



Illinois Department of Insurance

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TO: VIATICAL SETTLEMENT PROVIDERS, VIATICAL SETTLEMENT BROKERS,
LIFE INSURANCE PRODUCERS AND INTERESTED PARTIES

FROM: MICHAEL T. McRAITH *MTM*

DATE: June 11, 2010

RE: CB 2010-03

LICENSING REQUIREMENT FOR VIATICAL SETTLEMENT PROVIDERS AND VIATICAL SETTLEMENT BROKERS PUBLIC ACT 96-073

The purpose of this bulletin is to remind Viatical Settlement Providers, Viatical Settlement Brokers, Life Insurance Producers and interested parties that Public Act 96-073 (SB2091), the Viatical Settlements Act of 2009 ("the Act"), becomes effective July 1, 2010. *See* 215 ILCS 159/1 *et seq.* The Act replaces the current viatical settlements law which regulated viatical settlements for terminally or chronically ill individuals who had a life expectancy of 24 months or less. The Act expands the definition of "viatical settlements" to include all settlements for which compensation is paid for the future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of an insurance policy for less than the expected death benefits of the policy. This would include what the settlement industry calls "viaticals" and "life settlements."

New licensing procedures, fees and education requirements are established in the Act for all persons and business entities currently conducting the business of "viatical settlements" and for those seeking licensure under the Act, whether acting as a Provider or Broker.

Currently licensed Viatical Settlement Providers are required to supply the Department of Insurance with the following additional information prior to July 1, 2010:

- Evidence of financial responsibility through either a surety bond executed and issued by an insurer authorized to issue surety bonds in Illinois or a deposit of cash, certificates of deposit or securities or any combination thereof, or an irrevocable letter of credit in the amount of \$125,000;
- An anti-fraud plan that meets the requirement of Section 65 of the Act;
- The method used 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;
- Any and all viatical settlement contracts, forms and disclosure statements not previously approved by the Director;

- Advertising material upon request of the Director; and
- Non-residents must file written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

New Viatical Settlement Providers: Providers not currently licensed in Illinois and not previously required to be licensed must have provided written notice to the Director that the provider is engaged in such business no later than June 1, 2010. A completed application must also be provided to the Department by July 1, 2010, and must include:

- A detail plan of operation;
- Evidence of financial responsibility 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;
- An anti-fraud plan that meets the requirement of Section 65 of the new Act; and
- The method used 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.
- Any and all viatical settlement contracts, forms and disclosure statements not previously approved by the Director; and
- Advertising material upon the request of the Director.

New Viatical Settlement Brokers/Business Entity Licensees: Illinois resident life insurance producers must complete a Department-approved four hour training course prior to applying for a Viatical Settlement Broker license. Business Entities must complete an application and the authorized member listed must hold a producer license and a Viatical Settlement Broker license.

Non-resident life insurance producers seeking a Viatical Settlement Broker license must complete a four hour Department-approved training course or a four hour training course in the producer's home state which is approved by the producer's home state in accordance with that state's requirements for continuing education.

The course must consist of the following topics:

- State and federal laws and regulations regarding viatical settlement transactions;
- Potential tax implications for participants in viatical settlement contracts;
- Potential impact on public benefits payments to viatical settlement participants;
- Alternatives to viatical settlement contracts; and
- Consumer suitability standards and guidelines.

The training required shall not include training that is specific to or that includes any sales or marketing information, materials, or training of any company, other than those required by the State or Federal law.

Further information and applications will be available on the Department's website <http://insurance.illinois.gov/Producer/viatical.asp>.

Viatical Settlement Provider Licensing FAQ

Updated June 2010

Note: This information was developed to provide consumers with general information and guidance about insurance coverages and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.

1. **The Viatical Settlement Act of 2009 (“the Act”) uses the term “viatical settlements,” does this term cover the concept of terminally ill or chronically ill and healthy settlements commonly referred to in the industry as “life settlements?”**

Yes, the Act defines “viatical settlements” to include what the industry usually refers to as “viaticals” and “life settlements.”

2. **The Act states that Viatical Settlement Providers (“VSP”) who are already licensed are not exempt from the requirements for VSP license renewal and the first anniversary date for the purpose of license renewal under the Act shall be one year from the effective date of the Act. Does this mean that the renewal dates for VSP licenses have been changed to July 1, 2011?**

No. A currently licensed VSP must renew its license on its regular renewal date.

