

State of Alaska: Life Settlements Statutes

Alaska Administrative Code → Title 3 – Commerce, Community, and Economic Development → Part 2 – Division of Insurance → Chapter 31 Miscellaneous → Article 3 – Viatical Settlements

Section 3 AAC 31.300 - Qualifications for license(a) The director will issue or renew a license to a person, or to be exercised by a person, in compliance with AS 21.96.110 and 3 AAC 31.300 - 3 AAC 31.449, if the director finds that the person(1) has complied with the application requirements of AS 21.27.040;(2) has provided(A) the person's social security number or the person's federal employer identification number assigned by the United States Internal Revenue Service; and(B) any additional information the director may request under AS 21.27.040, including disclosure of the identity of all stockholders, directors, partners, officers, members, and employees;(3) has established to the satisfaction of the director that the person is in compliance with and is qualified for a license under AS 21.96.110 and 3 AAC 31.300 - 3 AAC 31.449;(4) is licensed in this state for lines of authority for life insurance coverage and variable coverage under AS 21.27 and 3 AAC 28.010 - 3 AAC 28.190;(5) is trustworthy and competent;(6) has not committed an act that is cause for denial, nonrenewal, suspension, or revocation of a license in this state or another jurisdiction;(7) has provided the plan of operation required under 3 AAC 31.320;(8) has provided an anti-fraud plan that meets the requirements in 3 AAC 31.405;(9) for a resident license, is a bona fide resident before issuance of the license and actually resides in the state; and(10) if a nonresident applicant or licensee and the applicant or licensee's home state does not participate in the producer database maintained by the National Association of Insurance Commissioners, has submitted a certificate of good standing from an official or agency with authority to regulate insurance in the applicant's or licensee's home state.(b) The director will issue or renew a firm license to a viatical settlement provider, viatical settlement broker, or viatical settlement representative if the director finds that(1) the applicant or licensee complies with (a) of this section;(2) the compliance officer of the firm is licensed in the state as an individual;(3) for an applicant or licensee that is a corporation or partnership, it(A) maintains a lawfully established place of business in this state unless licensed as a nonresident as provided in (c) of this section;(B) designates a licensee responsible for the firm's compliance with the insurance statutes and regulations of this state; and(C) provides to the director documents necessary to verify the information contained in or made in connection with the application.(c) In addition to the requirements of (a) and (b) of this section, an applicant for a license who is not a resident of this state shall comply with AS 21.27.270.(d) An applicant or licensee may not use a fictitious name or alias unless the applicant or licensee files with the director the applicant's or licensee's(1) legal name;(2) and fictitious name or alias.(e) After the director issues a license, the licensee shall comply with the notice of change requirements of AS 21.27.025.

3 AAC 31.300

Section 3 AAC 31.305 - License exemptions

A person is not required to be licensed under 3 AAC 31.300 - 3 AAC 31.449 if the person is employed on salary or hourly wage

(1) and does not receive commission, directly or indirectly, on a viatical settlement contract entered into by a person licensed under 3 AAC 31.300 - 3 AAC 31.449, and the person's

activities are solely for the performance of executive, administrative, managerial, clerical, or similar office duties that are only indirectly related to a viatical settlement transaction; or **(2)** by a licensed viatical settlement provider, viatical settlement broker, or viatical settlement representative at its place of business and **(A)** does not receive commission, directly or indirectly, on a viatical settlement contract entered into by a viatical settlement provider; **(B)** is supervised by and reports directly to a licensed viatical settlement provider, viatical settlement broker, or viatical settlement representative in the firm; **(C)** does not have direct contact with a viator or insured; and **(D)** does not individually engage in the sale, solicitation, or negotiation of a viatical settlement contract with a viator or insured.

3 AAC 31.305

Section 3 AAC 31.310 - Appointment of a viatical settlement representative**(a)** A licensed viatical settlement provider or a viatical settlement broker shall appoint a viatical settlement representative on forms prescribed by the director within 10 days after the viatical settlement representative first acts or aids in any manner in a viatical settlement transaction.**(b)** A viatical settlement representative that is licensed and acts solely on behalf of a licensed viatical settlement representative firm is not required also to have an appointment under (a) of this section.**(c)** If the director approves an appointment, based on whether the viatical settlement representative to be appointed has a license in good standing, the director will provide acknowledgement of the appointment and the effective date of the appointment to the person making the appointment and to the appointee.**(d)** Within 30 days after receipt of the acknowledgment under (c) of this section, the person making the appointment and the appointee shall notify the director of any error in the acknowledgment.**(e)** If either party revokes or terminates an appointment, the appointing viatical settlement provider or viatical settlement broker shall notify the director of the revocation or termination within 30 days after the revocation or termination, and shall provide a statement of the reasons for revocation or termination.

3 AAC 31.310

Section 3 AAC 31.315 - Surety bond requirement**(a)** In addition to the other requirements under 3 AAC 31.300 - 3 AAC 31.449 and AS 21.96.110 to qualify for issuance or for renewal of a viatical settlement provider license, an applicant or licensee shall have and maintain while licensed an unimpaired bond in a sum of not less than \$200,000 aggregate liability.**(b)** A bond required under (a) of this section must **(1)** be continuous in form; **(2)** remain in force until the director releases the licensee from liability; **(3)** be without prejudice to any liability accrued before the effective cancellation; however, the bond may be cancelled if the director receives at least 60 days notice before the date of the effective cancellation; and **(4)** be in favor of insureds, viators, and the state.**(c)** A bond issued under this section must be acceptable to the director and may only be issued **(1)** by an admitted insurer authorized to transact surety insurance in the state; or **(2)** in compliance with AS 21.34, by a surplus lines insurer that is listed on the most recent list of eligible surplus lines insurers published by the director.**(d)** An individual who has entered into an employment contract with the firm is not required to have and maintain a bond required under this section if the firm has and maintains a bond or other alternative allowed under (f) of this section.**(e)** A firm licensee's bond required under this section extends to all the firm's separate places of business.**(f)** If the director determines that a deposit of cash, certificate of deposit, or letter of credit meets the requirements of this section, the deposit of cash, certificate of deposit,

or letter of credit may be used instead of a bond.(g) A firm may enter into an employment contract with a licensed individual to conduct business under the supervision of and in the name of the firm. The individual and the firm shall retain a copy of the contract and shall reply in writing within three working days to an inquiry of the director regarding any business transacted by the individual and the firm.(h) A licensed individual may, if authorized by the firm, accept on the firm's behalf, a viatical settlement transaction in accordance with a written agency employment contract.(i) The firm shall be responsible for the actions of an individual transacting viatical settlement transactions under the firm's employment contracts. In any disciplinary proceeding under AS 21, the existence of the employment contract shall be prima facie evidence that the firm knew of the activities of the individual.(j) The individual and the firm shall maintain a current list of all of their respective contracts that identifies, for each contract, the parties to the contract, the parties' mailing addresses, electronic mailing addresses, and telephone numbers, and the parties' license number, and the effective and termination dates of employment.(k) A licensee shall retain the records of an employment contract and make the records available for examination and inspection by the director, at any business time during the five years immediately following the date of the termination of the employment contract unless the director orders a longer period of retention. If the licensee assumes the business of another licensee or former licensee by merger, purchase, or otherwise, the requirements of 3 AAC 31.425 apply.

3 AAC 31.315

Section 3 AAC 31.320 - Plan of operation(a) A viatical settlement provider shall provide to the director with a license application a plan of operation that details the manner in which the viatical settlement provider proposes to operate in the state and a description of the life insurance policies or contracts the viatical settlement provider intends to viaticate including a designation by(1) group or individual; and(2) term, whole, universal, or variable.(b) A viatical settlement provider's plan of operation must be a narrative overview of the viatical settlement provider's business and must include(1) a copy of the viatical settlement provider's charter and bylaws, if a corporation, or a copy of the partnership agreement, if a partnership;(2) a chart showing the relationship of the viatical settlement provider to any parent, affiliated, or subsidiary corporation;(3) a detailed description of the viatical settlement provider's marketing techniques, including a description of training programs for those individuals who will have direct contact with a viator or insured;(4) a schedule listing the names of financial institutions with which the viatical settlement provider has escrow trust agreements, and indicating the balance on each account, and copies of all escrow and trust agreements; and(5) a detailed description of the steps through which the viator will have access to money, including the name of the escrow agent that will make the money available.(c) A viatical settlement provider shall notify the director of any change in the plan of operation or the financial information filed with its license application within 30 days after the change.

3 AAC 31.320

Section 3 AAC 31.325 - Scope of license(a) A viatical settlement broker may not be an agent for, or employee of, a viatical settlement provider.(b) A viatical settlement broker who offers or attempts to negotiate a viatical settlement contract shall act according to the viator's instructions and in the best interest of the viator or insured and not the viatical settlement provider or any other person.(c) Repealed 10/13/2011.(d) A licensee may operate only within the scope of the

license the person applied for and received.(e) A firm shall have a firm license of the same scope as each individual employee of the firm.(f) Except as provided in 3 AAC 31.305, each individual employee of a firm must be licensed in this state.

