

By: Eiland, Goldman, Toth, Price

H.B. No. 2383

A BILL TO BE ENTITLED

AN ACT

relating to life settlement contracts for the payment of long-term care services under the medical assistance program and the consideration of a life insurance policy in determining eligibility for medical assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02613 to read as follows:

Sec. 32.02613. LIFE INSURANCE ASSETS; LIFE INSURANCE POLICY CONVERSION. (a) The owner of a life insurance policy with a face amount of more than \$10,000 may enter into a life settlement contract under Chapter 1111A, Insurance Code, for the benefit of a recipient of medical assistance long-term care services in exchange for direct payments to a health care provider for the provision of those services to that recipient.

(b) The proceeds of a life settlement contract entered into under this section may not be considered as an asset or resource in determining the eligibility of a person for medical assistance.

(c) The proceeds of a life settlement contract entered into under this section must be used for the payment of medical assistance long-term care services.

(d) State or federal medical assistance funds may not be used to provide medical assistance long-term care services to a person for whose benefit an owner of a life insurance policy has

1 entered into a life settlement contract under this section until
2 the proceeds of the contract are exhausted.

3 (e) In addition to the requirements under Chapter 1111A,
4 Insurance Code, a life settlement contract entered into under this
5 section must:

6 (1) provide that the lesser of five percent of the face
7 amount of the life insurance policy or \$5,000 is reserved as a death
8 benefit payable to the owner's estate or a named beneficiary;

9 (2) provide that the balance of proceeds under the
10 contract that are unpaid on the death of the owner must be paid to
11 the owner's estate or a named beneficiary; and

12 (3) specify the total amount payable for the benefit
13 of the recipient of medical assistance long-term care services
14 under the contract.

15 (f) All proceeds of a life settlement contract entered into
16 under this section must be held in an irrevocable state or federally
17 insured account for the benefit of the recipient of medical
18 assistance long-term care services or for payment as otherwise
19 required by this section.

20 (g) Only a recipient of medical assistance long-term care
21 services for whose benefit an owner enters into a life settlement
22 contract under this section may choose the provider and type of
23 services provided to the recipient and paid for out of an account
24 described by Subsection (f). Any attempt by a person to require the
25 recipient to choose a specific provider is strictly prohibited and
26 constitutes an unfair method of competition or an unfair or
27 deceptive act or practice under the Insurance Code.

1 (h) A person who enters into a life settlement contract with
2 an owner of a life insurance policy under this section must
3 maintain:

4 (1) a surety bond executed and issued by an insurer
5 authorized to issue surety bonds in this state;

6 (2) a policy of errors and omissions insurance; or

7 (3) a deposit in the amount of \$500,000 in any
8 combination of cash, certificates of deposit, or securities.

9 (i) In addition to the requirements of Chapter 1111A,
10 Insurance Code, a person who enters into life settlement contracts
11 with owners of life insurance policies under this section must file
12 with the Texas Department of Insurance all life settlement contract
13 forms and advertising and marketing materials used by the person.

14 (j) Section 1111A.022(a)(2)(A), Insurance Code, does not
15 apply to a life insurance policy that is the subject of a life
16 settlement contract entered into under this section if the contract
17 has been in force at least five years.

18 (k) A claim against a person with whom an owner of a life
19 insurance policy enters into a life settlement contract under this
20 section by the owner, the owner's estate, a named beneficiary, or
21 any other person with respect to the contract may not exceed the
22 face amount of the policy, less the proceeds paid under the
23 contract, plus the total amount of premiums paid by the owner since
24 entering into the contract. A person must pay a claim under this
25 subsection from the funds in an account described by Subsection
26 (f).

27 (l) In accordance with Chapter 1111A, Insurance Code, the

1 Texas Department of Insurance may conduct periodic market
2 examinations of each person who enters into a life settlement
3 contract with an owner of a life insurance policy under this
4 section.

5 (m) The department shall develop policies for educating an
6 applicant for nursing home care under the medical assistance
7 program about options for the applicant's life insurance policies,
8 including options that do not allow a life insurance policy to be
9 considered as an asset or resource in determining the applicant's
10 eligibility for medical assistance.

11 (n) The executive commissioner of the Health and Human
12 Services Commission, in consultation with the commissioner of
13 insurance, shall adopt rules necessary to implement this section.
14 The rules must ensure that:

15 (1) proceeds from a life settlement contract are used
16 to reimburse the provider of medical assistance long-term care
17 services chosen by the recipient for whose benefit the owner of a
18 life insurance policy entered into the contract;

19 (2) eligibility and need for medical assistance are
20 determined without considering the balance of proceeds from a life
21 settlement contract; and

22 (3) medical assistance payments to a provider of
23 medical assistance long-term care services and applied income
24 payments to a recipient begin the day following exhaustion of the
25 life settlement contract proceeds.

26 (o) The entry into a life settlement contract by an owner of
27 a life insurance policy under this section is not the only method by

1 which the owner may avoid having the policy considered as an asset
2 or resource in determining the eligibility of the owner for medical
3 assistance.

4 SECTION 2. Not later than January 1, 2014, the executive
5 commissioner of the Health and Human Services Commission shall
6 adopt rules necessary to implement Section 32.02613, Human
7 Resources Code, as added by this Act.

8 SECTION 3. The change in law made by this Act applies only
9 to a determination of eligibility of a person for medical
10 assistance benefits made on or after January 1, 2014. A
11 determination of eligibility made before January 1, 2014, is
12 governed by the law in effect immediately before the effective date
13 of this Act, and the former law is continued in effect for that
14 purpose.

15 SECTION 4. If before implementing any provision of this Act
16 a state agency determines that a waiver or authorization from a
17 federal agency is necessary for implementation of that provision,
18 the agency affected by the provision shall request the waiver or
19 authorization and may delay implementing that provision until the
20 waiver or authorization is granted.

21 SECTION 5. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2013.