JAMES BROWN

CSI

COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

VIATICAL SETTLEMENT BROKER APPLICATION INSTRUCTIONS

Licensed life insurance producers:

Life insurance producers who are licensed in Montana and have been licensed as an insurance producer with life authority in Montana, or another state, for at least one year are permitted to operate as a *Viatical Settlement Broker*. The Commissioner of Insurance must be notified by the life insurance producer within 30 days from the first day of operating as a Viatical Settlement Broker on the attached Notification Form.

Non-licensed life insurance producers:

All non-licensed life insurance producers are required to complete the following items for a Viatical Settlement Broker's License.

- Viatical Settlement Broker Application Form
- Viatical Settlement Broker Attestation Regarding a Licensed Viatical Settlement Provider
- Biographical Affidavit
- Appointment of Attorney to Accept Service of Process
- Annual Reporting Forms

Complete the above forms and submit along with the $50.00 license fee.

Please note: A viatical settlement broker shall file with the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI) information brochures, advertising, and other solicitation materials that will be used to market viatical settlements to viators or prospective viators in this state before using such materials. These materials are to be filed with the Forms Bureau of the CSI. Please contact the Forms Bureau for further information with regards to these required filings.

JAMES BROWN

CSI

COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

NOTIFICATION OF LICENSED LIFE INSURANCE PRODUCER TO ACT AS VIATICAL SETTLEMENT BROKER

I,_____
(Name of Montana Licensed Insurance Producer)
,

have been a licensed life insurance producer since _____ and my
(Date the producer was licensed)

Montana producer license number is _____.
(Montana producer license number)

I have been licensed as a life producer in_____,
(Home State of Agent)

since _____.
(Date life producer was licensed in home state) (Home state producer license number)

I wish to inform the Commissioner of Securities and Insurance, Montana State Auditor, of my intention to act as a Viatical Settlement Broker. I began acting as a Viatical Settlement Broker on _____.
(Date)

I further state that I will conduct myself as a Viatical Settlement Broker in accordance with Section 33, Chapter 20, Part 13, MCA. I have also enclosed my one-time application fee of $50.00 with this Notification. I have enclosed a copy of the disclosure form that I have prepared which states to the viator that I represent the viator and owe the viator a fiduciary duty and to act according to the viator's instructions and in the best interest of the viator.

_____
(Signature of Insurance Producer)

_____
(Date Notification was signed)

(Please note: All Viatical Settlement Brokers are required to provide to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, by March 1 forms VSB 001, VSB 002 and VSPB 001, which are located at www.csi.mt.gov.)

JAMES BROWN
CSI
COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

VIATICAL SETTLEMENT BROKER APPLICATION

Name of Applicant _____

DBA (if applicable) _____

Home/Office Address _____
(Street or P.O. Box)

_____
(City) (State) (Zip)

Mailing Address _____
(Street or P.O. Box)

_____
(City) (State) (Zip)

Contact Person _____

Phone Number (____)_____

TYPE OF BUSINESS ORGANIZATION (check one)
___ Individual ___ Partnership ___ Association ___ Corporation

Date Incorporated _____ State of Domicile _____ FEIN Number _____

List names and addresses of all members, officers, or owners of the applicant.
Full Name Title Address %Ownership

_____
_____
_____
_____

Have you or any business in which you are or were an owner, partner, officer or director ever been involved in an administrative proceeding regarding any professional or occupational license? YES _____ NO_____
If yes, please explain with a written statement and copies of official documents.

Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld? YES _____ NO_____
("Crime" includes a misdemeanor, felony, or military offense. You may exclude misdemeanor traffic citations and juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict or a judge or jury, having entered a plea of guilty or nolo contende, or having been given probation, a suspended sentence or a fine.)

If yes, please explain with a written statement and copies of official documents.
Are you currently a party to, or have you ever been found liable in, any lawsuit or arbitration proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty? YES _____ NO_____

Herewith submitted are the following documents:

( ) A biographical affidavit for each individual, member, officer or owner of applicant and each person to be authorized to act under the license. (One copy enclosed. Please make additional copies if needed.)

( ) A copy of the partnership agreement, or articles of incorporation, or articles of association depending on your type of business organization.

( ) A Certificate of Authority from your domiciliary state, if available.

( ) If applicable, authority from the appropriate regulatory official from your state of domicile to use a DBA.

( ) Financial statements including a balance sheet and income statement for the most recent completed calendar or fiscal year. Audited financial statements are desired if available.

( ) A detailed explanation of your business plans for Montana including the marketing of your services.

( ) A copy of an executed indemnity bond in the amount of $50,000 payable to the State of Montana or a copy of an errors and omissions policy in an amount commensurate with the broker's exposure.

( ) A completed Service of Process form (VIATICALBROKER.SP). See enclosure.

( ) Registration fee of $50.00. Checks may be made payable to "Montana State Auditor."

Dated _____ _____
(Name & Title of Officer)

State of _____

County of _____

_____(name) being duly sworn, deposes that he/she is the _____(title of official capacity) of the above-named applicant and that the foregoing is a full, true, and correct statement of all the facts concerning this application. I understand that pursuant to Section 33-17-1001, MCA, any false statement contained in any document concerning this application may subject all licenses issued to me and this organization to suspension, or revocation, or other administrative action.

_____
Signature

Subscribed and sworn to before me this _____ day of _____, 20____.

NOTARY PUBLIC for the state of _____

(SEAL)

Residing at _____

My commission expires _____

JAMES BROWN

CSI

COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

ATTESTATION INSTRUCTIONS

Attestations submitted must be originals. Copies are not acceptable.

This report must be attested to by the following, based upon organizational structure of the viatical settlement broker:

1. If the viatical settlement broker is a corporation, the report must be attested by at least two principal officers of the viatical settlement broker;

2. If the viatical settlement broker is a partnership, the report must be attested by two partners; or

3. If the viatical settlement broker is not a corporation or a partnership, by the broker's owner and manager.

4. A new Attestation form must be provided for any change in ownership, based upon the organizational structure of the viatical settlement broker.

JAMES BROWN
CSI
COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

VIATICAL SETTLMENT BROKER ATTESTATION

Name of Viatical Settlement Broker:
_____

Type of Business Organization:
_____
_

Mailing Address
Street or PO Box _____
City _____ State _____ Zip_____

Phone _____ Fax _____ Web Site _____

As an individual responsible for conducting the affairs of the above named Viatical settlement broker applying to transact business in the State of Montana, I am familiar with the laws of Montana relating to Viatical settlement brokers and do hereby state that pursuant to Section 33-20-1303, MCA, that the Viatical settlement broker will only utilize the services of a licensed Montana Viatical settlement provider.