3 AAC 31.325

Section 3 AAC 31.330 - Viatical settlement broker contracts(a) A viatical settlement provider who appoints a viatical settlement broker in this state or relative to a subject resident, located, or to be performed in this state shall execute a written contract that specifically sets out the duties, functions, powers, authority, and compensation of the viatical settlement broker.(b) A viatical settlement broker may only receive compensation if the compensation is a(1) fee paid by a client;(2) combination of a fee paid by a person and a commission paid by a viatical settlement provider who enters into a viatical settlement contract, if the amount of the commission is disclosed to the person; or(3) commission paid by a viatical settlement provider who enters into the viatical settlement contract.(c) A viatical settlement broker may not assign, in whole or in part, a contract between the viatical settlement broker and a viatical settlement provider.

3 AAC 31.330

Section 3 AAC 31.335 - Commission arrangements

A person may not be promised payment or paid, directly or indirectly, compensation when transacting a viatical settlement under AS 21.96.110 unless the person is licensed as required under 3 AAC 31.300 - 3 AAC 31.449 as a viatical settlement provider, viatical settlement broker, or viatical settlement representative.

3 AAC 31.335

Section 3 AAC 31.340 - License renewal(a) Except as provided in 3 AAC 31.300 - 3 AAC 31.449, the director will renew a viatical settlement provider, viatical settlement broker, or viatical settlement representative license biennially on a date consistent with 3 AAC 23.860, if the licensee continues to be qualified under 3 AAC 31.300 - 3 AAC 31.449 and on or before the close of business on the renewal date, meets all renewal requirements under 3 AAC 23.860. A licensee is responsible for knowing the date that a license lapses and for renewing a license before the expiration date of the license.(b) If a viatical settlement provider, viatical settlement broker, or viatical settlement representative fails to pay the renewal fee and meet all renewal requirements on or before the expiration date, the license lapses. A licensee may not act as or represent to be a viatical settlement provider, viatical settlement broker, or viatical settlement representative during the time a license is lapsed. The director may reinstate a lapsed license if the person continues to qualify for the license, pays the applicable license renewal fees set out in 3 AAC 31.025, and pays the applicable delayed renewal penalty fee set out 3 AAC 31.060(a). Reinstatement does not exempt a person from a penalty provided under AS 21.96.110 for transacting business while unlicensed. A license may not be renewed if it has lapsed for two years or longer.(c) If a licensee does not wish to renew a license issued under AS 21.96.110 and 3 AAC 31.300 - 3 AAC 31.449, the licensee shall surrender the license to the director on or before the close of business on the renewal date in the manner prescribed in AS 21.27.460.(d) If a viatical settlement provider has in force, at the time of license renewal, viatical settlement contracts with viators in which the insureds are still living, the viatical settlement provider shall(1) renew the license until the viatical settlement provider assigns, sells, or

otherwise transfers each viatical settlement contract in which an insured is still living, or until each insured who is subject to a viatical settlement contract has died, whichever occurs first; or(2) appoint, in writing, one of the following to make all inquiries in compliance with 3 AAC 31.385 to the viator or insured, or the viator's or insured's designee, regarding the health status of the viator and other pertinent matters:(A) the licensed viatical settlement provider who entered into the viatical settlement contract;(B) the licensed viatical settlement broker who received commissions from the viatical settlement;(C) another licensed viatical settlement provider or viatical settlement broker.

3 AAC 31.340

Section 3 AAC 31.345 - License disqualification(a) The director may deny issuance of, deny renewal of, suspend, or revoke the license of a viatical settlement representative, viatical settlement broker, or viatical settlement provider if the viatical settlement provider, viatical settlement broker, viatical settlement representative, or an officer, partner, or member, or management personnel, of a viatical settlement provider, viatical settlement broker, or viatical settlement representative firm(1) makes a material misrepresentation in the application for a license or renewal;(2) engages in or is about to engage in a fraudulent, dishonest, or unfair marketing practice or transaction;(3) has received a suspension or revocation of a viatical settlement license of any kind in another jurisdiction;(4) exhibits conduct considered by the director to reflect incompetence or untrustworthiness, or to be a source of potential injury or loss to the public;(5) is convicted of a felony;(6) places or attempts to place a viatical settlement contract with or through a person who is not licensed as required in AS 21.96.110 or who does not have an appointment as required in 3 AAC 31.310;(7) violates or participates in a violation of a provision of AS 21.96.110 or 3 AAC 31.300 - 3 AAC 31.449;(8) fails to honor a contractual obligation of a viatical settlement contract;(9) with intent to deceive, materially misrepresents the terms or effect of a viatical settlement contract;(10) if a viatical settlement provider, assigns, transfers, or pledges a viaticated policy to a person other than a viatical settlement provider licensed in this state;(11) deals with, or attempts to deal with, or to exercise a power relative to, a viatical settlement transaction outside the scope of the license of the licensee or applicant;(12) demonstrates a pattern of unreasonable payments to viators; or(13) no longer meets the requirements for licensure.(b) The director may deny issuance of, deny renewal of, suspend, or revoke the license of a firm and its compliance officer for a violation or cause that relates to a person representing or acting on behalf of the firm.

3 AAC 31.345

Section 3 AAC 31.350 - Procedure for suspending, revoking, or conditioning a license(a) After a hearing under AS 21.06.170-21.06.240, if the director decides to suspend or revoke a person's license for a violation under 3 AAC 31.345, the director will issue an order effective 10 days after the issue date of the order that the license is suspended or revoked.(b) After a hearing under AS 21.06.170-21.06.240, the director may place conditions on a person's license, if the director determines that the(1) person has violated a provision of 3 AAC 31.300 - 3 AAC 31.449; and(2) conditions will protect the public from injury or potential injury.(c) With the consent of an applicant or licensee, the director may issue or renew a license with restrictions upon the scope of the person's license or may otherwise restrict or condition the activities of the licensee if the director determines that the(1) person has violated the provisions of 3 AAC 31.300 - 3 AAC 31.449; or(2) restrictions or conditions will protect the public from injury or potential

injury.(d) In an order suspending a license, the director will specify the period during which the license is suspended. The director will not set a period of suspension that exceeds 12 months after the effective date of the order as calculated under (a) of this section.(e) An order revoking a license must specify the period during which the person may not seek to be licensed in this state or licensed relative to a subject resident, located or to be performed in this state.(f) In addition to any other penalty provided under AS 21.96.110, a person whose license has been suspended or revoked shall pay a penalty equal to all or a portion of the compensation(1) received during the suspension or revocation; and(2) relating to a viatical settlement transaction that occurred during the period in which the license was suspended or revoked.

3 AAC 31.350

Section 3 AAC 31.355 - Surrender of license

A person licensed under 3 AAC 31.300 - 3 AAC 31.449 shall comply with all the requirements of AS 21.27.460 regarding surrendering a license.

3 AAC 31.355

Section 3 AAC 31.360 - Reporting requirements for viatical settlement providers

On or before March 1 of each calendar year, the compliance officer of a viatical settlement firm licensed in this state or an individual viatical settlement provider not in a firm licensed in this state shall make a report of all viatical settlement transactions and shall distinguish between transactions with viators who are residents of this state and transactions with all viators in total. The report must contain the following information for the previous calendar year:

(1) for each viatical settlement transaction during the previous calendar year,(A) the effective date of the viatical settlement contract;(B) the viator's state of residence on the effective date of the viatical settlement contract;(C) the mean life expectancy in months of the insured on the effective date of the viatical settlement contract;(D) the total face amount of the life insurance policy viaticated;(E) the amount of net death benefit for the life insurance policy viaticated;(F) the estimated total premiums necessary to keep the life insurance policy in force for the mean life expectancy of each insured;(G) the proceeds paid to each viator under a viatical settlement contract;(H) the source of the viaticated policy, whether(i) from a viatical settlement broker;(ii) by direct purchase from a viator; or(iii) through the secondary market, from an entity other than a viator or viatical settlement broker;(I) a description of the life insurance policy that is the subject of the viatical settlement contract; the description must include an indication of whether the life insurance policy is(i) group or individual; and(ii) term, whole, universal, or variable;(J) whether the life insurance policy is still within the contestable or suicide period at the effective date of the viatical settlement contract;(K) a classification of the diagnosis of the insured, according to at least one of the following disease categories:(i) infectious and parasitic diseases except AIDS/HIV;(ii) AIDS/HIV;(iii) neoplasms;(iv) endocrine disorders, nutritional and metabolic diseases, and immunity disorders other than AIDS/HIV;(v) diseases of the blood and blood-forming organs;(vi) mental disorders;(vii) diseases of the nervous system and sense organs;(viii) diseases of the circulatory system;(ix) diseases of the respiratory system;(x) diseases of the digestive system;(xi) diseases of the genitourinary system;(xii) complications of pregnancy, childbirth, and the puerperium;(xiii) diseases of the skin and subcutaneous tissue;(xiv) diseases of the musculoskeletal system and connective

