91362

The commenters believe that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

John Welcom
Daniel Ohman
Welcom(e) Funds, Inc.
301 Yamoto Road, Suite 2110
Boca Raton, FL 33431-2929
(Comment dated June 9, 2006)

The commenters believe that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

ISO Services
Morris Fishman
17755 U.S. Highway 19 North, Suite 100
Clearwater, FL 33764
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Johan L. Lotter
Proverian Capital, LLC
111 Broadway, Suite 603
New York, NY 10016
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Robert Settlow
The Life Settlement Company of America LLC
101 Eisenhower Parkway, Suite 300
Roseland, NY 07068
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Rick. B. Johnson
Erwin & Johnson
2603 Main Street, Suite 1180
Irvine, CA 92614
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

David Binter
AMG, Inc./ Neuma, Inc.
7366 Lincoln Ave., Ste 202
Lincolnwood, IL 60712
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Joseph A. Fede
Senior Settlements LLC
303 Harper Drive
Moorestown, NJ 08057
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Gary G. Last
Strategic Capitol Group LLC
660 Beachland Blvd.
Vero Beach, FL 32963
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Steven Biggs
Unique Settlements
14425 N. 7th Street, Suite 105
Phoenix, AZ 85022
(comment dated June 8, 2006)

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Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Paul H. Nagelberg
ELA Settlement Services LLC
1435 Morris Avenue
P.O. Box 3137
Union, NJ 07083
(Comment dated June 8, 2006)

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Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

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FairMarket Life Settlements
110 E. 59th Street, Suite 3202
New York, NY 10022
(Comment dated June 9, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Larry Simon
Life Settlement Solutions
9201 Spectrum Center Blvd., Suite 105
San Diego, CA 92123
(Comment dated June 8, 2006)

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Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Eugene Weiss
Progressive Capital Solutions, LLC
780 Third Ave., 6th Floor
New York, NY 10017
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Peter Gaynor
Life Insurance Settlements, Inc.
550 West Cypress Creek Rd.
Ft. Lauderdale, FL 33309
(Comment dated June 8, 2006)

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Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Raul Cores Gaviria
Lexington Settlements
Hamilton, Bermuda
(Comment dated June 8, 2006)

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Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Paul S. Permison
Ardan Group
111 St. Joseph's Terrace
Woodbridge, NJ 07095
Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Erez Rotem
Integrity Life Settlements LLC
Empire State Building
350 Fifth Ave., Suite 1816
New York, NY 10118
(Comment dated June 8, 2006)

The commenter believes that the proposed regulation should be withdrawn from further consideration, and recommends greater study and understanding of the industry.

Response: See Response to same comment of M. Bryan Freeman, herein at page 60.

Miscellaneous/Vague and Unclear

K. Scott Kirby
Advanced Settlements, Inc.
2101 Park Center Drive, Suite 220
Orlando, FL 32835
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

J. Russel Dorsett
Select Life Settlement Corporation
4913 Bellview Drive
Bellaire, TX 77401
(Comment dated June 9, 2006)

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Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Johan L. Lotter
Proverian Capital, LLC
111 Broadway, Suite 603
New York, NY 10006
(Comment dated June 9, 2006)

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Sarah Loy
Berkshire Settlements, Inc.
3350 Riverwood Parkway, Suite 2270
Atlanta, GA 30339
(Comment dated June 8, 2006)

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Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The regulations contain “drafting issues” by confusing the terms “viator” with “insured;” often the viator (or policy owner) is not the insured, but instead is a spouse, family trust, etc.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Diane Lawton, CEO
Sterling Advantage
234 East Colorado Blvd, Suite M120
Pasadena, CA 91101
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

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Comment dated June 8, 2006)

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(Comment dated June 9, 2006)

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Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Mark Carrillo
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Ken Crossman
Life Advisors, Inc.
4195 E. Thousand Oaks Blvd., Suite 201
Westlake Village, CA 91362
(Comment dated June 8, 2006)

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Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

John Welcom
Daniel Ohman
Welcom(e) Funds
301 Yamoto Road, Suite 2110
Boca Raton, FL 3431-4929
(Comment dated June 9, 2006)

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Morris Fishman
ISO Services
17755 U.S. Highway 19 North, Suite 100
Clearwater, FL 33764
(Comment dated June 9, 2006)

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Michael T. Rodman, CFP
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1500 State Street, Suite 220
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Deborah A. Wilcox, CEO
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19200 Von Karman Ave., Suite 400
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Craig Seitel
Abacus Settlements
708 Third Avenue, Suite 600
New York, NY 10017
(Comment dated June 9, 2006)

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Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Brian B. Smith
Life Equity
85 Executive Parkway, Suite 100
Hudson, OH 44236
(Comment dated June 9, 2006)

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Robert Settlow
The Life Settlement Company of America, LLC
101 Eisenhower Parkway, Suite 300
Roseland, NY 07068
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James D. Terlizzi
Peachtree Life Settlements
3310 Quantum Boulevard, 2nd Floor
Boyton Beach, FL 33425-8669
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The commenters believe that multiple sections of the regulation are vague and unclear.

