

Senate Bill 278

By: Senator Goggans of the 7th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 59 of Title 33 of the Official Code of Georgia Annotated, relating to life
2 settlements, so as to require certain notifications of alternative available transactions be
3 provided to an owner of an individual life policy under certain circumstances; to provide that
4 certain practices are unlawful; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 59 of Title 33 of the Official Code of Georgia Annotated, relating to life settlements,
9 is amended by redesignating the current Code Section 33-59-11, relating to notifications of
10 the owner of an individual life policy, as Code Section 33-59-12 and enacting a new Code
11 Section 33-59-11 to read as follows:

12 "33-59-11.

13 (a) With respect to each policy issued by an insurance company, the insurance company
14 shall notify the owner of an individual life insurance policy when the insured person under
15 such policy is 60 years of age or older, or is known to be terminally ill or chronically ill,
16 that there may be alternative transactions available to that owner:

17 (1) When a life insurance company receives from such owner a request to surrender, in
18 whole or in part, an individual policy;

19 (2) When a life insurance company receives from such owner a request to receive an
20 accelerated death benefit under an individual policy;

21 (3) When a life insurance company sends to such owner all notices of lapse of an
22 individual policy; or

23 (4) At any other time that the Commissioner may require by rule.

24 (b) The Commissioner shall approve a document to apprise the owner of an individual life
25 insurance policy of his or her rights as an owner of such policy. Such document shall be

26 made available at no cost to all insurance companies and life insurance producers and
 27 written in lay terms. The document shall advise the consumer:

28 (1) That life insurance is a critical part of a broader financial plan, and that the consumer
 29 is encouraged and has a right to seek additional financial advice and opinions;

30 (2) That possible alternatives to the lapse or surrender of a policy exist; and

31 (3) Of the definitions of common industry terms, including, but not limited to, 'life
 32 settlement.'

33 (c) In addition to the information described in subsections (a) and (b) of this Code section,
 34 the document required in subsection (b) of this Code section shall contain the following
 35 statement in large, boldface, or otherwise conspicuous typeface calculated to draw the eye:

36 'Life insurance is a critical part of a broader financial plan. There are many options
 37 available, and you have the right to shop around and seek advice from different financial
 38 advisers in order to find the option best suited to your needs.'

39 (d) Such document may include brief descriptions of common products available from
 40 providers. These products shall be discussed in general terms for informative purposes
 41 only and shall not be identifiable to any specific provider.

42 (e) The document required in subsection (b) of this Code section shall be provided with
 43 the notice required in subsection (a) of this Code section."

44 **SECTION 2.**

45 Said chapter is further amended by redesignating the current Code Section 33-59-12, relating
 46 to promulgation of regulations and determining governing law when multiple owners, as
 47 Code Section 33-59-13.

48 **SECTION 3.**

49 Said chapter is further amended by revising Code Section 33-59-13, relating to unlawful
 50 practices, as follows:

51 ~~"33-59-13. 33-59-14.~~

52 (a) It shall be unlawful for any person to:

53 (1) Enter into a life settlement contract if such person knows or reasonably should have
 54 known that the life insurance policy was obtained by means of a false, deceptive, or
 55 misleading application for such policy;

56 (2) Engage in any transaction, practice, or course of business if such person knows or
 57 reasonably should have known that the intent was to avoid the notice requirements of this
 58 Code section;

59 (3) Engage in any fraudulent act or practice in connection with any transaction relating
 60 to any settlement involving an owner who is a resident of this state;

- 61 (4) Issue, solicit, market, or otherwise promote the purchase of an insurance policy for
62 the purpose of or with an emphasis on settling the policy;
- 63 (5) Enter into a premium finance agreement with any person or agency, or any person
64 affiliated with such person or agency, pursuant to which such person shall receive any
65 proceeds, fees, or other consideration, directly or indirectly, from the policy or owner of
66 the policy or any other person with respect to the premium finance agreement or any
67 settlement contract or other transaction related to such policy that are in addition to the
68 amounts required to pay the principal, interest, service charges, and any cost or expense
69 incurred by the lender or borrower in connection with the premium finance agreement or
70 subsequent sale of such agreement; provided, further however, that any payments,
71 charges, fees, or other amounts in addition to the amounts required to pay the principal,
72 interest, service charges, and any cost or expense incurred by the lender or borrower in
73 connection with the premium finance agreement shall be remitted to the original owner
74 of the policy or to his or her estate if he or she is not living at the time of the
75 determination of the overpayment;
- 76 (6) With respect to any settlement contract or insurance policy and a life settlement
77 broker, knowingly solicit an offer from, effectuate a life settlement contract with, or make
78 a sale to any provider, financing entity, or related provider trust that is controlling,
79 controlled by, or under common control with such life settlement broker unless such
80 relationship is disclosed to the owner in accordance with paragraph (3) of subsection (c)
81 of Code Section 33-59-9;
- 82 (7) With respect to any life settlement contract or insurance policy and a provider,
83 knowingly enter into a life settlement contract with an owner, if, in connection with such
84 life settlement contract, any thing of value will be paid to a life settlement broker that is
85 controlling, controlled by, or under common control with such provider or the financing
86 entity or related provider trust that is involved in such settlement contract unless such
87 relationship is disclosed to the owner in accordance with paragraph (3) of subsection (c)
88 of Code Section 33-59-9;
- 89 (8) With respect to a provider, enter into a life settlement contract unless the life
90 settlement promotional, advertisement, and marketing materials, as may be prescribed by
91 rule or regulation, have been filed with the Commissioner. In no event shall any
92 marketing materials expressly reference that the insurance is 'free' for any period of time.
93 The inclusion of any reference in the marketing materials that would cause an owner to
94 reasonably believe that the insurance is free for any period of time shall be considered a
95 violation of this chapter; or
- 96 (9) With respect to any life insurance producer, insurance company, life settlement
97 broker, or provider, make any statement or representation to the applicant or policyholder

98 in connection with the sale or financing of a life insurance policy to the effect that the
99 insurance is free or without cost to the policyholder for any period of time unless
100 provided in the policy; or

101 (10) With respect to an insurer:

102 (A) Engage in or permit any discrimination between individuals of the same class,
103 same policy amount, and equal expectation of life in the rates charged for any life
104 insurance policy or annuity contract based upon an individual having entered into a life
105 settlement contract or being insured under a settled policy;

106 (B) Make any false or misleading statement as to the business of life settlements or
107 financing premiums due for a policy or to any policyowner or insured for the purpose
108 of inducing or tending to induce the policyowner or insured not to enter into a life
109 settlement contract; or

110 (C) Engage in any transaction, act, practice, or course of business or dealing which
111 restricts, limits, or impairs in any way the lawful transfer of ownership, change of
112 beneficiary, or assignment of a policy.

113 (b) A violation of this Code section shall be deemed a fraudulent life settlement act."

114 **SECTION 4.**

115 Said chapter is further amended by redesignating current Code Sections 33-59-14 through
116 33-59-18 as Code Sections 33-59-15 through 33-59-19, respectively.

117 **SECTION 5.**

118 All laws and parts of laws in conflict with this Act are repealed.