tissue;(xv) congenital anomalies;(xvi) certain conditions originating in the perinatal period;(xvii) symptoms, signs, and ill-defined conditions;(xviii) injury and poisoning;(L) how proceeds from the viatical settlement contract were funded, whether by(i) institutional investors; or(ii) private investors; and(M) the name and address of the viatical settlement broker through whom the viatical settlement provider purchased a policy from a viator who resided in this state on the effective date of the viatical settlement contract;(2) for a viatical settlement contract in which death occurred during the previous calendar year,(A) the effective date of the viatical settlement contract;(B) the viator's state of residence on the effective date of the viatical settlement contract;(C) the mean life expectancy in months of each insured assumed by the viatical settlement provider on the effective date of the viatical settlement contract;(D) the amount of net death benefit collected by the viatical settlement provider under the life insurance policy viaticated;(E) the total premiums paid to keep the life insurance policy in force, whether(i) a waiver of premium occurs in the event of disability; or(ii) not applicable because the policy is paid up and premiums are not due;(F) the proceeds paid to each viator under a viatical settlement contract;(G) a classification of the diagnosis of the insured, according to at least one of the following disease categories:(i) infectious and parasitic diseases except AIDS/HIV;(ii) AIDS/HIV;(iii) neoplasms;(iv) endocrine disorders, nutritional and metabolic diseases, and immunity disorders other than AIDS/HIV;(v) diseases of the blood and blood-forming organs;(vi) mental disorders;(vii) diseases of the nervous system and sense organs;(viii) diseases of the circulatory system;(ix) diseases of the respiratory system;(x) diseases of the digestive system;(xi) diseases of the genitourinary system;(xii) complications of pregnancy, childbirth, and the puerperium;(xiii) diseases of the skin and subcutaneous tissue;(xiv) diseases of the musculoskeletal system and connective tissue;(xv) congenital anomalies;(xvi) certain conditions originating in the perinatal period;(xvii) symptoms, signs, and ill-defined conditions;(xviii) injury and poisoning;(H) the date of the insured's death;(I) the number of months between the effective date of the viatical settlement contract and the date of the insured's death;(J) the difference between the number reported under (I) of this paragraph and the number reported under (C) of this paragraph; and(K) the name and address of the viatical settlement broker through whom the viatical settlement provider purchased a policy from a viator who resided in this state on the effective date of the viatical settlement contract;(3) the number of life insurance policies considered for a viatical settlement contract and rejected by the viatical settlement provider, viatical settlement broker, or viatical settlement representative;(4) the number of life insurance policies purchased in the secondary market as a percentage of total life insurance policies purchased.

3 AAC 31.360

Section 3 AAC 31.365 - Payments(a) A viatical settlement provider may not enter into or effectuate a viatical settlement contract that provides payment to the viator that is unreasonable or unjust. For life expectancies up to 24 months, the following discount rates as applied to the face value of a life insurance policy, less outstanding loans on the policy, will be presumed to be reasonable and just payment to a viator:(1) if the life expectancy of the insured is less than six months, at least 80 percent;(2) if the life expectancy of the insured is at least six months but less than 12 months, at least 70 percent;(3) if the life expectancy of the insured is at least 12 months but less than 18 months, at least 65 percent;(4) if the life expectancy of the insured is at least 18 months but less than 24 months, at least 60 percent.(b) A viatical settlement provider may enter into or effectuate a viatical settlement contract that provides payment to a viator less than the

amounts specified in (a) of this section, if the director determines the payment not to be unreasonable or unjust. In determining whether a payment is unreasonable or unjust, the director will consider **(1)** the life expectancy of the viator; **(2)** the applicable rating of the insurance company that issued the life insurance policy by a rating service generally recognized by the insurance industry, regulators, and consumer groups; **(3)** the prevailing discount rates in the viatical settlement market in this state, or if insufficient data is available for this state, the prevailing discount rates nationally or in other states that maintain this data, if the data is credible; if the director determines that credible prevailing discount rate data is not available, the director may require that payment to a viator under a viatical settlement contract must be consistent with the payments specified in (a) of this section; and **(4)** other factors relevant to whether the payment is unreasonable or unjust. **(c)** If a life insurance policy contains a provision for double or additional indemnity for accidental death, the viatical settlement provider or insurance company shall pay the additional indemnity to the **(1)** beneficiary last named by the viator before entering into the viatical settlement contract; **(2)** designated beneficiary, if the viator designated a beneficiary other than the viatical settlement provider on or after entering into the viatical settlement contract; or **(3)** the estate of the viator, if the viator has not designated a beneficiary. **(d)** A viatical settlement provider shall pay proceeds of a viatical settlement contract to the viator in a lump sum unless the **(1)** viatical settlement contract clearly states that payments will be made consistent with an annuity; and **(2)** viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank or by an affiliate of a licensed insurance company or bank specifically for payment of proceeds under the viatical settlement contract. **(e)** Within three working days after the viatical settlement provider's receipt of documents to effectuate the transfer of the insurance policy under a viatical settlement contract, the viatical settlement provider shall pay proceeds of the viatical settlement contract to an escrow or trust account in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. The account must be managed by a trustee or escrow agent independent of the parties to the viatical settlement contract. The trustee or escrow account contract must provide for payment by wire transfer or by certified or cashier's check of the viatical settlement proceeds to the viator within three working days after the date that the viatical settlement provider receives an insurer's or group administrator's acknowledgement that **(1)** ownership of the policy or interest in the group certificate has been transferred to the viatical settlement provider; and **(2)** the beneficiary has been designated under the viatical settlement contract. **(f)** A viatical settlement provider, trustee, or escrow agent may not retain a portion of the viatical settlement contract proceeds.

3 AAC 31.365

Section 3 AAC 31.370 - Approval of viatical settlement contracts and disclosure statements **(a)** A person may not use a viatical settlement contract or provide to a viator a disclosure form in this state unless the contract or form is filed with and approved by the director for compliance with this section. **(b)** A viatical settlement contract or a disclosure form must be filed with the director not less than 30 days before the anticipated date of delivery of the viatical settlement contract or disclosure form. **(c)** The director will not approve a viatical settlement contract or disclosure form if the director determines that the viatical settlement contract or disclosure form contains a statement or provision that is unreasonable, contrary to the interests of the public, misleading, unfair to the viator or insured, or in violation of 3 AAC 31.300 - 3 AAC 31.449. **(d)** If a viatical settlement provider enters into a viatical settlement contract that allows the viator to retain an

interest in the life insurance policy, the viatical settlement contract must contain the following:(1) a statement that the viatical settlement provider will pay viatical settlement contract proceeds to the viator only to the extent or portion of the death benefit subject to the viatical settlement contract;(2) a statement that the viator's remaining interest in the life insurance policy will be paid directly to the viator's beneficiary by the insurance company;(3) a statement that the viatical settlement provider will, upon notification by the insurance company that an ownership interest in a life insurance policy has been transferred and a beneficiary has been designated,(A) advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy and that ownership or an interest in the life insurance policy has been transferred; or(B) send to the insured a copy of the communication that was sent from the insurance company to the viatical settlement provider acknowledging the viator's interest in the policy and that ownership or interest in the life insurance policy has been transferred;(4) a provision that apportions the premiums to be paid by the viatical settlement provider and the viator; the viatical settlement contract may specify that all premiums must be paid by the viatical settlement provider and may require that the viator reimburse the viatical settlement provider for the premiums attributable to the amount of interest the viator retains in the life insurance policy;(5) a statement in at least 10-point bold typeface substantially similar to the following statement: "Any person who knowingly presents false information in an application for insurance or for a viatical settlement contract is guilty of a crime and may be subject to penalty."(e) An application for a viatical settlement contract described in (d) of this section must contain the statement described in (d)(5) of this section.(f) A viatical settlement contract must provide the viator with an unconditional right to rescind the contract within 15 days after the date the viator received the viatical settlement contract proceeds. If the insured dies during the 15-day period, the viatical settlement contract must be rescinded as of the date of death, and the viator shall refund the viatical settlement contract proceeds to the viatical settlement provider within 10 working days after the date the viatical settlement contract was rescinded.

