

215 ILCS 159/55 Prohibited Practices and Conflicts of Interest

Sec. 159/55 Prohibited Practices and Conflicts of Interest

- (a) With respect to any viatical settlement contract or insurance policy, no viatical settlement broker knowingly shall solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider that is controlling, controlled by, or under common control with such viatical settlement broker, unless such relationship is fully disclosed to the viator.
- (b) With respect to any viatical settlement contract or insurance policy, no viatical settlement provider knowingly may enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract, unless such relationship is fully disclosed to the viator.
- (c) Any disclosure provided pursuant to subsections (a) and (b) of this Section must be provided along with the disclosures required by subsection (a) of Section 35 and contain the following language: "The financial relationship between your viatical settlement broker and the provider of the viatical settlement creates a potential conflict of interest between your financial interests and the financial interests of the viatical settlement broker and viatical settlement provider. The individual brokering this viatical transaction owes you a fiduciary duty or a duty of loyalty. Your viatical settlement broker must advise you based exclusively upon your best interests, not the best interests of the viatical settlement broker or the viatical settlement provider."
- (d) A violation of subsection (a), subsection (b), or subsection (c) shall be deemed viatical settlement fraud.
- (e) No person shall issue, solicit, or market the purchase of an insurance policy for the purpose of settling the policy. Nothing in this subsection (e) shall prohibit persons from using and discussing the written materials that the Director shall approve prior to the effective date of this Act and that inform consumers of their rights with respect to a life insurance policy, including the option of entering into a lawful viatical settlement contract. Nothing in this subsection (e) limits or otherwise impairs the terms of a contract between an insurer and its producers.
- (f) A viatical settlement provider shall retain all copies of viatical settlement promotional, advertising, and marketing materials and shall make these materials available to the Director on request. In no event shall any marketing materials expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of this Act.
- (g) No insurance producer, insurance company, viatical settlement broker, or viatical settlement provider shall make any statement or representation to a potential or actual insured or potential or actual viator in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

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