_____
(Typed Name)

_____
(Signature) (Date)

_____
(Title)

Sworn to and subscribed before me this _____ day of _____, 20_____.

NOTARY PUBLIC for the state of_____

Residing at_____

My commission expires_____

(SEAL)

BIOGRAPHICAL AFFIDAVIT

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

(Print or Type)

Full Name, Address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names). _____

_____

_____

_____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE," SO STATE.

1. a. Affiant's Full Name (Initials Not Acceptable). _____

   b. Maiden Name (if applicable). _____

2. a. Have you ever had your name changed? If yes, give the reason for the change and provide the full name(s).

   _____

   _____

   _____

   b. Other names used at any time (including aliases).

   _____

   _____

3. a. Are you a citizen of the United States?

   b. Are you a citizen of any other country, if so, what country?

4. Affiant's Occupation or Profession. _____

5. Affiant's business address. _____

   Business telephone. _____

6. Education and Training:

College/ University | City/ State | Dates Attended (MM/YY) | Degree Obtained

_____

Graduate Studies: College/ University | City/ State | Dates Attended (MM/YY) | Degree Obtained

_____

Other Training: Name | City/ State | Dates Attended (MM/YY) | Degree/Certification Obtained

_____

(Note: If affiant attended a foreign school, please provide full address and telephone number of the college/university. If applicable provide the foreign student Identification Number in the space provided in the Biographical Affidavit Supplemental Information)

7. List of memberships in professional societies and associations.

Name of Society/Association | Contact Name | Address of Society/Association | Telephone Number of Society/Association

_____

_____

_____

8. Present or proposed position with the applicant entity. _____

_____

9. List complete employment record for the past twenty (20) years, whether compensated or otherwise (up to and including present jobs, positions, partnerships, owner of an entity, administrator, manager, operator, directorates or officerships). Please list the most recent first. Attach additional pages if the space provided is insufficient. It is only necessary to provide telephone numbers and supervisory information for the past ten (10) years.

Beginning/Ending Dates _____(MM/YY) - _____

Employers' Name _____ _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending Dates _____(MM/YY) - _____

Employers' Name _____ _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending
Dates _____(MM/YY) - _____

Employers' Name _____ _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending
Dates _____(MM/YY) - _____

Employers' Name _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

_____

10. a. Have you ever been in a position which required a fidelity bond? _____ If any claims were made on the bond, give details. _____
_____

b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond canceled or revoked? If yes, give details. _____
_____

11. List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the license (s) issued. Attach additional pages if the space provided is insufficient.

_____
_____

Organization/Issuer of License _____ Address _____

City _____ State/Province _____ Country _____ Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY) _____

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

Organization /Issuer of License _____ Address _____

City _____ State/Province _____ Country _____ Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY) _____

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

12. In responding to the following, if the record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged, an affiant may respond "no" to the question. Have you ever:

a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public administrative, or governmental licensing agency?

_____

b. Had any occupational, professional, or vocational license or permit you hold or have held, been subject to any judicial, administrative, regulatory, or disciplinary action?

_____

c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action?

_____

d. Been charged with, or indicted for, any criminal offense(s) other than civil traffic offenses? _

e. Pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than civil traffic offenses?

_____

f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than civil traffic offenses? _____

g. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal, state law or law of another country regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking? _____

_____

h. Been, within the last ten (10) years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute? _____

i. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government? _____

j. Had a lien, or foreclosure action filed against you or any entity while you were associated with that entity?

_____

If the response to any question above is answered "Yes", please provide details including dates, locations, disposition, etc. Attach a copy of the complaint and filed adjudication or settlement as appropriate.

13. List any entity subject to regulation by an insurance regulatory authority that you control directly or indirectly. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person.

If any of the stock is pledged or hypothecated in any way, give details.

14. Do [Will] you or members of your immediate family individually or cumulatively subscribe to or own, beneficially or of record, 10% or more of the outstanding shares of stock of any entity subject to regulation by an insurance regulatory authority, or its affiliates? An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If the answer is "Yes", please identify the company or companies in which the cumulative stock holdings represent 10% or more of the outstanding voting securities.

If any of the shares of stock are pledged or hypothecated in any way, give details.

15. Have you ever been adjudged a bankrupt?

16. To your knowledge has any company or entity for which you were an officer or director, trustee, investment committee member, key management employee or controlling stockholder, had any of the following events occur while you served in such capacity? If yes, please indicate and give details. When responding to questions (b) and (c) affiant should also include any events within twelve (12) months after his or her departure from the entity.

    a. Been refused a permit, license, or certificate of authority by any regulatory authority, or Governmental-licensing agency?

    b. Had its permit, license, or certificate of authority suspended, revoked, canceled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action (including rehabilitation, liquidation, receivership, conservatorship, federal bankruptcy proceeding, state insolvency, supervision or any other similar proceeding)?

c. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any civil, criminal, administrative, regulatory, or disciplinary action? _____

Note: If an affiant has any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

Dated and signed this ___ day of ___ at _____ I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

_____ _____
(Signature of Affiant) Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____day of _____, 20_____ By _____, and:

↑who is personally known to me, or

↑who produced the following identification: _____

[SEAL]

_____
Notary Public

_____
Printed Notary Name

_____
My Commission Expires

BIOGRAPHICAL AFFIDAVIT
Supplemental Information

(Print or Type)

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

Full Name, Address, and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

_____

_____

_____

1. a. Affiant's Full Name (Initials Not Acceptable). _____

   b. Maiden Name (if applicable) _____

2. Affiant's Social Security Number _____

3. Government Identification Number if not a U.S. Citizen _____

4. Foreign Student ID# (if applicable) _____

5. Date of Birth: (MM/DD/YY) _____ Place of Birth: City _____
   State/Province _____ Country _____

6. Name of Affiant's Spouse (if applicable) _____

7. List your residences for the last ten (10) years starting with your current address, giving:

Beginning/Ending Dates (MM/YY)	Address	City	State/ Province	Country	Postal Code

Dated and signed this _____ day of _____ at _____
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

_____ _____
(Signature of Affiant) Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ , 20_____ By _____, and:

↑ who is personally known to me, or

↑ who produced the following identification: _____

[SEAL]

_____
Notary Public

_____
Printed Notary Name

_____
My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (*All states except California, Minnesota and Oklahoma)*

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____**[*insert* company name]**("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both)("Background Reports") regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may obtain copies of any Background Reports about you from the consumer reporting agency ("CRA") that produces them. You may also request more information about the nature and scope of such reports by submitting a written request to Company. To obtain contact information regarding CRA or to submit a written request for more information, contact _____**[*insert* company's designated person, position, or department, address and phone]**.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act."

