

AMENDMENTS TO LB 853

(Amendments to AM2114)

Introduced by Hudkins, 21.

1 1. Insert the following new section:

2 Sec. 6. Section 44-1113, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-1113 (1) In addition to the penalties and other
5 enforcement provisions of the Viatical Settlements Act, if any
6 person violates the act or any rule or regulation implementing the
7 act, the director may seek an injunction in a court of competent
8 jurisdiction and may apply for temporary and permanent orders that
9 the director determines are necessary to restrain the person from
10 committing the violation.

11 (2) Any person damaged by the acts of a person in
12 violation of the act may bring a civil action against the person
13 committing the violation in a court of competent jurisdiction.

14 (3) The director may issue, in accordance with the
15 Administrative Procedure Act, a cease and desist order upon a
16 person that violates any provision of the Viatical Settlements Act,
17 any rule, regulation, or order adopted or issued by the director,
18 or any written agreement entered into between such person and the
19 director.

20 (4) When the director finds that an activity in violation
21 of the act presents an immediate danger to the public that requires
22 an immediate final order, the director may issue an emergency cease

1 and desist order reciting with particularity the facts underlying
2 the findings. The emergency cease and desist order is effective
3 immediately upon service of a copy of the order on the respondent
4 and remains effective for ninety days. If the director begins
5 nonemergency cease and desist proceedings, the emergency cease
6 and desist order remains effective, absent an order by a court
7 of competent jurisdiction pursuant to the Administrative Procedure
8 Act.

9 (5) In addition to the penalties and other enforcement
10 provisions of the Viatical Settlements Act, any person who violates
11 the act is subject to civil penalties of up to one thousand dollars
12 per violation. Imposition of civil penalties shall be pursuant to
13 an order of the director issued under the Administrative Procedure
14 Act. The director's order may require a person found to be in
15 violation of the Viatical Settlements Act to make restitution to
16 persons aggrieved by violations of the act.

17 (6) A person who is found by a court of competent
18 jurisdiction, pursuant to an action initiated by the director, to
19 have committed a fraudulent viatical settlement act, is subject
20 to a civil penalty not to exceed five thousand dollars for the
21 first violation, ten thousand dollars for the second violation, and
22 fifteen thousand dollars for each subsequent violation.

23 ~~(7)~~ (7) (a) Any person who solicits, markets, or otherwise
24 promotes the purchase of an insurance policy for the sole purpose
25 of or with the primary emphasis on entering into a viatical
26 settlement contract shall be guilty of a Class IV felony.

27 (b) A person convicted of a any violation of the act

1 except for the violation described in subdivision (a) of this
2 subsection by a court of competent jurisdiction shall be guilty of
3 a Class III misdemeanor.

4 (c) A person convicted of a violation of the act shall be
5 ordered to pay restitution to persons aggrieved by the violation.
6 Restitution shall be ordered in addition to a fine or imprisonment,
7 but not in lieu of a fine or imprisonment. A prosecution under this
8 subsection shall be in lieu of an action under subsection (6) of
9 this section.

10 2. Renumber the remaining sections and correct the
11 repealer accordingly.