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Mier Eliav
Legacy Benefits
Empire State Building
350 Fifth Avenue, Suite 4320
New York, NY 10118
(Comment dated June 8, 2006)

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Montage Financial Group
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Ashar group, LLC
555 Winderly Place, #300
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(Comment dated June 8, 2006)

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(Comment dated June 9, 2006)

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7366 Lincoln Ave., Ste 202
Lincolnwood, IL 60712
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Joseph A. Fede
Senior Settlements LLC
303 Harper Drive
Moorestown, NJ 08057
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Gary G. Last
Strategic Capitol Group LLC
660 Beachland Blvd
Vero Beach, FL 32963
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Steven Biggs
Unique Settlements
14425 N. 7th Street, Suite 105
Phoenix AZ 85022
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Paul H. Nagelberg
ELA Settlement Services LLC
1435 Morris Avenue
P.O. Box 3137
Union NJ 07083
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Kenneth Klein
Fair Market Life Settlements
110 E. 59th Street, Suite 3202
New York, NY 10022
(Comment dated June 9, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Larry Simon
Life Settlement Solutions
9201 Spectrum Center Blvd., Suite 105
San Diego, CA 92123
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Eugene Weiss
Progressive Capital Solutions, LLC
780 Third Ave., 6th Floor
New York, NY 10017
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Peter Gaynor
Life Insurance Settlements, Inc.
550 West Cypress Creek Rd.
Ft. Lauderdale, FL 33309
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Raul Cores Gaviria
Lexington Settlements
Hamilton, Bermuda
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Paul S. Permison
Arday Group
111 St. Joseph's Terrace
Woodbridge, NJ 07095
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Erez Rotem
Integrity Life Settlements LLC
Empire State Building
350 Fifth Ave., Suite 1816
New York, NY 10118
(Comment dated June 8, 2006)

The commenter believes that multiple sections of the regulation are vague and unclear.

Response: This comment is not presented with sufficient clarity to enable the Commissioner to respond.

Miscellaneous Comments /Loss of Business to CA

Karen H. Canoff
Life Settlement Solutions, Inc.
9201 Spectrum Center Blvd, Suite 105
San Diego, CA 92123
(Comment dated June 9, 2006)

The commenter's business contributes millions of dollars to the California economy in terms of spending, taxes, and disbursements to California residents. This will be lost to the state of California if the regulations are adopted.

Response: The commenter's enterprise, "Life Settlement Solutions, Inc." is not licensed in California as a viatical settlement provider. The Commissioner's proposed regulations deal with viatical settlements, not life settlements, so should have no impact on commenter's operations. Moreover, the Commissioner has addressed the commenters' concerns about fashioning a tighter definition of "catastrophic or life threatening" illness so that the instant regulations should not result in an incursion into commenter's life settlement business.

General Comments/Lead to Cessation of Settlements Market

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The commenter asserts that the proposed regulation would be harmful to California consumers, particularly senior citizens, because it would significantly impair the life settlements market, leading to a cessation of the market in California.

Response: See Commissioner's response to comment of Karen Canoff herein above at page 77.

General Comments/Impairment of Property Rights in Life Insurance

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807

The commenter asserts that the regulations will impair the property rights in life insurance, including the nonwaivable right of a policyowner to assign a life insurance policy. The commenter also asserts that the impact of the regulations will divest California consumers, particularly seniors, of meaningful opportunities to use their financial assets in a manner consistent with their needs.

Response: See Response to comment of Karen Canoff dated June 9, 2006 herein above at page 77; see also the Commissioner's Response to comment of Doug Head dated June 9, 2006, herein at page 33.)

General Comments/Exceed Scope of Insurance Code

Doug Head
Life Insurance Settlements Association

1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The commenter asserts that the proposed regulations exceed the scope of the California Insurance Code, Sections 10113.1 and 10113.2 by attempting to regulate life settlements which are not within the purview of viatical settlement statutes. The commenter also asserts that the definitions exceed the scope of the law, are inconsistent with common usage, and are not within the purview of California viatical settlement statutes.