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

_____

(Printed Full Name and Residence Address)

_____ _____

(Signature) (Date)

State of_____ County of _____

The foregoing instrument was acknowledged before me this_____day of_____ 20_____ By _____, who is personally known to me, or _____who produced the following identification:

[SEAL]

_____
Notary Public

_____
Printed Notary Name

_____
My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (***Minnesota and Oklahoma***)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____**[*insert* company name]**("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both)("Background Reports") regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency ("CRA") by submitting a written request to Company. You should submit any such written request for more information, to _____**[*insert* company's designated person, position, or department, address and phone]**.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act." You will be provided with a copy of any Background Report procured by Company if you check the box below.

☐ By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

_____

(Printed Full Name and Residence Address)

_____ _____

(Signature) (Date)

State of_____ County of _____

The foregoing instrument was acknowledged before me this _____ day of_____, 20_____ By _____, who is personally known to me, or _____who produced the following identification:

[SEAL]

_____
Notary Public

_____
Printed Notary Name

_____
My Commission Expires

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (*California)*

This Disclosure and Authorization is provided to you in connection with a pending application of _____**[*insert* company name]**("Company") for licensure or a permit to organize ("Application") with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both)("Background Reports") regarding your background for review by any department of insurance in such states where Company is currently pursuing an Application, because you are either functioning as, or are seeking to function as, an officer, member of the board of directors or other management representative ("Affiant") of Company or of any business entities affiliated with Company ("Term of Affiliation") for which a Background Report is required by a department of insurance reviewing any Application. Background Reports will be obtained through _____**[*insert* name of CRA, address]**("CRA"). Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency ("CRA") by submitting a written request to Company. You should submit any such written request for more information, to _____**[*insert* company's designated person, position, or department, address and phone]**.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act." You will be provided with a copy of any Background Report procured by Company if you check the box below.

By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. The CRA is required to have personnel available to explain your file to you and the CRA must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

_____

(Printed Full Name and Residence Address)

_____ _____

(Signature) (Date)

State of_____ County of _____

The foregoing instrument was acknowledged before me this _____ day of_____, 20_____ By _____, who is personally known to me, or _____who produced the following identification:

[SEAL]

_____
Notary Public

_____
Printed Notary Name

_____
My Commission Expires

JAMES BROWN

CSI

COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

Appointment of Attorney to Accept Service of Process

_____ (hereinafter "Viatical Settlement Broker"), duly organized under the laws of the State of _____ _____, appoints THE DULY ELECTED STATE AUDITOR AND COMMISSIONER OF SECURITIES AND INSURANCE OF THE STATE OF MONTANA as its attorney to receive service of legal process issued against it in the State of Montana. The Viatical Settlement Broker authorizes the Commissioner, or, in the Commissioner's absence, an employee of the Commissioner, to acknowledge service of legal process on behalf of the Viatical Settlement Broker. The Viatical Settlement Broker does consent and agree that any lawful process against it that is served upon the Commissioner as appointed attorney shall have the same legal force and validity as if served upon the Viatical Settlement Broker and waives all claim or right of error by reason of such acknowledgement of service.

This authority may be withdrawn only upon a written notice of revocation and in any case shall continue in effect so long as any liability arising out of this appointment remains outstanding in the State of Montana and binds the assets or liabilities of the Viatical Settlement Broker or any success in interest. This instrument is executed pursuant to, and shall be construed to constitute full compliance with, Title 33, Chapter 20 of the Montana Code Annotated.

IN WITNESS OF THIS APPOINTMENT, said Viatical Settlement Broker, pursuant to a resolution duly adopted by its Board of Directors, has caused this instrument to be executed in its name by its President and Secretary, and its corporate seal to be affixed, at the City of _____, State of _____this _____ day of _____, 20____.

_____
President / Attorney-in-fact

_____
Secretary / Attorney-in-fact

_____

_____
Name and address of the person to whom Service of Process is to be forwarded.

(VIATICALBROKER.SP)

INDEMNITY BOND
VIATICAL SETTLEMENT BROKER

BOND No. _____ AMOUNT _____

Know All Men By These Presents, that _____, hereinafter called the Principal, and _____ _____, a corporation authorized to transact insurance business within the state of Montana, as Surety, are held and firmly bound unto the State of Montana, hereinafter called the Obligee in the sum of Fifty Thousand and No/100 Dollars ($50,000.00) for the payment whereof to the Obligee, the Principal and Surety hereby bind themselves, their successors and assigns, jointly and severally firmly by these presents.

The condition of this obligation is such that the above Principal has made application to the Obligee for a certificate of authority to engage in the business of Viatical Settlement Broker within the State of Montana and will function as such. The Principal shall, in accordance with the provisions of its Viatical Settlement Broker certificate of authority, comply with the applicable laws of the State of Montana and assure the faithful performance of its obligations to its viators. If the Principal is complying with the provisions of its license and is faithfully performing its obligations to viators, then this obligation shall be null and void; otherwise, this obligation remains in full force and effect.

Provided, however, that the liability of the Surety hereunder shall in no event exceed the penal sum of this bond as stated above, regardless of the number of years the bond shall continue in force; and it is expressly agreed that either the principal or surety may cancel this bond by giving thirty (30) days written notice to the other, provided however, that such cancellation shall not be effective so far as the Obligee is concerned until the expiration of thirty (30) days after written notice has been given to said Obligee by the Surety. Such notice shall be delivered to the Obligee at the Office of the Insurance Commissioner of the State of Montana.

SIGNED, SEALED AND DATED THIS _____ DAY OF _____ , 20_____.

ATTEST: _____

(Name of Provider)

_____ **By:** _____

ATTEST: _____

(Name of Surety)

_____ **By:** _____

Viatical Settlement Broker Report

_____ Calendar year

Viatical Settlement Broker's Name *All States and Territories* **20__**

	1	2	3	4	5	6	7		1	2	3	4	5	6	7
States	Are you doing business in this state? (Y/N)	Total number of policies reviewed for consideration	Total number of policies represented for viatication	Total number of policies where representation was refused	Total number of policies sold to a provider	Aggregate net death benefit viaticated	Aggregate net amount paid to viators	States	Are you doing business in this state? (Y/N)	Total number of policies reviewed for consideration	Total number of policies represented for viatication	Total number of policies where representation was refused	Total number of policies sold to a provider	Aggregate net death benefit viaticated	Aggregate net amount paid to viators
Alabama								New Jersey							
Alaska								New Mexico							
Arizona								New York							
Arkansas								North Carolina							
California								North Dakota							
Colorado								Ohio							
Connecticut								Oklahoma							
Delaware								Oregon							
Dist. of Columbia								Pennsylvania							
Florida								Rhode Island							
Georgia								South Carolina							
Hawaii								South Dakota							
Idaho								Tennessee							
Illinois								Texas							
Indiana								Utah							
Iowa								Vermont							
Kansas								Virginia							
Kentucky								Washington							
Louisiana								West Virginia							
Maine								Wisconsin							
Maryland								Wyoming							
Massachusetts								American Samoa							
Michigan								Guam							
Minnesota								Puerto Rico							
Mississippi								U.S. Virgin Islands							
Missouri								Canada							
Montana															
Nebraska								Totals							
Nevada															
New Hampshire															

VSB 001

Initials of preparer: _____

VIATICAL SETTLEMENT BROKER REPORT

All States and Territories Instructions

NOTE: This form must be accompanied by "Viatical Settlement Provider/ Broker Certification Form."

