

**House Bill 2383**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (CS)

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) For purposes of this section, "long-term care services and support" includes home health care, assisted living, and nursing home services.

(b) 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 long-term care services and support in exchange for direct payments to:

(1) a health care provider for the provision of those services to that recipient; or

(2) the state to offset the costs of providing those services to that recipient under the medical assistance program.

(c) The proceeds of a life settlement contract entered into under this section must be used for the payment of long-term care services and support, except for the amount specified in Subsection (d)(1). To the extent feasible and allowed under federal law, the medical assistance program may act only as the secondary payor for long-term care services and support provided to a person who is eligible for medical assistance and for whose benefit an owner of a life insurance policy has entered into a life settlement contract under this section.

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

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

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

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

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

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

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

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

SENATE VERSION (CS)

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

(1) provide that the lesser of five percent of the face amount of the life insurance policy or \$5,000 is reserved and is payable to the owner's estate or a named beneficiary for funeral expenses;

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

(3) specify the total amount payable for the benefit of the recipient of long-term care services and support under the life settlement contract.

(e) All proceeds of a life settlement contract entered into under this section must be held in an irrevocable state or federally insured account for the benefit of the recipient of long-term care services and support or for payment as otherwise required by this section.

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

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

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(1) a surety bond executed and issued by an insurer authorized to issue surety bonds in this state;  
(2) a policy of errors and omissions insurance; or  
(3) a deposit in the amount of \$500,000 in any combination of cash, certificates of deposit, or securities.

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

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

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

(l) In accordance with Chapter 1111A, Insurance Code, the Texas Department of Insurance may conduct periodic market examinations of each person who enters into a life settlement contract with an owner of a life insurance policy under this section.

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(1) a surety bond executed and issued by an insurer authorized to issue surety bonds in this state;  
(2) a policy of errors and omissions insurance; or  
(3) a deposit in the amount of \$500,000 in any combination of cash, certificates of deposit, or securities.

(h) In accordance with the requirements of Chapter 1111A, Insurance Code, a life settlement contract provider who enters into life settlement contracts with owners of life insurance policies under this section must file with the Texas Department of Insurance:

(1) all life settlement contract forms used by the provider; and  
(2) all advertising and marketing materials used by the provider.

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

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

(k) In accordance with Chapter 1111A, Insurance Code, the Texas Department of Insurance may conduct periodic market examinations of each life settlement contract provider who enters into a life settlement contract with an owner of a life insurance policy under this section.

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

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

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

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

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

(o) The entry into a life settlement contract by an owner of a life insurance policy under this section is not the only method by which the owner may avoid having the policy considered as an asset or resource in determining the eligibility of the owner for medical assistance.

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(l) The department shall educate applicants for long-term care services and support under the medical assistance program about options for life insurance policies, including options that do not allow a life insurance policy to be considered as an asset or resource in determining eligibility for medical assistance.

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

(1) proceeds from a life settlement contract are used to reimburse a provider of long-term care services and support or the state to offset the cost of medical assistance long-term care services and support;

(2) eligibility and need for medical assistance are determined without considering the balance of proceeds from a life settlement contract as provided in this section; and

(3) payments to a provider of long-term care services and support and applied income payments are made in accordance with this chapter.

(n) The entry into a life settlement contract by an owner of a life insurance policy under this section is not the only method by which the owner may avoid having the policy considered as an asset or resource in determining the eligibility of the owner for medical assistance.

(o) Notwithstanding the provisions of this section, the department may not implement a provision of this section if the commission determines that implementation of the provision is not cost-effective or feasible.

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

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

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

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

SENATE VERSION (CS)

SECTION 2. Subject to Section 32.02613(o), Human Resources Code, as added by this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 32.02613, Human Resources Code, as added by this Act, not later than January 1, 2014.

SECTION 3. The change in law made by this Act applies only to a determination of eligibility of a person for medical assistance benefits made on or after January 1, 2014, subject to Section 32.02613(o), Human Resources Code, as added by this Act. A determination of eligibility made before January 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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