NOTE: You must provide the Illinois Department of Insurance with proof of financial responsibility, an anti-fraud plan and the method the applicant will use to determine and receive life expectancies, the intended use of life expectancies and a written plan containing policies and procedures to use when determining life expectancies by July 1, 2010.

3. **How will the Department notify currently licensed VSPs of the Act’s new requirements?**

Currently licensed VSPs and Life Insurance Companies have been sent a Company Bulletin notifying them of the Act’s requirements and responsibilities. The Company Bulletin is also available on the Department’s [web site](#).

4. **The Act requires VSPs to show evidence of financial responsibility - what kind of evidence is acceptable and can a VSP submit evidence of financial responsibility from another state or must it be to the State of Illinois?**

Evidence of financial responsibility must be either a surety bond executed and issued by an insurer authorized to issue surety bonds in Illinois or a deposit of cash, certificates of deposit or securities or any combination, or irrevocable letter of credit in the amount of \$125,000.

Financial responsibility must be in favor of Illinois and specifically authorize recovery by the Director on behalf of any person in Illinois who sustained damages as the result of erroneous acts, a failure to act, a conviction of fraud or a conviction of unfair practices by the VSP.

The Act does state that evidence of financial responsibility filed with other states shall be accepted. However, evidence of financial responsibility from another state will only be accepted if the VSP agrees that Director can recover damages for any person harmed in Illinois.

- 5. In the past, Life Settlement companies have not been required to be licensed in Illinois is there a reporting requirement before a Life Settlement company has to apply or should a Life Settlement company just apply?**

A notice to the Department should have been sent, in writing, no later than June 1, 2010. An application to operate as a VSP must be submitted to the Department by July 1, 2010, and annually thereafter. The application can be found at http://insurance.illinois.gov/Producer/vs_pl_app.pdf.

- 6. Are non resident VSPs required to file a service of process?**

Yes. A VSP must either file and maintain a written designation of an agent for service of process with the Director or file a written, irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

Viatical Settlement Broker Licensing FAQ

- 1. What is a Viatical Settlement Broker?**

A Viatical Settlement Broker is a licensed insurance producer who, for a fee, commission or other valuable consideration, offers, solicits, promotes or attempts to negotiate viatical settlement contracts between an individual who owns an insurance policy and wants to enter into a viatical settlement agreement and one or more viatical settlement providers or brokers.

2. Do you have to hold a life insurance producer license in order to apply for a Viatical Settlement Broker license?

Yes. You must first hold either a resident or non-resident life insurance producer license in order to apply for an Illinois Viatical Settlement Broker license. You must also have been licensed for at least one consecutive year in either Illinois or your home state in order to qualify for a Viatical Settlement Broker license and you must complete an approved four hour training course that meets the requirements of Section 11 of the Act.

3. Where can I complete the four hour training requirement?

The Department's website has a list of approved providers. The web address is http://insurance.illinois.gov/Producer/vs_provider.asp.

4. Do non-residents have to take an Illinois course to meet the training requirement?

Yes, unless you have completed at least four hours of educational classes in your resident state.

5. Where can I get the application for a Viatical Settlement Broker license?

You can find the application on the Department's website at http://insurance.illinois.gov/Producer/vs_procedure.asp.

6. Can a business entity be licensed as a Viatical Settlement Broker?

Yes. Each entity operating as a Business Entity Viatical Settlement Broker must first obtain a license from the Department by submitting an application and the \$500 registration fee. A designated responsible producer and all individuals doing business as a Viatical Settlement Broker must hold a license as a producer and a Viatical Settlement Broker.

7. Is there a continuing education requirement for Viatical Settlement Brokers?

Yes. There is a four hour continuing education course required under the Act. Education providers can be found on the Department's website at http://insurance.illinois.gov/Producer/vs_provider.asp

Course hours can also be applied to your insurance producer license continuing education requirement.

8. Can an Illinois resident take the continuing education course in another state?

Yes, if the course is approved for credit in Illinois, it can be completed in another state.

9. Does a non-resident need to hold a life license in Illinois and a Viatical Settlement Brokers license in Illinois?

Yes. A non-resident must complete two applications to hold a Viatical Settlement Broker license in Illinois: a producer license application and a Viatical Settlement Broker application.

For More Information

Call our Consumer Services Section at (312) 814-2427 or our Office of Consumer Health Toll Free at (877) 527-9431 or visit us on our website at <http://insurance.illinois.gov>