1. Indicate (Y or N) to all the states and territories where you are currently doing business.

2. Indicate the total number of policies you reviewed for consideration for that state or territory.

3. Indicate the total number of policies you represented for viatication in that state or territory.

4. Indicate the total number of policies you refused to represent for that state or territory.

5. Total number of policies sold to a provider.

6. List the total aggregate net amount of the policies you transacted for viatication in that state or territory.

7. Regarding transaction where you functioned as a broker, list the total aggregate net amount paid to viators in that state or territory.

VSB 001 Instructions Initials of preparer: _____

© 2004 National Association of Insurance Commissioners

_____

Viatical Settlement Broker's Name

Viatical Settlement Broker Report

[State] Insureds Only

Calendar year **20___**

1	2	3	4	5	6
Viatical settlement provider's settlement number	**Contract date sold to viatical settlement provider**	**Total net death benefit ($)**	**Net amount paid to viator ($)**	**Commission amount ($)**	**Viatical settlement provider's name**

VSB 002

Initials of preparer: _____

© 2004 National Association of Insurance Commissioners

JAMES BROWN
CSI
COMMISSIONER OF SECURITIES & INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

VIATICAL SETTLEMENT BROKER REPORT
[State] INSUREDS ONLY REPORT

NOTE: This form must be accompanied by "Viatical Settlement Provider/Broker Certification Form."

1. List the settlement number, case number, or unique identifying number used by the Viatical Settlement Provider to identify the specific viatical settlement transaction.

2. List the date sold of the viatical settlement contract to the Viatical Settlement Provider.

3. List the total net death benefit.

4. List the net amount (in dollars) paid to the viator.

5. List the amount of commissions (in dollars) paid to all viatical settlement brokers involved in the transaction.

6. List the name of the Viatical Settlement Provider involved in the viatical settlement transaction.

VSB 002 Instructions Initials of preparer: _____

VIATICAL SETTLEMENT PROVIDER/BROKER CERTIFICATION FORM

This section should be completed by Viatical Settlement Providers.

Please check all forms submitted:

☐ Viatical Settlement Provider Reporting Form - All States and Territories (VSP 001)

☐ Viatical Settlement Provider Reporting Form - [State] Viators Only (VSP 002)

☐ Individual Mortality Report - [State] Insureds Only (VSP 003)

I hereby certify that the information contained in the reports indicated above is true and accurate. I acknowledge that providing false and misleading information in the reports, or failing to divulge a fact material thereto, is sufficient grounds for administrative action by the commissioner and potentially, applicable criminal penalties.

_____ Date: _____/_____/_____
Signature of individual that prepared reports

_____
Print or type name

_____ Date: _____/_____/_____
Signature of Authorized Representative

_____
Print or type name

This section should be completed by Viatical Settlement Brokers.

Please check all forms submitted:

☐ Viatical Settlement Broker Reporting Form - [All States and Territories] (VSB 001)

☐ Viatical Settlement Broker Reporting Form - [State] Viators Only (VSB 002)

I hereby certify that the information contained in the reports VSB 001, VSB 002 and VSPB 001 indicated above is true and accurate. I acknowledge that providing false and misleading information in the reports, or failing to divulge a fact material thereto, is sufficient grounds for administrative action by the commissioner and potentially, applicable criminal penalties.

_____ Date: ___/_____/_____
Signature of individual that prepared reports

_____
Print or type name

_____ Date: ___/_____/_____
Signature of Authorized Representative

_____
Print or type name

VSPB 001

MONTANA CODE ANNOTATED (MCA) 2011

TITLE 33. INSURANCE AND INSURANCE COMPANIES
CHAPTER 20. LIFE INSURANCE

Part 13. Viatical Settlements

33-20-1301. Short title. This part may be cited as the "Viatical Settlement Act".

History: En. Sec. 1, Ch. 298, L. 1997.

33-20-1302. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:
(1) "Financing entity" means an underwriter, placement agent, lender, or any entity, other than a nonaccredited investor, that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract, whose sole activity related to the transaction is the provision of funds to effect the viatical settlement contract, and who has an agreement in writing with one or more licensed viatical settlement providers.
(2) "Related provider trust" means a trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust must have a written agreement with the viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the commissioner.
(3) "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed viatical settlement provider.
(4) (a) "Viatical settlement broker" means an individual who, for a fee, commission, or other consideration:
(i) offers or advertises the availability of viatical settlement contracts;
(ii) introduces holders of life insurance policies or certificates insuring the lives of individuals with a terminal illness or condition to viatical settlement providers; or
(iii) offers or attempts to negotiate viatical settlement contracts between the policyholders or certificate holders and one or more viatical settlement providers.
(b) Viatical settlement broker does not mean an attorney, accountant, or financial planner retained to represent the policyholder or certificate holder unless compensation paid to the attorney, accountant, or consultant is paid by the viatical settlement provider.
(5) (a) "Viatical settlement contract" means a written agreement establishing the terms under which compensation or anything of value will be paid, when the compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance.
(b) The term includes:
(i) a contract for a loan or other financing transaction with a viator secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy; or
(ii) an agreement with a viator to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator.
(c) The term does not mean a written agreement entered into between a viator and a person having an insurable interest in the viator's life.
(6) (a) "Viatical settlement provider" means a person who solicits, enters into, or negotiates viatical settlement contracts or offers to enter into or negotiate viatical settlement contracts.
(b) Viatical settlement provider does not mean:
(i) a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy only as collateral for a loan;
(ii) an insurer issuing a life insurance policy providing accelerated benefits pursuant to 33-20-127 or pursuant to the