3 AAC 31.370

Section 3 AAC 31.375 - Approval of advertising material(a) A person may not use an advertisement related to a viatical settlement transaction unless the advertisement is filed with and approved by the director for compliance with this section. The director will not approve an advertisement related to a viatical settlement transaction if the advertising(1) contains misleading, potentially misleading, unfair, unclear, or deceptive information;(2) is not conducive to accurate presentation and description of viatical settlement transactions or contracts;(3) is contrary to the public interest; or(4) is in violation of AS 21 or 3 AAC 31.300 - 3 AAC 31.449.(b) A viatical settlement producer, viatical settlement broker, or viatical settlement representative shall establish and maintain control over the content, form, and distribution method of an advertisement relating to a viatical settlement transaction including at least annual notification of the requirements and procedures necessary for approval by the director before the use of an advertisement to each person authorized by the viatical settlement producer, viatical settlement broker, or viatical settlement representative to distribute an advertisement.(c) An advertisement relating to a viatical settlement transaction may not(1) omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of a benefit, loss covered, premium payable, or state or federal tax consequence;(2) state or imply

that interest charged on an accelerated death benefit or policy loan is unfair, inequitable, or in any manner an incorrect or improper practice;(3) use the words "free," "no cost," "without cost," "no additional cost," or "at no extra cost," or words of similar meaning with respect to a benefit or service unless true;(4) contain statistical information unless the(A) statistical information accurately reflects recent and relevant facts; and(B) the source of each statistic is clearly identified;(5) disparage insurers, viatical settlement providers, viatical settlement brokers, viatical settlement representatives, insurance licensees, policies, services, or methods of marketing;(6) use of any of the following, without disclosing the name of the viatical settlement provider, viatical settlement broker, or viatical settlement representative, if using any of the following would give the advertisement the capacity or tendency to mislead or deceive a person regarding the true identity of the viatical settlement provider, viatical settlement broker or viatical settlement representative, or to create the impression that a company other than the viatical settlement provider, viatical settlement broker, or viatical settlement representative would have responsibility for the financial obligation under the viatical settlement contract(A) a trade name;(B) a group designation;(C) the name of the parent company of a viatical settlement provider, viatical settlement broker, or viatical settlement representative;(D) the name of a particular division of a viatical settlement provider, viatical settlement broker, or viatical settlement representative;(E) a service mark;(F) a slogan;(G) a symbol;(H) a device or reference other than one described in (A) - (G) of this paragraph;(7) use a combination of words, symbols, or physical material that by their content, phraseology, shape, color, or other characteristics(A) are similar to a combination of words, symbols, or physical material used by a government program or agency; or(B) have the capacity or tendency to mislead prospective viators to believe that the viatical settlement transaction is connected with a government program or agency; or(8) create the impression that a government entity recommends, endorses, approves, or favors(A) a viatical settlement provider, viatical settlement broker, or viatical settlement representative, its financial condition or status, the payment of its claims, its business practices, or its methods of operation;(B) the merits, desirability, or advisability of a particular viatical settlement contract;(C) a viatical settlement contract; or(D) a life insurance policy or life insurance company.(d) If an advertisement emphasizes the speed with which a viatical settlement transaction will occur, the advertisement must state, for transactions in this state and for transactions in all other states, the average amount of time for a transaction by the advertised viatical settlement provider(1) from completion of a viatical settlement application to the date of offer during the previous 12 months; and(2) from acceptance of the offer to receipt of the viatical settlement proceeds by the viator during the previous 12 months.(e) If an advertisement emphasizes the dollar amount available to a viator under a viatical settlement contract, the advertisement must state the number of viatical settlement contracts and the average viatical settlement proceeds as a percent of the life insurance policy face value for the viatical settlement contracts entered into with the advertised viatical settlement provider during the past six months for transactions in this state and for transactions in all other states.

3 AAC 31.375

Section 3 AAC 31.380 - Disclosure requirements(a) Before an application for a viatical settlement contract is signed, a viatical settlement provider, viatical settlement broker, or viatical settlement representative shall provide disclosure statements in a conspicuous manner to a viator in a separate document. The document containing the disclosure statements must be signed by the viatical settlement provider, viatical settlement broker, or viatical settlement representative,

and by the viator. In the document, the following information must be disclosed: **(1)** possible alternatives to a viatical settlement contract, including policy loans or accelerated death benefits that may be offered under the viator's life insurance policy; **(2)** that some or all of the proceeds of the viatical settlement contract may be taxable under federal income tax or state franchise or income tax laws, along with a recommendation that the viator seek assistance from a professional tax advisor; **(3)** that proceeds from a viatical settlement contract could be subject to the claims of creditors; **(4)** that receipt of the proceeds from a viatical settlement contract may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, along with a recommendation that the viator obtain advice from the appropriate government agency; **(5)** the viator's right to rescind a viatical settlement contract within 15 days after the date of receipt of the proceeds from a viatical settlement contract by the viator pending return of the proceeds; **(6)** that the proceeds from a viatical settlement contract will be sent to the viator within three working days after the viatical settlement provider receives the insurer's or group administrator's acknowledgment that **(A)** ownership of the life insurance policy or interest in the group certificate has been transferred to the viatical settlement provider; and **(B)** the beneficiary under the viatical settlement contract has been designated; **(7)** that entering into a viatical settlement contract may cause other rights or benefits available to the viator, including conversion rights and waiver of premium benefits existing under the life insurance policy or interest in the group certificate, to be forfeited, along with a recommendation that the viator seek assistance from a financial adviser; **(8)** the name, business address, and telephone number of the independent trustee or escrow agent that is to be used in the transaction, along with a statement that the viator may inspect or receive copies of relevant agreements or documents provided by the trustee or escrow agent; **(9)** that providing false or misleading information in order to obtain an insurance policy is insurance fraud under AS 21.36.360; **(10)** the name, address, and telephone number of the viatical settlement provider; **(11)** that all medical, financial, and personal information solicited or obtained by a viatical settlement provider, viatical settlement broker, or viatical settlement representative about a viator and insured, including the viator's or insured's identity and the identity of family members, a spouse, or a spousal equivalent of the viator or insured, is confidential unless disclosure is **(A)** necessary to effectuate a viatical settlement contract between the viator and a viatical settlement provider and the viator and insured have provided prior written consent to release the information; or **(B)** provided in response to an investigation or examination by the director; **(12)** that by entering into a viatical settlement contract, information regarding the viator's or insured's identity and medical condition will be available to each subsequent owner of the life insurance policy; **(13)** that subject to (12) of this subsection, medical, financial, and personal information solicited or obtained by a viatical settlement provider, viatical settlement broker, or viatical settlement representative about a viator or insured, including the viator's or insured's identity or the identity of a viator's or insured's family members, spouse, or a spousal equivalent may be provided to viatical settlement financing entities; **(14)** that the insured may be contacted no more than once every three months if the insured has a life expectancy of more than one year and no more than once per month if the insured has a life expectancy of one year or less by the viatical settlement provider, the viatical settlement broker, or the viatical settlement representative to determine the insured's health status; **(15)** the information in Appendix A of this section printed in at least 12-point typeface. **(b)** Before a viatical settlement contract is signed, a viatical settlement provider, viatical settlement broker, or viatical settlement representative shall provide disclosure statements in a conspicuous manner to a viator in a separate document. The document containing the disclosure

statements must be signed by the viatical settlement provider, viatical settlement broker, or viatical settlement representative, and by the viator. In the document, the following information must be included: **(1)** the affiliation, if any, between the viatical settlement provider and the issuer of an insurance policy subject to the viatical settlement contract; **(2)** the name, address, and telephone number of the viatical settlement provider; **(3)** the amount and method of calculating the viatical settlement broker's compensation; **(4)** if the life insurance policy subject to the viatical settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured, information about the possible loss of coverage on the other lives under the policy, along with a recommendation that the viator consult with an insurance producer or the insurance company issuing the life insurance policy for advice regarding the impact of entering into a viatical settlement contract on the benefits of the life insurance policy; **(5)** the dollar amount of the current net death benefit payable to the viatical settlement provider under the life insurance policy or interest in the group certificate; **(6)** the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the viatical settlement provider's interest in those benefits; **(7)** the name, business address, and telephone number of the independent trustee or escrow agent that is to be used in the transaction, along with a statement that the viator may inspect or receive copies of relevant agreements or documents provided by the trustee or escrow agent; **(8)** the procedure for how contacts with the viator or the insured will be handled. **(c)** If the viatical settlement provider transfers ownership or changes the beneficiary of the life insurance policy, the viatical settlement provider shall provide the viator and insured the name, business address, and phone number of the new beneficiary or owner within 20 days after the transfer of ownership or change in beneficiary.

APPENDIX A Selling Your Life Insurance Policy

Today it's possible for you to sell your life insurance policy to someone else (a viatical settlement provider) for an immediate cash payment. This financial arrangement, known as a viatical settlement, is best suited for people who are living with an immediate life-threatening illness and facing tough financial choices.

It may not always be in your best interest to sell your life insurance policy. Before you take action, you should be sure you understand

- * what future benefits you may lose; and

- * what other options may be available

Selling your life insurance policy is a complex financial arrangement. This guide will help you make an informed decision.

We recommend that you

- 1.** evaluate your needs; **2.** check all your options; **3.** understand how the process works; **4.** know your rights; and **5.** check with the Alaska Division of Insurance.

Step 1. Evaluate your needs Before you sell your policy and give up valuable insurance protection, think about whether your need for life insurance has changed since you bought the

policy. If it hasn't, selling your policy may not be the right choice. If you sell your policy now, your beneficiaries will not be paid a benefit at your death.

If you sell your policy now, remember premiums go up a lot as you grow older. You may not want to pay the higher cost to replace your coverage later.

Step 2. Check all of your options You may be able to get the cash you need now without selling your policy.

Policy Cash Values

Contact your current life insurance agent or company to see if you have any cash value in your policy. Ask if you can

(1) borrow from the cash value and still keep the insurance in force;**(2)** cancel the policy for its current cash value; or**(3)** use the cash value as collateral to get a loan from a financial institution. Your insurance company must tell you about your options if you ask.

Accelerated Death Benefits

Find out if your policy has an "accelerated death benefit." It may be your best option.

Many life insurance policies do have an accelerated death benefit. With that benefit, policyholders who are terminally ill, affected with certain diseases, or permanently confined in a nursing home can access 50 percent or more of a policy's death benefit while still living. An accelerated death benefit could pay you a large part of your policy's death benefit and you could keep your policy.