Response: With regard to commenter's assertion that the Commissioner is attempting to regulate life settlements, see Response to comment of Karen Canoff dated June 9, 2006, herein at page 77. The remaining portion of this comment is not sufficiently detailed to enable the Commissioner to formulate a response.

General Comments/Extraterritorial Jurisdiction

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The commenter believes that the proposed regulations exceed the authority of the law, and attempt to exert extra-territorial jurisdiction over persons and property located in other states by prohibiting California-based life settlement companies from entering into agreements with citizens of other states. Thus, the proposed regulations violate the Commerce Clause of the US Constitution.

Response: The Commissioner has tightened the definition of "viator" at Section 2548.2 (j) so as to require the latter to be residents of California. The Commissioner has also appreciably tightened the definition of "catastrophic or life threatening illness or condition" so as to not inappropriately intrude upon transactions that are perhaps more reasonably characterized as life settlements.

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

The proposed regulations would impose extreme restrictions upon California citizens, prejudicing their rights in comparison with rights enjoyed by citizens of other states where consumers are able to sell their life insurance policies through settlement transactions. California citizens would then seek to conduct settlement transactions outside the state.

Response: The Insurance Commissioner must follow the statutes that exist in California, namely California Insurance Code, Sections 10113.1 and 10113.2. Moreover, the latter statutes and these regulations do not purport to govern life settlements in general, only viatical settlements, which are, in effect, a narrow subset of life settlements dealing with insureds having a “catastrophic or life threatening illness or condition.” Further, the Commissioner has modified the regulations to tighten the definition of “catastrophic or life threatening” so as to not unnecessarily intrude upon what are perhaps more appropriately characterized as life settlement transactions.

General Comments/Exodus of Life Settlement Solutions from State

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807

As drafted, the proposed regulations would destroy the ability of California settlement providers to continue to do business in the state. Life Settlement Solutions, Inc. would be forced to leave the state. The California economy would be harmed by elimination of millions of dollars of financial transactions that would otherwise flow into the state.

Response: See Response to comment of Karen Canoff, herein at page 77.

General Comments/Failure to Meet Standard Set by APA

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street
Orlando, FL 32807
(Comment dated June 9, 2006)

This proposed regulation fails to meet the following standards set by the APA: necessity, authority, clarity, consistency, reference and nonduplication.

Response: The commenter has not phrased this comment with sufficient clarity for the Commissioner to formulate a response.

General Comments/ Initial Statement of Reasons and Analysis of Financial Impact are Inadequate

Doug Head
Life Insurance Settlements Association
1504 E. Concord Street

Orlando, FL 32807
(Comment dated June 9, 2006)

Insufficient attention has been paid to a complete analysis of the financial and practical impacts that will be suffered by California consumers, and little attention has been paid to alternatives. The industry's discussion of AB 243 offered many avenues of potential alternatives. In addition, the Department has not adequately considered adverse economic impacts, particularly in the loss of tax revenue.

Response: The Commissioner believes that California consumers, on a whole, will benefit by the clarity imposed in these regulations, as unscrupulous and/or unlicensed providers and brokers will not be able to hide behind any existing statutory ambiguities. The Commissioner's interest in enforcing the viatical settlement statutes will therefore be greatly enhanced. AB 243 dealt with life settlements, not viatical settlements. It did not involve regulating the sale of a life insurance policies where the insured was an extremely ill individual. Moreover, AB 243, in its language and structure, had very little in common with California Insurance Code Sections 10113.1 and 10113.2. Without radical amendments to Sections 10113.1 and 10113.2, which are not at issue here, it is not appropriate to be guided by AB 243.

It is unclear what tax revenues stand to be lost. If commenter is referring to the Commissioner defining in too broad of a fashion, "catastrophic or life threatening illness or conditions," the latter definition has been substantially tightened.

General Comments/Consistent Capitalization of "Commissioner"

Adam C. Altman, Esq.
Altman & Associates 8820 Northwest 39th Court
Coral Springs, FL 33065
(Comment dated June 9, 2006)

The commenter believes that each reference to "commissioner: should be corrected to "Commissioner," and each reference to "California" should be to "State of California."

Response: The Commissioner agrees with the first part of commenter's suggestion, and has endeavored to consistently identify the Commissioner with the latter capitalized. The Commissioner does not believe, however, that all references to California should read "State of California," as it should be reasonably clear from the context that "California" refers to our state.