laws of the state to which the policy was subject when issued;
(iii) an individual who enters into a single agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit; or
(iv) any corporation, partnership, or partner that purchases a life insurance contract of an employee or retiree of the corporation or of a partner. The settlement made on any contract exempt under this section must be reasonable and subject to the standards imposed on licensees under 33-20-1304.
(7) (a) "Viatical settlement purchase agreement" means a contract or agreement entered into by a viatical settlement purchaser with a viatical settlement provider to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.
(b) A viatical settlement purchase agreement does not include a viatical settlement contract.
(8) (a) "Viatical settlement purchaser" means a person who, for the purpose of deriving an economic benefit:
(i) gives consideration for a life insurance policy or an interest in the death benefits of a life insurance policy; or
(ii) owns, acquires, or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or that is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract.
(b) A viatical settlement purchaser does not include a licensed viatical settlement provider, a licensed viatical settlement broker, a qualified institutional buyer as defined in 17 CFR 230.144A, a financing entity, a special purpose entity, or a related provider trust.
(9) (a) "Viator" means the owner of a life insurance policy or the certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract.
(b) The term does not include a licensed viatical settlement provider, a licensed viatical settlement broker, a qualified institutional buyer as defined in 17 CFR 230.144A, a financing entity, a special purpose entity, or a related provider trust.

History: En. Sec. 2, Ch. 298, L. 1997; amd. Sec. 2, Ch. 295, L. 2001; amd. Sec. 7, Ch. 493, L. 2003.

33-20-1303. License requirements. (1) A person may not act as or purport to be a viatical settlement provider unless licensed as a viatical settlement provider under this part.
(2) (a) Except as provided in subsections (2)(b) and (2)(c), an individual may not broker, solicit, or negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or otherwise act on behalf of a viator without first having obtained a license as a viatical settlement broker from the commissioner. An applicant for a viatical settlement broker's license shall:
(i) attend required viatical settlement broker training and pass a viatical settlement broker examination designated by the commissioner by rule; and
(ii) pay a fee for an original viatical settlement broker's license pursuant to 33-2-708. The fees for license renewal and lapsed license reinstatement for a viatical settlement broker's license are as provided in 33-2-708.
(b) A resident or nonresident insurance producer must be considered to meet the licensing requirements of a viatical settlement broker and must be permitted to operate as a viatical settlement broker if the insurance producer is licensed as an insurance producer with a life insurance line of authority in this state or in the insurance producer's home state and has been licensed for at least 1 year. In addition:
(i) not later than 30 days from the first day of operating as a viatical settlement broker, the insurance producer shall notify the commissioner, on a form or in a manner prescribed by the commissioner, that the insurance producer is acting as a viatical settlement broker and shall pay a fee pursuant to 33-2-708(1)(b)(viii). The notification must include an acknowledgment by the insurance producer that the insurance producer will operate as a viatical settlement broker in accordance with this part.
(ii) regardless of the manner in which the insurance producer is compensated, the insurance producer must be considered to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interests of the viator.
(c) If requested by the commissioner, a life insurance producer acting as a viatical settlement broker under this subsection (2) who has previously complied with subsection (2)(b)(i) shall report to the commissioner when renewing a resident or nonresident life insurance producer's license regarding the life insurance producer's intent to continue to act as a viatical settlement broker. The statement regarding an intent to continue acting as a viatical settlement broker must be made on the life insurance producer's license renewal form. An individual who makes a statement pursuant to this subsection (2)(c) may not be charged an additional fee.
(d) The provisions of subsections (2)(a) and (2)(b) do not prohibit an individual licensed as an attorney, certified public accountant, or certified financial planner who is accredited by a nationally recognized accreditation agency,

who is retained to represent the viator, and whose compensation is not paid directly or indirectly by the viatical settlement provider from negotiating viatical settlement contracts without having to obtain a license as a viatical settlement broker.
(3) Regardless of the manner in which a viatical settlement broker or insurance producer is compensated, the viatical settlement broker or insurance producer must be considered to represent only the viator and the viatical settlement broker or insurance producer owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interests of the viator.
(4) (a) To obtain a license to transact business as a viatical settlement provider or as a viatical settlement broker, if required to obtain a viatical settlement broker's license under the provisions of subsection (2)(a), an applicant shall apply for the license in a form approved by the commissioner and shall pay the fee required for the application.
(b) The commissioner may request biographical, organizational, locational, financial, employment, and other information on the application form that the commissioner determines to be relevant to the evaluation of applications and to the granting of the license. The commissioner may require a statement of the business plan or plan of operation of the applicant. The commissioner shall require an applicant for a viatical settlement provider license to file with the application for the commissioner's approval a copy of the viatical settlement contract that the applicant intends to use in business under the license.
(c) If an applicant is a corporation, the corporation must be:
(i) incorporated or organized under the laws of this state; or
(ii) a foreign corporation authorized to transact business in this state.
(d) If the applicant is a partnership, the partnership must be organized under the laws of this state.
(e) If the applicant is a business entity other than a corporation or partnership, the business entity must be organized under the laws of this state.
(5) (a) An individual licensed as a viatical settlement broker must meet the continuing education requirements in 33-17-1203.
(b) The hours of continuing education required under subsection (5)(a) must be in the subjects of life insurance, viaticals, or ethics.
(c) For an individual licensed as a viatical settlement broker, the 24-month period for meeting the continuing education requirements must correlate with the broker's license renewal period.
(d) The viatical settlement broker's license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with 33-17-1203(2) must be terminated and promptly surrendered to the commissioner.

History: En. Sec. 3, Ch. 298, L. 1997; amd. Sec. 2, Ch. 552, L. 2005; amd. Sec. 36, Ch. 44, L. 2007; amd. Sec. 11, Ch. 399, L. 2007; amd. Sec. 20, Ch. 271, L. 2009.

33-20-1304. Issuance of license. (1) The commissioner may issue a license to the applicant if the commissioner determines that the applicant:
(a) has satisfied all of the requirements for the license for which an application is made;
(b) has not engaged in conduct that would authorize the commissioner to refuse to issue a license under this part; and
(c) is financially responsible and has a good business reputation.
(2) The commissioner may issue a license to a nonresident applicant only if the nonresident applicant files with the commissioner in writing an appointment of the commissioner to be the agent of the applicant upon whom all legal process in any action or proceeding against the applicant may be served. In the appointment, the applicant shall agree that any lawful process against the applicant that is served upon the commissioner is of the same legal force and validity as if served upon the applicant and that the authority will continue in force as long as any liability remains outstanding in this state. An appointment under this subsection becomes effective on the date that the commissioner issues the license to the applicant.
(3) If the commissioner denies an application, the commissioner shall inform the applicant and state the grounds for the denial.
(4) An individual may act as a viatical settlement provider or viatical settlement broker under the authority of the license of a firm or of a corporate viatical settlement provider whether or not the individual holds a license as a viatical settlement provider if:
(a) the individual is a member or employee of the firm or is an employee, officer, or director of the corporation; and
(b) the individual is designated by the firm or corporation on its license application or on a form that amends or

supplements the application as being authorized to act as a viatical settlement provider under the authority of the license.