A very important feature of the accelerated benefit is that when the policyholder dies, the beneficiaries get the remaining death benefit. This means that eventually 100 percent of the policy benefits will be paid out either to the insured or the beneficiary.

Other Considerations

Think about what it will mean if you do sell your policy. Check out the tax implications. Not all proceeds from a viatical settlement are tax-free.

Find out if creditors could claim any of the money you would get from a viatical settlement.

Find out if you will lose any public assistance benefits such as medicaid or other government benefits if you accept a cash settlement for your life insurance policy.

Comparison Shop

To learn the market value of your policy, it's a good idea to contact three to five viatical settlement providers. Or you could use a viatical settlement broker who would contact several

viatical settlement providers for you. Your financial advisor can help you decide whether to work with a viatical settlement provider or through a viatical settlement broker.

Summary

Everyone's financial situation is different. A viatical settlement may or may not be the best approach for you. Check it out for yourself. We recommend that you ask an advisor who is qualified to review your finances to help you review your options.

Step 3. How the process works If you decide to sell your life insurance policy to a viatical settlement provider, you will enter into a viatical settlement agreement with the provider. You, the seller, agree to accept a cash payment for your policy. The amount will be less than the face amount the policy would pay upon your death. (For example, you might agree to accept a \$75,000 cash payment for a \$100,000 policy.)

The viatical settlement provider buying your policy

- * becomes the new owner of your policy;
- * names the beneficiary;
- * collects the full death benefit when you die;
- * begins paying premiums on the policy; and
- * may sell your policy again.

There are four basic phases required to complete a viatical transaction.

Phase 1 - Qualifying to sell your policy (underwriting)

The viatical settlement provider will need information about you before making an offer. Usually, the viatical settlement provider will take some preliminary information from you over the phone and send you this paperwork to sign:

- * a medical release form so the viatical settlement provider can get and review your medical records;
- * an authorization form to contact your insurance company to confirm benefit, premium, and ownership of your policy.

To avoid delays, it's important that you give complete and accurate information about your medical history.

If you apply with more than one viatical settlement provider, each will contact your doctor for medical records and your insurance company for policy information.

Phase 2 - Calculating the offer

The viatical settlement provider uses the information it gets in the underwriting phase to make an offer. To develop an offer, a viatical settlement provider takes into account various factors including

- * estimated life expectancy and medical condition of the insured; generally, the shorter the life expectancy of the insured, the more the viatical settlement provider will offer for the policy;
- * the amount of life insurance coverage;
- * loans or advances, if any, previously taken against the policy;
- * amount of premiums necessary to keep the life insurance policy in force;
- * the rating of the issuing insurance company;
- * prevailing interest rates; and
- * payment restrictions.

Phase 3 - Closing the agreement

- * If you accept an offer, a closing package is forwarded to you, the seller, for approval and signature. Closing documents typically include an offer letter, a viatical settlement contract, and the forms the insurance company needs to transfer ownership of the policy to the viatical settlement provider.
- * The closing documents are then returned to the viatical settlement provider for its signature.
- * The viatical settlement provider will put the cash payment owed to you in escrow, if required, and send the signed insurance change forms to the insurance company to record the change.

Phase 4 - Receiving the payment

Once the insurance company notifies the viatical settlement provider that the changes on the life insurance policy have been recorded, the payment is released to you, the seller, usually the next business day.

Step 4. Know your rights State laws

Alaska insurance laws provide important consumer protections including the following:

- * a viatical settlement broker or viatical settlement provider arranging viatical settlements must be licensed with the Alaska Division of Insurance;

- * with few exceptions, the viatical settlement provider buying your policy must keep your identity and medical history confidential unless you give written consent to tell others;
- * to protect your proceeds, the viatical settlement provider buying your policy must put your money into an escrow account with an independent party during the transfer process;
- * you have the right to change your mind about the settlement within 15 days AFTER you receive the money, provided you return all the money;
- * the new owners of your policy are limited in how often they may contact you about your health status.

Federal tax laws

Two groups of people might receive benefits from a viatical settlement without owing federal income tax:

- * persons who have been diagnosed with a terminal illness and with a life expectancy of 24 months or less;
- * certain chronically ill individuals. Before entering into a viatical settlement, consult your own financial advisor or tax attorney about the federal tax consequences.

Avoiding Consumer Fraud

- * If you're in good health and someone asks you to sell your life insurance policy, proceed with caution. Refer to the section on selling your life insurance policy.
- * If you've been contacted by someone who wants you to buy a policy and then sell it immediately, you should contact the Alaska Division of Insurance. You may be a target for fraud.
- * If you're asked to buy a life insurance policy for the sole purpose of selling it, you may be participating in fraud. Contact the Alaska Division of Insurance to report the request and to obtain information.
- * If you're asked to invest in a viatical settlement, we recommend that you contact the Alaska Division of Insurance to learn more about the issues and risks that might be involved in such an investment.

Step 5. Check with the Alaska Division of Insurance State Licensing For a complete list of authorized viatical settlement providers, viatical settlement brokers, and viatical settlement representatives, call the Alaska Division of Insurance.

Seller Checklist

Before you sell your policy be sure you know the answers to these questions.

Evaluating Your Needs

- * Do you still need life insurance?
- * Do you have dependents who might rely on your life insurance benefits should anything happen to you?
- * If you don't need life insurance protection now, what are the chances you'll need it in the future?

Current Policy Benefits

- * Can you borrow from the cash value?
- * Can you cancel the policy for its current cash value?
- * Can you use the cash value as collateral to get a loan from a financial institution?
- * Do you have an accelerated death benefit feature?

Taxes and Other Financial Considerations

- * Is the money you get from selling the policy taxable?
- * Will the money you get from selling the policy affect your eligibility for government benefits?
- * Do you need the advice of a tax or estate-planning specialist before you decide to sell your policy?
- * If you sell your policy, can any of your creditors claim the money?

Understanding the Process

- * If you sell your policy, who will be the legal owner?
- * Is the viatical settlement provider buying your policy licensed?
- * If you sell your policy, how will the value you get be calculated?

What interest rate will be used?

- * If you sell your policy but then change your mind, can you get your money back?
- * Will investors have specific information about you, your family, or your health status?

* How are fees or commissions paid to the viatical settlement broker or viatical settlement provider?

Protections in Your State

Contact the Alaska Division of Insurance to find out about the laws governing viatical settlements.

3 AAC 31.380

Section 3 AAC 31.385 - Privacy**(a)** Except as otherwise allowed or required by law, medical, financial, and personal information about a viator and insured, including the viator's or insured's identity or the identity of a family member or spousal equivalent, may not be disclosed to another person unless the disclosure is**(1)** necessary to effectuate a viatical settlement contract between a viator and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure; or**(2)** provided in response to an investigation or examination by the director.**(b)** Contacts with an insured for the purpose of determining the health status of the insured after the effective date of the viatical settlement contract may be made only by a viatical settlement provider, viatical settlement broker, or viatical settlement representative licensed in this state. The insured may be contacted no more than**(1)** once every three months, if the insured has a life expectancy of more than one year; and**(2)** once a month, if the insured has a life expectancy of one year or less.**(c)** A viatical settlement provider, viatical settlement broker, or viatical settlement representative shall obtain from a person that is provided with information that may not be disclosed under this section a signed affirmation that the person will not further divulge the information without first obtaining the express written consent of the viator and the insured for the disclosure. If a viatical settlement provider, viatical settlement broker, or viatical settlement representative is served with a subpoena and compelled to produce records containing patient identifying information, the viatical settlement provider, viatical settlement broker, or viatical settlement representative shall notify the viator and the insured in writing at their last known addresses within five working days after receiving the subpoena.

3 AAC 31.385

Section 3 AAC 31.390 - Fair marketing**(a)** A viatical settlement provider, viatical settlement broker, or viatical settlement representative may not pay or offer to pay a finder's fee, commission, or other compensation to**(1)** an insured's physician;**(2)** an attorney, accountant, or other person providing medical, legal, or financial planning services to the viator; or**(3)** a person acting as an agent of the viator with respect to the viatical settlement transaction.**(b)** A viatical settlement provider may not knowingly solicit as an investor a person who has treated or has been asked to treat the illness of the insured whose coverage would be the subject of the investment.**(c)** Before the execution of a viatical settlement contract, a viatical settlement provider shall first obtain**(1)** if the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into or effectuate a viatical settlement contract;**(2)** a witnessed document signed by the viator and the insured**(A)** stating that the viator consents to the viatical settlement contract;**(B)** representing that the viator and the insured have a full and complete understanding of the viatical settlement contract;**(C)** representing that the viator has a full and complete

understanding of the benefits of the life insurance policy; **(D)** acknowledging that the viator entered into the viatical settlement contract freely and voluntarily; and **(E)** acknowledging that, if the insured has a terminal or chronic illness or condition, the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued; and **(3)** a witnessed document signed by the viator stating that the insured consents to the release of the insured's medical records to **(A)** a viatical settlement provider or viatical settlement broker; and **(B)** the insurance company that issued the life insurance policy covering the life of the insured. **(d)** Within 20 days after a viator executes documents necessary to transfer rights under a life insurance policy, or within 20 days after entering an agreement, option, promise, or other form of understanding to viaticate a life insurance policy, whichever is earlier, a viatical settlement provider shall **(1)** give written notice to the insurance company that issued the life insurance policy subject to the viatical settlement contract that the life insurance policy is or will be viaticated; and **(2)** deliver a copy of the medical release required in (c)(3) of this section, a copy of the viator's application for the viatical settlement contract, and the notice required in (1) of this subsection to the insurance company that issued the life insurance policy to be viaticated.

