

## 215 ILCS 159/10 LISENCE AND BOND REQUIREMENTS

### Sec. 10. License and bond requirements.

(a) A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the chief insurance regulatory official of the state of residence of the viator. A viatical settlement provider transacting business in this State shall provide written notice to the Director that it is engaged in such business not less than 30 days prior to the effective date of this Act. Viatical settlement providers shall apply for licensing annually thereafter in a form and manner as prescribed by this Act.

(b) A person shall not operate as a viatical settlement broker without first obtaining an insurance producer license from the Director and completing the viatical settlement broker training requirements as provided by Section 11 of this Act.

(c) An insurance producer shall not operate as a viatical settlement broker unless the producer has been duly licensed as a resident insurance producer with a life line of authority in this State or the insurance producer's home state for at least one year.

(d) Before operating as a viatical settlement broker, the insurance producer, including a business entity licensed in this State as an insurance producer, shall notify the Director that the insurance producer is acting as a viatical settlement broker on a form prescribed by the Director, and shall pay a \$500 registration fee which shall be deposited into the Insurance Producer Administration Fund. Notification shall include an acknowledgement by the insurance producer that he or she will operate as a viatical settlement broker in accordance with this Act.

If a business entity with an insurance producer license registers as a viatical settlement broker, then that registration authorizes all partners, officers, members, and designated employees to act as viatical settlement brokers. All persons acting as viatical settlement brokers pursuant to such a registration shall be named in the application and any supplements to the application.

(e) A duly licensed resident insurance producer with a life product line or authority in this State or the insurance producer's home state for at least one year, lawfully transacting business as a viatical settlement broker prior to the effective date of this Act may continue to do so, pending receipt by the Director of the notice required by subsection (d) of this Section, provided that the notice is received by the Director no later than 30 days after the effective date of this Act.

(f) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

(g) A person shall not operate as a viatical settlement provider without first obtaining a license from the Director.

(h) Application for a viatical settlement provider license shall be made to the Director by the applicant on a form prescribed by the Director. The applications shall be accompanied by a \$3,000 fee, which shall be deposited into the Insurance Producer Administration Fund.

(i) Viatical settlement provider licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee of \$1,500. Failure to pay the fees by the renewal date results in expiration of the license.

(j) The applicant for a viatical settlement provider license shall provide information on forms required by the Director. The Director shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and the Director may, in the exercise of the Director's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this Act.

A viatical settlement provider license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

(k) Upon the filing of a viatical settlement provider license application and the payment of the license fee, the Director shall make an investigation of each applicant and issue a license if the Director finds that the applicant:

(1) has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;

(4) (A) has demonstrated evidence of financial responsibility in a format prescribed by the Director through either a surety bond executed and issued by an insurer authorized to issue surety bonds in this State or a deposit of cash, certificates of deposit or securities or any combination thereof, or irrevocable letter of credit in the amount of \$125,000;

(B) the Director may ask for evidence of financial responsibility at any time the Director deems necessary;

(C) any surety bond issued pursuant to this subsection (k) shall be in the favor of this State and shall specifically authorize recovery by the Director on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud or conviction of unfair practices by the viatical settlement provider;

(D) notwithstanding any other provision of this Section to the contrary, the Director shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this subsection (k) have been filed with one or more states where the applicant is licensed as a viatical settlement provider;

(5) if a legal entity, provides a certificate of good standing from the state of its domicile; and

(6) has provided an anti-fraud plan that meets the requirements of Section 65 of this Act.

(l) The Director shall not issue a viatical settlement provider license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the Director or the

applicant has filed with the Director the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

(m) An applicant for a viatical settlement provider license shall provide all information requested by the Director. The Director may, at any time, require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees of the viatical settlement provider, and the Director may refuse to issue a license to an applicant that is not an individual if the Director is not satisfied that each stockholder, partner, officer, member, and employee who may materially influence the applicant's conduct meets the standards set forth in this Act. The Director may also require the applicant to disclose the method the applicant will use to determine and receive life expectancies, the applicant's intended use of life expectancies, and a written plan containing policies and procedures to use when determining life expectancies.

(n) A viatical settlement provider shall provide to the Director new or revised information about officers, 10% or more stockholders, partners, directors, members, or designated employees within 30 days after the change.

(o) Viatical settlement providers licensed under the Viatical Settlements Act as of the effective date of this amendatory Act of the 96th General Assembly shall be deemed licensed under this Act. All such providers are required to maintain or come into compliance with all of the license requirements of this Act and to provide evidence to the Director that they are in compliance with item (4) of subsection (k) of this Section, concerning financial responsibility; item (6) of subsection (k) of this Section, concerning an anti-fraud plan; and subsection (m) of this Section, concerning life expectancies no later than the effective date of this Act. Such providers shall not be exempt from the requirements for viatical settlement provider license renewal set forth in subsection (i) of this Section. The first anniversary date for the purpose of license renewal under subsection (i) shall be one year from the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 96-736, eff. 7-1-10.)