History: En. Sec. 4, Ch. 298, L. 1997.

33-20-1305. Expiration of license. (1) A license issued under this part expires on its expiration date unless it is renewed on or before its expiration date.
(2) Unless the commissioner designates another date, a license expires on the last day of the month in which the second anniversary of the initial issuance date of the license occurs and on the last day of the month of the second anniversary following each renewal.

History: En. Sec. 5, Ch. 298, L. 1997.

33-20-1306. Notification by licensee of material change affecting qualification for license. A licensee shall immediately notify the commissioner of any material change in ownership or control or in any other matter affecting the qualification of the licensee for the license in this state, including keeping the commissioner informed about personnel and address changes.

History: En. Sec. 6, Ch. 298, L. 1997.

33-20-1307. Suspension -- revocation -- refusal to issue or renew license. (1) The commissioner may suspend, revoke, refuse to issue, or refuse to renew a license if the commissioner determines that the licensee or applicant for a license is untrustworthy or incompetent to act as a licensee or is guilty of one or more of the following:
(a) dishonesty, fraud, or gross negligence in the conduct of business as a licensee;
(b) a pattern of unreasonable payments to policyholders or certificate holders;
(c) falsification of an application for the license or renewal of the license or misrepresentation or engagement in any other dishonest act in relation to the application;
(d) conduct resulting in a conviction of a felony under the laws of any state or of the United States;
(e) conviction of any crime, an essential element of which is dishonesty or fraud, under the laws of any state or of the United States;
(f) refusal to renew or cancellation, revocation, or suspension of authority to transact insurance or business as a viatical settlement provider, viatical settlement broker, or similar entity in another state;
(g) failure to pay a civil penalty imposed by final order of the commissioner or to carry out terms of probation set by the commissioner;
(h) refusal by a licensee to be examined or to produce accounts, records, or files for examination, refusal by any officers or employees to give information with respect to the affairs of the licensee, or refusal to perform any other legal obligation as to the examination, when required by the commissioner;
(i) affiliation with or under the same general management or interlocking directorate or ownership as another viatical settlement provider, viatical settlement broker, or insurer, any of which unlawfully transacts business in this state;
(j) failure at any time to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the commissioner; or
(k) violation of any rule or order of the commissioner or any provision of Montana law.
(2) The commissioner may suspend or refuse to renew a license immediately and without hearing if the commissioner determines that one or both of the following circumstances exist:
(a) the licensee is insolvent;
(b) the financial condition or business practices of the licensee otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.
(3) The commissioner may refuse to issue a license in the name of any business entity if the commissioner believes that any member, officer, employee, stockholder, or partner who may materially influence the conduct of the applicant does not meet the standards of this section.
(4) A viatical settlement provider or viatical settlement broker holding a license that has not been renewed or that has been revoked shall surrender the license to the commissioner at the commissioner's request.
(5) The commissioner may take any other administrative action authorized under Montana law in addition to or in lieu of the actions authorized under this part.

History: En. Sec. 7, Ch. 298, L. 1997; amd. Sec. 21, Ch. 271, L. 2009.

33-20-1308. Terms of contract. (1) A viatical settlement contract must be in writing. A viatical settlement provider shall establish in the contract the terms under which the viatical settlement provider will pay compensation or anything of value in return for the policyholder's or certificate holder's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.
(2) A viatical settlement provider may not use a viatical settlement contract in this state unless the viatical settlement provider has filed the contract form with the commissioner and the commissioner has approved the contract form according to the provisions set forth in 33-1-501. The commissioner shall disapprove a viatical settlement contract form if, in the commissioner's judgment, the contract or any provision of the contract is unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the policyholder or certificate holder.
(3) Each viatical settlement contract entered into in this state must contain a provision enabling the policyholder or certificate holder to rescind the contract not later than the 30th day after the date on which the contract is executed by all parties or not later than the 15th day after the policyholder or certificate holder receives the viatical settlement proceeds, whichever is the longer period. In order to rescind a contract, a policyholder or certificate holder who has received the proceeds shall return them to the viatical settlement provider or financing entity.
(4) If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract must contain all of the following provisions:
(a) that the viatical settlement provider shall effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated must be paid directly to the viator's beneficiary by the insurance company.
(b) that the premiums to be paid by the viatical settlement provider and the viator will be apportioned unless the viatical settlement contract specifies that all premiums must be paid by the viatical settlement provider. The contract may also require that the viator reimburse the viatical settlement provider for the premiums attributable to the retained interest.
(c) that the viatical settlement provider shall, upon acknowledgment of the perfection of the transfer, either:
(i) advise the insured in writing that the insurance company has confirmed the viator's interest in the policy; or
(ii) provide the insured with a copy of the instrument provided by the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy.

History: En. Sec. 8, Ch. 298, L. 1997; amd. Sec. 5, Ch. 272, L. 2009.

33-20-1309. Annual report by provider. Unless the commissioner grants a time extension, a viatical settlement provider shall file a report for the preceding calendar year with the commissioner on or before March 1 of each year. The report must be in the form and must contain the information that the commissioner prescribes. The report must be verified as follows:
(1) if the viatical settlement provider is a corporation, by at least two principal officers of the viatical settlement provider;
(2) if the viatical settlement provider is a partnership, by two partners; or
(3) if the viatical settlement provider is not a corporation or a partnership, by the provider's owner and manager.

History: En. Sec. 9, Ch. 298, L. 1997.

33-20-1310. Examination of business and practices of licensee or applicant -- maintenance of business records. (1) The commissioner may examine the business and practices of any licensee or applicant for a license when the commissioner determines an examination to be necessary. The commissioner may order a licensee or applicant to produce any records, books, files, or other information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or contrary to the interests of the public. The licensee or applicant shall pay the expenses incurred in conducting an examination.
(2) A viatical settlement provider shall maintain records of all transactions of viatical settlement contracts of the viatical settlement provider and shall make the records available to the commissioner for inspection during reasonable business hours. The records must be maintained for a period of not less than 5 years from the date of their creation.
(3) The commissioner may at any time require a licensee to fully disclose the identity of all stockholders, partners,

officers, and employees.
(4) The names of and individual identification data for all policyholders and certificate holders who have entered viatical settlement contracts with viatical settlement providers are confidential and may not be disclosed except in cases in which the commissioner determines that the merits of public disclosure exceed the demands of individual privacy.