3 AAC 31.390

Section 3 AAC 31.395 - Prohibited practices **(a)** A viatical settlement provider may not also act as a viatical settlement broker, whether entitled to collect a fee directly or indirectly, in the same viatical settlement transaction. **(b)** A person may not knowingly engage in a viatical settlement transaction in which the person has participated in the sale or solicitation of the associated life insurance policy. **(c)** A viatical settlement broker may not seek or receive compensation from the viator, without obtaining the written agreement of the viator for the compensation before performing services in connection with a viatical settlement transaction. **(d)** A person may not use a longer life expectancy than is realistic in order to reduce the payout to which the viator is entitled or use more than one life expectancy in a single viatical settlement transaction. **(e)** A person may not knowingly enter into or effectuate a viatical settlement contract in which the associated life insurance policy was obtained by means of a false, deceptive, or misleading application. **(f)** A person may not communicate, in any way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the viatical settlement business or with respect to a person in the conduct of the person's viatical settlement business that **(1)** misrepresents the benefits, advantages, conditions, sponsorship, source, or terms of a viatical settlement contract; **(2)** is a misrepresentation for the purpose of effecting or tending to effect a viatical settlement contract; **(3)** uses a name or title of a viatical settlement contract that misrepresents its true nature; **(4)** appears to be an actual viatical settlement contract for the named viator when it is merely an advertisement; **(5)** does not clearly designate the name of the viatical settlement provider; or **(6)** is in any way misleading, false, or deceptive. **(g)** A person may not enter into a viatical settlement contract within two years after the date the life insurance policy to be viaticated is issued unless evidence is provided that one or more of the following conditions is met within the two-year period: **(1)** the life insurance policy was issued upon the policy owner's exercise of conversion rights under a group or individual life insurance policy and the duration of coverage under the conversion policy plus the duration of coverage under the prior policy is at least 24 months; **(2)** the policy owner is a charitable organization exempt from taxation under 26 U.S.C. 501(c)(3); **(3)** the policy owner is not a natural person; **(4)** the viator or the insured provides independent evidence to the viatical settlement provider that at least one of the following has occurred within the two-year period: **(A)** the policy owner or insured is terminally

or chronically ill;**(B)** the viator's spouse dies;**(C)** the viator becomes divorced;**(D)** the viator retires from full-time employment;**(E)** the viator becomes physically or mentally disabled and a physician certifies that the disability prevents the viator from maintaining full-time employment;**(F)** the viator was the insured's employer at the time the life insurance policy was issued and the employment relationship has been terminated;**(G)** on the application of a creditor of the viator, a court of competent jurisdiction enters a final order, judgment, or decree;**(i)** adjudicating the viator bankrupt or insolvent;**(ii)** approving a petition seeking reorganization of the viator; or**(iii)** appointing a receiver, trustee, or liquidator to a substantial portion of the viator's assets;**(H)** the viator experiences a significant decrease in income that is unexpected by the viator and that impairs the viator's reasonable ability to pay the premiums necessary to keep the life insurance policy in force;**(I)** the viator or insured disposes of ownership in a closely held corporation under which the life insurance policy was purchased.**(h)** A viatical settlement provider shall submit independent evidence to the insurance company that at least one of the conditions in (g) of this section was met when the viatical settlement provider submits a request to the insurance company to effectuate the transfer of a life insurance policy to the viatical settlement provider.

3 AAC 31.395

Section 3 AAC 31.400 - Insurance company practices**(a)** A life insurance company authorized to do business in this state shall respond to a request for verification of coverage from a viatical settlement provider or a viatical settlement broker within 30 days after the date the request is received, if the following are submitted with the request:**(1)** in the case of an individual policy, a form substantially similar to Appendix A of this section, completed by the viatical settlement provider or the viatical settlement broker in accordance with the instructions on the form;**(2)** in the case of group insurance coverage, a form substantially similar to Appendix B of this section, first completed by the group certificate holder to the extent the information is available to the group certificate holder, and then completed by the viatical settlement provider or viatical settlement broker in accordance with the instructions on the form.**(b)** Nothing in this section prohibits a life insurance company and either a viatical settlement provider or a viatical settlement broker from using another verification of coverage form that has been mutually agreed upon in writing in advance of the submission of the request.**(c)** For responding to a request for information from a viatical settlement provider or viatical settlement broker in compliance with this section, a life insurance company may not charge a fee in excess of any usual and customary charges to contract holders, group certificate holders, or insureds for similar services.**(d)** The life insurance company may send an acknowledgment of receipt of the request for verification of coverage to the policyholder or group certificate holder and, if the policyholder or group certificate holder is other than the insured, to the insured. In the acknowledgment, the life insurance company may include a general description of any accelerated death benefit that is available under a provision of or rider to the life insurance contract.**(e)** If a viatical settlement provider submits to the insurance company a request to effectuate the transfer of a life insurance policy and includes a copy of a certification signed by a viator or insured that meets at least one of the conditions of 3 AAC 31.395(g), the insurance company shall effectuate the transfer of the life insurance policy in a timely manner.

APPENDIX A

VERIFICATION OF COVERAGE

FOR INDIVIDUAL POLICIES

Section One:

(To be completed by the Viatical Settlement Provider or Viatical Settlement Broker)

Insurance Company: _____ Name of Policyowner: _____ Policy Number: _____
Owner's Social Security Number: _____ Name of Insured: _____ Policyowner's
Address: _____ Street Insured's date of birth: _____ City/State _____

Please provide the information requested in Section Two (below) with regard to the policy identified above and in accordance with the attached authorization.

In addition, please provide the forms checked below which are available from your company to complete a viatical settlement transaction:

- * Absolute Assignment/Change of Ownership/Viatical Assignment Form
- * Change of Beneficiary
- * Release of Irrevocable Beneficiary (if applicable)
- * Waiver of Premium Claim Form
- * Disability Waiver of Premium Approval Letter

Date Signature of a representative of Viatical Settlement Broker or
Viatical Settlement Provider

Full name and address of Viatical Settlement Broker or
Viatical Settlement Provider

Section Two:

(To be completed by the life insurance company)

- 1) Fact amount of policy: \$ _____ 2) Original date of issue: _____ /

Month/Date/Year 3) Was face amount increased after
original issue date? * no * yes a) If yes, when: _____ / _____ /

4) Type of policy: _____ (Term/Whole Life/Universal
Life/Variable Life) 5) Is policy participating? * no * yes If yes, what is current dividend election?

6) Current net death benefit: _____ (Enter full amount payable,
including any additional insurance, and/or dividends accumulated at interest, minus policy loans,

outstanding interest on policy loans and/or accelerated death benefits paid) **7**) **a**) Current cash value: \$ _____ (Enter full amount, including cash value of any additional insurance and/or dividends accumulated at interest, minus policy loans and outstanding interest on policy loans) **b**) Current surrender value: \$ _____ **8**) Terms of policy loans: _____ **a**) Amount of policy loans: \$ _____ **b**) Amount of outstanding interest on policy loan: \$ _____ **c**) Current interest rate: _____ **9**) Has policy lapsed? * no * yes If yes, when did policy lapse? _____ / _____ / _____ If policy has lapsed, is coverage continued under non-forfeiture option? * no * yes If yes, indicate which option, amount of coverage, duration, etc.: _____ **10**) Is policy in force? * no * yes If yes, has the policy been reinstated within the last two years? * no * yes If yes, date of reinstatement: _____ / _____ / _____ **11**) Amount of contract/scheduled premiums: \$ _____ **12**) Current premium mode: (Monthly, semi-annually, etc.) When is next premium due? _____ / _____ / _____ (Month/Day/Year) **13**) Does the policy include a disability premium waiver provision/rider? * no * yes **a**) If yes, are premiums currently being waived? * no * yes **b**) If yes, since when? _____ / _____ / _____ **c**) How often is continued eligibility reviewed? _____ **d**) When is next review? _____ / _____ / _____ **14**) Can payment of all or part of the death benefit be accelerated under this policy? * no * yes If yes, by what method is the benefit calculated, the lien method or the discount method? _____ **b**) If lien method, what is the interest rate? _____ **c**) Can any remaining death benefit be assigned? * no * yes **15**) Has a claim for accelerated death benefit been submitted? * no * yes If yes, was payment made under this provision? * no * yes Amount paid: _____ Date paid: _____ **16**) Do current records show any assignments of record? * no * yes **17**) Do current records show any outstanding liens or encumbrances of record? * no * yes **18**) Please identify current primary beneficiaries: _____ Are they named irrevocably, or is owner otherwise limited in designation of new beneficiaries? * no * yes **19**) Have any riders been added to this policy after issue? * no * yes If yes, please identify: _____ **20**) If an ownership or beneficiary change or assignment were to be made on this policy, to whom would the completed forms be sent? Name: Title: _____ Company Name: Department: _____ Address (No. P.O. Box please): _____ City: ST: ZIP: _____ Telephone No.: FAX: _____ The answers provided reflect information contained in the company's records as of: (date) _____ Signature: Name: (Printed) _____ Title: _____ Company: _____ Direct Telephone No.: Direct FAX No.: _____

