

House Bill 306

By: Representatives Petrea of the 166th, Stephens of the 164th, Shaw of the 176th, Carter of the 175th, Hitchens of the 161st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to medical assistance generally, so as to provide for the conversion of life insurance
3 policies for funding for long-term care services to delay medical assistance; to provide that
4 the proceeds of the conversion through a life settlement contract be used only for long-term
5 care services; to provide requirements for owners of life insurance policies and for providers;
6 to provide for education for applicants and recipients of medical assistance; to provide for
7 rules and regulations; to provide for applicability; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to
12 medical assistance generally, is amended by revising Code Section 49-4-156, which is
13 reserved, to read as follows:

14 "49-4-156.

15 (a) As used in this Code section, the term 'long-term care services' means services
16 provided by private home care providers, personal care homes, assisted living
17 communities, adult day health providers, and skilled nursing facilities.

18 (b) The owner of a life insurance policy with a face amount greater than \$10,000.00 may
19 enter into a life settlement contract pursuant to Chapter 59 of Title 33 for the benefit of a
20 recipient of long-term care services in exchange for direct payments to a provider of
21 long-term care services for the provision of such services to such recipient.

22 (c) The proceeds of a life settlement contract entered into pursuant to this Code section
23 shall not be considered a resource or asset in determining an applicant's or recipient's
24 eligibility for medical assistance and shall only be used for the payment of long-term care
25 services, except for the amount specified in paragraph (1) of subsection (d) of this Code
26 section. To the extent feasible and allowed under federal law, the medical assistance

27 program may act only as the secondary payor for long-term care services provided to a
28 person who is eligible for medical assistance and for whose benefit an owner of a life
29 insurance policy has entered into a life settlement contract under this Code section.

30 (d) In addition to the requirements under Chapter 59 of Title 33, a life settlement contract
31 entered into under this Code section shall:

32 (1) Provide that the lesser of 5 percent of the face amount of the life insurance policy or
33 \$5,000.00 is reserved and is payable to the owner's estate or a named beneficiary for
34 funeral expenses;

35 (2) Provide that the balance of proceeds under the life settlement contract that is unpaid
36 on the death of the owner shall be paid to the owner's estate or a named beneficiary; and

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

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

42 (f) Only a recipient of long-term care services for whose benefit an owner enters into a life
43 settlement contract under this Code section may choose the provider of long-term care
44 services and type of services provided to the recipient and paid for out of an account
45 described by subsection (e) of this Code section. Any attempt by a person to require the
46 recipient to choose a specific provider is strictly prohibited and shall constitute a fraudulent
47 life settlement act under Chapter 59 of Title 33.

48 (g) A person who enters into a life settlement contract with an owner of a life insurance
49 policy under this Code section shall be required to maintain:

50 (1) A surety bond executed and issued by an insurer authorized to issue surety bonds in
51 this state;

52 (2) A policy of errors and omissions insurance; or

53 (3) A deposit in the amount of \$500,000.00 in any combination of cash, certificates of
54 deposit, or securities.

55 (h) In accordance with the requirements of Chapter 59 of Title 33, a life settlement
56 contract provider who enters into life settlement contracts with owners of life insurance
57 policies under this Code section shall file with the Commissioner of Insurance:

58 (1) All life settlement contract forms used by the provider; and

59 (2) All advertising materials used by the provider.

60 (i) A claim against a life settlement contract provider with whom an owner of a life
61 insurance policy enters into a life settlement contract under this Code section by the owner,
62 the owner's estate, a named beneficiary, or any other person with respect to the contract
63 may not exceed the face amount of the policy, less the proceeds paid under the contract,

64 plus the total amount of premiums paid by the owner since entering into the contract. A
65 life settlement contract provider shall pay a claim under this subsection from the funds in
66 an account described by subsection (e) of this Code section.

67 (j) In accordance with Code Section 33-59-7, the Commissioner of Insurance may conduct
68 periodic examinations of each life settlement contract provider who enters into a life
69 settlement contract with an owner of a life insurance policy under this Code section.

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

74 (l) The commissioner, in consultation with the Commissioner of Insurance, shall adopt
75 rules and regulations necessary to implement the provisions of this Code section.

76 (m) The entry into a life settlement contract by an owner of a life insurance policy under
77 this Code section shall not be construed to be the only method by which the owner may
78 avoid having the policy considered as an asset or resource in determining the eligibility of
79 the owner for medical assistance.

80 (n) This Code section shall apply to determinations of eligibility for persons for medical
81 assistance made on or after January 1, 2016. A determination of eligibility made prior to
82 January 1, 2016, shall be governed by the law in effect on December 31, 2015."

83 **SECTION 2.**

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