History: En. Sec. 10, Ch. 298, L. 1997; amd. Sec. 10, Ch. 416, L. 1999.

33-20-1311. Disclosure of information to policyholder. A viatical settlement provider shall disclose the information specified in this section to the policyholder or certificate holder entering the viatical settlement contract prior to the date on which the viatical settlement contract is signed by all parties. The disclosure must be in the form approved by the commissioner. The information must include the following:
(1) possible alternatives to viatical settlement contracts for persons with terminal illnesses or conditions, including but not limited to accelerated benefits offered by the issuer of the life insurance policy;
(2) the fact that some or all of the proceeds of the viatical settlement may be taxable and that assistance should be sought from a personal tax adviser. Viatical settlement brokers, viatical settlement providers, or their respective employees or agents may not act as personal tax advisers for purposes of this disclosure requirement.
(3) the fact that the viatical settlement could be subject to the claims of creditors;
(4) the fact that receipt of a viatical settlement may adversely affect the recipient's eligibility for medicaid or other government benefits or entitlement and that advice should be obtained from the appropriate agencies;
(5) the right of a policyholder or certificate holder to rescind a viatical settlement contract as provided in 33-20-1308. The disclosure must state the deadlines for rescission and the return of proceeds received.
(6) the date by which the funds will be available to the policyholder or certificate holder and the source of the funds; and
(7) the fact that the viatical settlement contract is void if the viatical settlement provider or viatical settlement broker fails to tender payment of the proceeds as provided in the viatical settlement contract.

History: En. Sec. 11, Ch. 298, L. 1997; amd. Sec. 3, Ch. 295, L. 2001.

33-20-1312. Conditions precedent to entering into viatical settlement contract. (1) Before a viatical settlement provider enters into a viatical settlement contract with a policyholder or certificate holder who has a terminal illness or condition, the viatical settlement provider shall first obtain the following:
(a) a written statement from an attending physician that the policyholder or certificate holder is of sound mind and not under constraint or undue influence; and
(b) a witnessed document in which the policyholder or certificate holder:
(i) consents to the viatical settlement contract;
(ii) acknowledges that the illness or condition is terminal;
(iii) represents that the policyholder or certificate holder has a full and complete understanding of the viatical settlement contract;
(iv) confirms that the policyholder or certificate holder has a full and complete understanding of the benefits of the life insurance policy;
(v) releases the medical records of the policyholder or certificate holder relating to the terminal illness or condition; and
(vi) acknowledges that the policyholder or certificate holder has entered into the viatical settlement contract freely and voluntarily.
(2) A viatical settlement provider may enter a viatical settlement contract only after the individual whose life would be the subject of the viatical settlement contract is determined to have a terminal illness or condition, as follows:
(a) if the individual is the policyholder or certificate holder, an attending physician of the policyholder or certificate holder shall make the determination; or
(b) if the individual is a person other than the policyholder or certificate holder, an attending physician of the individual or of the policyholder or certificate holder shall make the determination.
(3) For purposes of this section, "attending physician" means a medical doctor, a doctor of osteopathy, or a naturopathic physician licensed in this state, who is primarily responsible for the treatment or a portion of treatment of the individual whose life would be the subject of the viatical settlement contract.

History: En. Sec. 12, Ch. 298, L. 1997.

33-20-1313. Requirements for entering into viatical settlement contract -- prohibitions on finder's fee -- solicitations -- discrimination -- false or misleading advertising or solicitation -- misuse of confidential information. (1) A person may not enter into a viatical settlement contract within a 2-year period from the date of issuance of an insurance policy or certificate unless the person certifies to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:
(a) (i) the policy or certificate was issued upon the person's exercise of conversion rights arising out of a group or individual policy or certificate and the total of the time covered under the conversion policy or certificate plus the time covered by the policy or certificate prior to the conversion equal at least 24 months; and
(ii) the time covered under a group policy or certificate was calculated without regard to any change in insurance carriers if the coverage was continuous and under the same group sponsorship; or
(b) the person submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:
(i) the person is terminally ill or chronically ill; or
(ii) the person has disposed of the person's ownership interest in a closely held corporation pursuant to the terms of a buyout agreement or similar agreement that was in effect at the time that the insurance policy or certificate was issued.
(2) Copies of the certification and independent evidence required under subsection (1) must be submitted by the viatical settlement provider to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.
(3) A licensee may not pay or offer to pay a finder's fee, commission, or other compensation to a person described in this subsection (3) in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection (3) applies with respect to payments or offers of payment to:
(a) the physician, attorney, or accountant of the policyholder, the certificate holder, or the insured individual;
(b) any person other than a physician, attorney, or accountant described in subsection (3)(a) who provides medical, legal, or financial planning services to the policyholder, to the certificate holder, or to the insured individual when the individual is other than the policyholder or certificate holder; or
(c) any person other than one described in subsection (3)(a) or (3)(b) who acts as an agent of the policyholder, certificate holder, or insured individual.
(4) A licensee may not solicit an investor who could influence the treatment of the illness or condition of the individual whose life would be the subject of a viatical settlement contract.
(5) All information solicited or obtained from a policyholder or certificate holder by a licensee is subject to the confidentiality requirements set forth in Title 33, chapter 19. For purposes of this subsection, a licensee must be considered an insurance-support organization as defined in 33-19-104.
(6) A licensee may not discriminate in the making of a viatical settlement contract on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or sexual orientation and may not discriminate between persons who have dependents and persons who do not have dependents.
(7) A person licensed pursuant to 33-20-1304 may not engage in any false or misleading advertising, solicitation, or practice as described in 33-18-203.
(8) A person licensed pursuant to 33-20-1304 may not sell another product of insurance to the contract holder unless approval is obtained from the commissioner.

History: En. Sec. 13, Ch. 298, L. 1997; amd. Sec. 3, Ch. 552, L. 2005.

33-20-1314. Payment to escrow or trust account -- lump-sum payment. (1) Within 3 business days after receipt of documents from the policyholder or certificate holder effecting the transfer of the insurance policy or certificate, the viatical settlement provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a bank approved by the commissioner, pending acknowledgment of the transfer by the issuer of the life insurance policy. The trustee or escrow agent shall transfer the proceeds due to the policyholder or certificate holder immediately upon receipt of acknowledgment of the transfer from the insurer.
(2) A viatical settlement provider shall make payment of the proceeds of a viatical settlement contract in a lump sum except as provided in this subsection. A viatical settlement provider may not retain any portion of the proceeds. A viatical settlement provider may make installment payments only if the viatical settlement provider has

purchased an annuity issued by an authorized insurer or a similar financial instrument issued by a financial institution authorized to engage in the business of a financial institution in this state.
(3) Failure by the viatical settlement provider to tender the viatical settlement by the date disclosed to the policyholder or certificate holder renders the contract void.