APPENDIX B

VERIFICATION OF GROUP LIFE INSURANCE BENEFITS

Section One:

(To be completed by the viatical settlement provider or viatical settlement broker)

_____ Insurance Company Name of Employee/Member _____ Employer/Policy Name
Insured's Date of Birth _____

_____ Policy Number Insured's Social Security Number _____ Certificate Number
Employee/Membership

Number _____

Please provide the information requested in Section Two or Section Three, as appropriate, with regard to the individual and coverage described, in accordance with the attached authorization. In addition, please provide the forms checked below which are available from your company to complete a viatical settlement transaction:

- * Absolute Assignment
- * Change of beneficiary (irrevocable if applicable)
- * Disability Waiver of premium claim or
- * Disability Waiver of premium award letter

_____ Date Signature of a representative of Viatical Settlement Broker or
Viatical Settlement Provider

_____ Full name and address of Viatical Settlement Broker or
Viatical Settlement Provider

Section Two:

(To be completed by the employer/group policyholder and the insurer. Both should indicate the parts they completed.)

1) BASIC COVERAGE: **a)** Is the plan self-insured or is coverage provided under a group policy issued by a life insurance company? _____ If by a group policy, please provide the name of the insurance company for BASIC life insurance coverage _____ **b)** Effective date of BASIC life insurance coverage: _____ **c)** Face amount of BASIC life insurance: _____ **d)** Does BASIC coverage plan have contestable provisions? * no * yes **e)** Is BASIC coverage subject to a suicide provision? * no * yes **f)** Monthly premium paid by employer/group policyholder for BASIC life insurance: \$ _____ **g)** Monthly premium paid by employee/insured for BASIC life insurance: \$ _____ **h)** Is BASIC life insurance coverage * Term * Universal Life? **i)** If Universal Life, please indicate each value, if any: _____ **ii)** Is this amount payable in addition to the face amount? * no * yes **i)** Is coverage in force? * no * yes **j)** When is the next premium due?
_____/_____/_____

k) Have employee's coverage under the plan ever been reinstated? * no * yes If yes, date of reinstatement:

_____/_____/_____

2) SUPPLEMENTAL (OPTIONAL) COVERAGE

a) Insurance Company for
SUPPLEMENTAL life insurance cover- age: _____ **b)** Effective date of
SUPPLEMENTAL life insurance coverage: _____/_____/_____

c) Face amount of SUPPLEMENTAL life insurance:

d) Does SUPPLEMENTAL coverage plan have contestable provisions? * no

* yes **e)** Is SUPPLEMENTAL coverage subject to a suicide provision? * no * yes **f)** Monthly
premium paid by employee/group policyholder for supplemental life insurance:

\$ _____ **g)** Monthly premium paid by employee/insured for SUPPLEMENTAL life
insurance: \$ _____ **h)** Is SUPPLEMENTAL life insurance * Term * Universal

Life? **i)** If Universal Life, please indicate cash value, if any: _____ **ii)** Is this amount
payable in addition to the face amount? * no * yes **i)** Is coverage in force? * no * yes **j)** When is
the next premium due?

_____/_____/_____

k) Has employee's coverage under this policy been reinstated within the last two years? * no *
yes If yes, date of reinstatement:

_____/_____/_____

3) DISABILITY WAIVER OF PREMIUM **a)** Does plan provide for waiver of premium in the
event of employee/injured's disability? BASIC * no * yes What is the waiting period?

SUPPLEMENTAL * no * yes What is the waiting period?

b) Are premiums currently being waived under disability premium waiver?

BASIC * no * yes SUPPLEMENTAL * no * yes **c)** Who pays premiums under disability
premium waiver? BASIC * no * yes SUPPLEMENTAL * no * yes **d)** What was the date of

approval? _____/_____/_____ **e)** Next review date?

_____/_____/_____ **f)** If the insured is no longer eligible
for waiver, what amount of coverage can be converted to an individual policy?

\$ _____ **i)** Will a new suicide/contestability clause be in effect for the converted

policy? * no * yes **ii)** Will assignee be notified if insured is no longer eligible for waiver? * no *
yes **4) BENEFICIARIES, ASSIGNMENTS AND LIMITATIONS** **a)** Who are the primary

beneficiaries of the coverage(s)? BASIC _____ SUPPLEMENTAL _____ **b)** Is any
beneficiary under this policy designated irrevocably, or is insured otherwise limited in

designation of new beneficiaries? * no * yes **c)** Can this coverage be assigned? BASIC * no *

yes If yes, to a corporation? * no * yes To someone not related to insured? * no * yes

SUPPLEMENTAL * no * yes If yes, to a corporation? * no * yes To someone not related to

insured? * no * yes **d)** Do records show any assignments of record? * no * yes **e)** Do records show

any outstanding liens or encumbrances of record? * no * yes **f)** The following parties (as

applicable) should indicate whether they will provide notice to the assignee if the master policy

is terminated. Group policyholder * no * yes Third party administrator (if any) * no *

yes Insurance company * no * yes **g)** Can Assignee convert the coverage without the permission

of insured? * no * yes **5) ACCELERATED DEATH BENEFITS** **a)** Is there an Accelerated Death

Benefit available under the cover- age? BASIC * no * yes SUPPLEMENTAL * no * yes **b)** Has

request for Accelerated Death Benefit been made? * no * yes **c)** Has payment been made to

insured under this provision? * no * yes **i)** Amount Paid: _____

Date Paid: _____ / _____ / _____

ii) Is this amount a lien against death proceeds? * no * yes Interest rate _____

iii) Can the remaining death benefit be assigned? * no

*6) MISCELLANEOUSa) Is coverage portable? BASIC * no * yes SUPPLEMENTAL * no *

yesb) If insured is no longer eligible for coverage under the group, will Assignee be notified? * no * yes If master policy discontinues, what amount can be converted to an individual policy?

\$ _____ Is this plan administered by a third party? * no * If yes, please provide the name, address and telephone number of administrator.

Name: Title: _____ Company Name: Department: _____ Street Address: _____ (No. P.O. Box please) City: State: ZIP: _____ Telephone number: () FAX: () _____

If a change of beneficiary form or assignment were to be made for this coverage, to whom should the completed forms be sent? Name: Title: _____ Company name: Department: _____

Street Address: _____ (No. P.O. Box please) City: State: ZIP: _____ Telephone number: () FAX: () _____

The answers provided reflect information contained in the company's records as of: _____ (date) Signature: Name: _____ Date: Title: _____

Company name: _____ Direct telephone number: () Direct fax number: () _____

Information not provided by the employer may be obtained from the insurance company if different from administrator identified above: Name: Title: _____ Company name: _____

Department: _____ Address: _____ (No. P.O. Box please) City: _____ Telephone number: () Fax: () _____

Section Three: Under the terms of 3 AAC 31.400, the insurance company or the third party administrator named above is requested to complete the information not provided by the employer in Section Two, above, Item numbers: _____ The answers provided to the identified questions reflect information in the files of the insurance company as of _____ (date) The answers provided reflect information contained in the

company's records as of: _____ (date) Signature: Name: _____ Date: Title: _____

Company : _____ Direct telephone number: () Direct fax number: () _____

3 AAC 31.400

Section 3 AAC 31.405 - Unfair trade practices(a) A person may not commit or participate directly or indirectly in an unfair trade practice involving a viatical settlement transaction.(b) The director may investigate a suspected unfair trade practice involving a viatical settlement transaction or a person engaged in a viatical settlement transaction and assess a penalty, consistent with AS 21.36.32, for an unfair trade practice involving a viatical settlement transaction.(c) A person may not knowingly or intentionally interfere with the enforcement of or an investigation of a suspected or actual violation of AS 21.96.110 or 3 AAC 31.300 - 3 AAC 31.449.(d) A person may not knowingly or intentionally engage directly or indirectly in a viatical settlement transaction with a person convicted of a felony involving dishonesty or breach of trust.(e) An unfair trade practice is committed by a person(1) engaged in a viatical settlement transaction in the state relative to a subject resident, located or to be performed in this state who(A) places or causes to be placed a viatical settlement contract from or through a person not licensed under AS 21.96.110;(B) pays a commission or other form of remuneration to a person, firm, or organization for placing a viatical settlement contract when the person, firm, or organization is not licensed under AS 21.96.110; or(C) acts as a viatical settlement provider, viatical settlement broker, or viatical settlement representative without being licensed under AS