History: En. Sec. 14, Ch. 298, L. 1997; amd. Sec. 6, Ch. 272, L. 2009.

33-20-1315. Rules -- standards -- bond. The commissioner may, in accordance with the provisions of 33-1-313, adopt rules for the purpose of carrying out this part. In addition, the commissioner:
(1) may establish standards for evaluating reasonableness of payments under viatical settlement contracts for insured individuals who are terminally ill or chronically ill. The authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy. For the purpose of the standards, the commissioner shall consider payments made in regional and national viatical settlement markets to the extent that this information is available, as well as model standards developed by the national association of insurance commissioners. When the insured is not terminally ill or chronically ill, the commissioner may not establish standards for evaluating the reasonableness of payments, except that a viatical settlement provider shall pay an amount greater than the greater of the cash surrender value or the accelerated death benefit then available.
(2) shall require a bond or other mechanism for financial accountability of viatical settlement providers and viatical settlement brokers; and
(3) shall adopt rules to establish:
(a) trade practice standards for the purpose of regulating advertising and solicitation of viatical settlement contracts;
(b) fees that are commensurate with fees charged pursuant to 33-2-708; and
(c) the continuing education program provided for in 33-20-1303(5).

History: En. Sec. 15, Ch. 298, L. 1997; amd. Sec. 8, Ch. 493, L. 2003; amd. Sec. 4, Ch. 552, L. 2005; amd. Sec. 37, Ch. 44, L. 2007; amd. Sec. 12, Ch. 399, L. 2007.

33-20-1316. Service of process. (1) For viatical settlement providers, the provisions of Title 33, chapter 1, part 6, apply.
(2) For viatical settlement brokers, the provisions of 33-17-405 apply.

History: En. Sec. 6, Ch. 227, L. 2001.

33-20-1317. Disclosure of information to viatical settlement purchasers. (1) A viatical settlement provider shall disclose the information specified in this section to a viatical settlement purchaser prior to the date on which the parties sign the viatical settlement purchase agreement.
(2) The viatical settlement purchaser shall date and sign the information disclosure. The viatical settlement provider shall provide a copy of the information disclosure to the viatical settlement purchaser.
(3) The information disclosure must include the following:
(a) that the viatical settlement purchaser will not receive payment until the insured dies;
(b) that the actual annual rate of return on a viatical settlement purchase agreement is dependent upon an accurate projection of the insured's life expectancy and the actual date of the insured's death and that an annual guaranteed rate of return is not determinable;
(c) that the viatical insurance contract is not a liquid purchase since it is impossible to predict the exact timing of its maturity, that the funds are probably not available until the death of the insured, and that there is not an established secondary market for the resale of viatical settlement products by the viatical settlement purchaser;
(d) that the viatical settlement purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical settlement investment;
(e) (i) that the viatical settlement purchaser is responsible for payment of the insurance premium or other costs related to the policy, if required by the terms of the viatical purchase agreement, and that these payments may reduce the viatical settlement purchaser's return and may continue beyond the insured's projected life expectancy; and
(ii) if a party other than the viatical settlement purchaser is responsible for the payment, that the name of that party must also be disclosed;

(f) the amount of the premium that a purchaser is required to pay, if applicable;
(g) that the viatical settlement purchaser may be responsible for payment of the insurance premium or other costs related to the policy if the insured returns to health;
(h) the amount of any fees or other expenses to be charged to the viatical settlement purchaser;
(i) whether or not the viatical settlement purchaser is entitled to a refund of all or part of the investment under the viatical settlement purchase agreement if the policy is later determined to be void;
(j) that group policies:
(i) may contain limitations on conversion rights;
(ii) may require additional premiums to be paid if the group policy is converted; and
(iii) may be terminated and replaced by another group policy, with benefits under the new policy that may be substantially less than those in the original coverage;
(k) for group policies, the name of the party responsible for the payment of any additional premiums;
(l) that there are risks associated with policy contestability, including the risk that the viatical settlement purchaser may not have a claim or may have only a partial claim to death benefits if the insurer rescinds the policy within the contestability period;
(m) whether or not the viatical settlement purchaser will be the beneficiary or owner of the policy and, if the viatical settlement purchaser is the beneficiary, the special risks associated with beneficiary status, including the risk that the beneficiary may be changed;
(n) a description of:
(i) the experience and qualifications of the person who has determined the life expectancy of the insured, such as in-house staff, independent physicians, or specialty firms that weigh medical and actuarial data;
(ii) the information on which the projection of life expectancy is based; and
(iii) the relationship of the person who has made the determination of life expectancy to the viatical settlement provider, if any;
(o) all of the life expectancies obtained in the process of determining the price paid to the policyholder or certificate holder;
(p) a description and amount of any loan or other encumbrance against or in connection with the policy; and
(q) that the viatical settlement purchaser is encouraged to consult with an attorney, accountant, or financial planner who is not affiliated with the viatical settlement broker or viatical settlement provider prior to purchase.

History: En. Sec. 4, Ch. 295, L. 2001; amd. Sec. 72, Ch. 114, L. 2003.

33-20-1318. Conflict of laws. (1) If there is more than one owner on a single life insurance policy and the owners are residents of different states, the viatical settlement contract is governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed upon in writing by all of the owners. The law of the state of the insured governs if equal owners fail to agree in writing upon a state of residence for jurisdictional purposes.
(2) (a) A viatical settlement provider from this state who enters into a viatical settlement contract with a viator who is a resident of another state that has enacted statutes or adopted regulations governing viatical settlement contracts is governed in the effectuation of that viatical settlement contract by the statutes and regulations of the viator's state of residence.
(b) A viatical settlement provider from this state who enters into a viatical settlement contract with a viator who is a resident of another state that has not enacted statutes or adopted regulations governing viatical settlement contracts is governed in the effectuation of that viatical settlement contract by the laws of this state. The viatical settlement provider shall give the viator notice that this state regulates the transaction into which the viator is entering. The viatical settlement provider shall maintain all records required by this state and use forms approved in this state.
(3) If there is a conflict in the laws that apply to a viator and a viatical settlement purchaser in any individual transaction, the laws of the state that apply to the viator take precedence and the viatical settlement provider shall comply with those laws.

History: En. Sec. 7, Ch. 272, L. 2009.