21.96.110; or **(2)** who **(A)** with intent to injure, defraud, or deceive, knowingly makes a false or fraudulent statement or representation or conceals information in or with reference to **(i)** an application for a viatical settlement contract; **(ii)** underwriting of a viatical settlement contract; **(iii)** claim for payment of benefit under a viatical settlement contract; **(iv)** premiums paid on an insurance policy under a viatical settlement contract; **(v)** payment and changes in ownership or beneficiary made in accordance with the terms of the viatical settlement contract and life insurance policy; **(vi)** reinstatement or conversion of a life insurance policy; **(vii)** a solicitation, offer, effectuation, or sale of a viatical settlement contract; **(viii)** the issuance of evidence of a viatical settlement contract; or **(ix)** a viatical settlement financing transaction; **(B)** viaticates or attempts to viaticate a life insurance policy fraudulently obtained by an insured, owner of the life insurance policy, or agent of the insured or owner of the life insurance policy; **(C)** makes a false, sworn statement that the person does not believe to be true regarding a matter material to an examination, investigation, or hearing of the division involving a viatical settlement transaction; **(D)** in a matter material to an examination, investigation, or hearing by the division involving a viatical settlement transaction, makes two or more sworn statements that are irreconcilably inconsistent to the degree that one of them is necessarily false and the person does not believe one of the statements to be true at the time the statement is made; **(E)** with intent to deceive, knowingly exhibits a false account, document, or advertisement relative to the affairs of a viatical settlement provider or viatical settlement broker; **(F)** wrongfully removes, conceals, alters, destroys, or sequesters from the director the assets or records relating to a viatical settlement transaction, or attempts to remove records relating to a viatical settlement transaction from the place they are required to be kept under 3 AAC 31.425; **(G)** falsely makes, completes, or alters a viatical settlement contract or other document relating to a viatical settlement transaction; **(H)** knowingly possesses a forged viatical settlement contract or other document viatical settlement transaction; **(I)** knowingly enters into a forged viatical settlement contract or other document related to a viatical settlement transaction; **(J)** misrepresents or conceals the financial condition of a licensee, insurer, or other person; **(K)** embezzles, steals, misappropriates, or converts monies, funds, premiums, credits, or other property of a viator, insured, insurer, viatical settlement provider, or other person involved in a viatical settlement transaction; or **(L)** discriminates in the making or solicitation of a viatical settlement contract on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or sexual orientation, or discriminates between viators with or without dependents. **(f)** A viatical settlement provider or a viatical settlement broker shall develop and implement antifraud initiatives to detect, prosecute, and prevent a fraudulent act involving a viatical settlement transaction, including **(1)** obtaining services of a fraud investigator through employment or by contract; and **(2)** developing an antifraud plan that includes **(A)** a description of the procedures for detecting and investigating a possible fraudulent act involving a viatical settlement transaction and procedures for resolving material inconsistencies between medical records and insurance applications; **(B)** a description of the plan for antifraud education and training of personnel; and **(C)** a chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of a possible fraudulent act involving a viatical settlement transaction and investigating unresolved material inconsistencies between medical records and insurance transactions. **(g)** An act by a person or by the person's employee appointed or authorized to represent a viatical settlement broker or viatical settlement provider is considered an act of the person who appointed or authorized the person or the person's employee.

3 AAC 31.405

Section 3 AAC 31.410 - Examination of viatical settlement providers, viatical settlement brokers, and viatical settlement representatives**(a)** The director may examine the affairs, transactions, accounts, records, and assets of a licensed or formerly licensed viatical settlement provider, viatical settlement broker, or viatical settlement representative.**(b)** In the place of an examination by the director, the director may accept a full examination report of the last recent examination of a licensed viatical settlement provider, viatical settlement broker, or viatical settlement representative certified to by the insurance supervisory official of another state, territory, commonwealth, or district of the United States.

3 AAC 31.410

Section 3 AAC 31.415 - Conduct of examination**(a)** The director may conduct an examination under 3 AAC 31.410 at the business office of the viatical settlement provider, viatical settlement broker, or viatical settlement representative.**(b)** Each person being examined or from whom information is sought, and that person's officers, employees, and agents shall provide to the director timely, convenient, and free access, at all reasonable hours at its office, to the books, records, accounts, papers, documents, assets, and computer files or other recordings relating to the property, assets, business, and affairs of the person being examined, and shall facilitate and aid the examination as far as it is in their power to do so, including providing to the director, at the expense of the person being examined, a copy of any document requested during the examination. The director may suspend, revoke, or refuse to issue or renew a license or authority of a person engaging in a viatical settlement transaction or other business under the jurisdiction of the director if the person or an officer, director, employee, or agent of the person refuses to submit to examination or to comply with a reasonable written request of the director.**(c)** When conducting an examination under this section, the director may retain attorneys, appraisers, independent actuaries, independent certified public accounts, or other professionals and specialists as examiners, the reasonable costs of which shall be paid by the person being examined.**(d)** The director may terminate or suspend an examination in order to pursue other legal or regulatory action under AS 21.**(e)** The director will not appoint an examiner who has a conflict of interest with, is affiliated with the management of, or owns a pecuniary interest in a person subject to an examination. This section does not preclude an examiner from being a viator, an insured in a viaticated policy, or a beneficiary in a life insurance policy that is proposed to be viaticated.

3 AAC 31.415

Section 3 AAC 31.420 - Examination reports and expenses**(a)** A report of an examination by the director under 3 AAC 31.410 and 3 AAC 31.415 will be issued in conformance with the requirements of AS 21.06.150.**(b)** Expenses incurred in an examination by the director under 3 AAC 31.410 and 3 AAC 31.415 will be administered in conformance with AS 21.06.160.

3 AAC 31.420

Section 3 AAC 31.425 - Records**(a)** For at least five years after the death of the insured, a viatical settlement provider, a viatical settlement broker, or a viatical settlement representative shall maintain all records of a viatical settlement transaction, including**(1)** accounting and financial records;**(2)** proposed, offered, or executed viatical settlement contracts, underwriting

documents, policy forms, and applications;(3) all checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of money on or after the date of the transaction; and(4) documents or records related to requirements under AS 21.96.110 and 3 AAC 31.300 - 3 AAC 31.449.(b) The records required under (a) of this section must be made available to the director for inspection during reasonable business hours at the licensee's place of business.(c) The viatical settlement broker shall keep as a permanent record the written contract required under 3 AAC 31.330 and make the contract available for inspection by the director during reasonable business hours.
3 AAC 31.425

Section 3 AAC 31.449 - Definitions

In 3 AAC 31.300 - 3 AAC 31.449, unless the context requires otherwise,

(1) "chronically ill" means(A) being unable to perform at least two activities of daily living; in this subparagraph, "activities of daily living" means(i) eating;(ii) toileting;(iii) transferring;(iv) bathing;(v) dressing; and(vi) continence; or(B) requiring substantial supervision to protect the insured from threats to health and safety due to severe cognitive impairment;(2) "compliance officer" means a licensee responsible for a firm's compliance with AS 21 and 3 AAC 31.300 - 3 AAC 31.449;(3) "firm" has the meaning given in AS 21.97.900;(4) "home state" means the District of Columbia or a state or territory of the United States in which a viatical settlement provider, viatical settlement broker, or viatical settlement representative maintains that person's principal place of residence or principal place of business and is licensed to act as a viatical settlement provider, viatical settlement broker, or viatical settlement representative;(5) "individual" means a natural person who is required to be licensed under AS 21.96.110 and 3 AAC 31.300 - 3 AAC 31.449;(6) repealed 10/13/2011;(7) "insured" means the person covered under an insurance policy that has been viaticated or that is proposed to be viaticated;(8) "life expectancy" means the average number of months an insured under a life insurance policy to be viaticated can be expected to live as determined by a viatical settlement provider considering medical records and appropriate experiential data;(9) "net death benefit" means the amount of a life insurance policy or certificate to be viaticated, less any outstanding debts or liens;(10) "patient identifying information" means(A) an insured's address, telephone number, facsimile number, electronic mail address, photograph or other likeness, employer, employment status, or social security number; or(B) information that is likely to lead to the identification of the insured;(11) "person" has the meaning given in AS 21.97.900 and includes a limited liability company;(12) "resident" has the meaning given in AS 21.27.900;(13) "spousal equivalent" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;(14) "terminally ill" means having an illness or disease that can reasonably be expected to result in death in 24 months or less;(15) "viatical settlement financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a life insurance policy from a viatical settlement provider, credit enhancer, reinsurer, or person that is a party to a viatical settlement contract and that has a direct ownership in a life insurance policy that is the subject of a viatical settlement contract but whose sole activity related to the transaction is providing funds to effect the viatical settlement contract and that has an agreement in writing with a viatical settlement provider to act as a participant in a viatical settlement financing transaction;(16) "viatical settlement financing transaction" means a transaction in which a

viatical settlement provider or a viatical settlement financing entity obtains financing for viatical settlement contracts, viaticated policies, or interests in those contracts or policies; "viatical settlement financing transaction" includes secured or unsecured financing, a securitization transaction or securities offering either registered or exempt from registration under federal and state law, or a direct purchase of interests in that policy, if that financing transaction complies with federal and state securities law;(17) "viaticate" means to enter into a viatical settlement contract;(18) "working day" means a calendar day other than Saturday, Sunday, an official federal holiday, or an official holiday in this state.

3 AAC 31.449