

NORTH CAROLINA DEPARTMENT OF INSURANCE

**HOUSE BILL 359 – THE VIATICAL SETTLEMENT ACT
FREQUENTLY ASKED QUESTIONS AND ANSWERS**

Effective Date

- Q1. As a registered viatical settlement provider, is there a grace period for submitting the viatical settlement provider license application?

Answer: A currently registered viatical settlement provider must file the license application with the Commissioner no later than July 1, 2002 if the provider intends to continue to purchase policies from individuals in North Carolina with life threatening illnesses after April 1, 2002.

- Q2. Our company is currently registered as a viatical settlement provider. Can we purchase policies in the life settlement and senior settlement market after April 1, while waiting on our provider license to be approved?

Answer: No. The provider will only have the authority to purchase policies from individuals with life threatening, catastrophic or chronic illnesses until the Commissioner approves the provider's license.

- Q3. Our company does not purchase any "viatical settlements" and is therefore not currently registered with the Department. We only purchase "senior settlements" or "life settlements". Is there a grace period to continue to operate during the time that the license application is being considered?

Answer: No. The license application packet must be filed and approved by the Commissioner by April 1, 2002, pursuant to NCGS 58-58-310 for any provider to be able to purchase "senior settlements" or "life settlements" on or after April 1, 2002.

- Q4. What is the latest date that providers and/or brokers may continue to conduct viatical settlement business without a license?

Answer: Providers/brokers who have been involved in the "senior settlement" or "life settlement" markets must be licensed as of April 1, 2002 in order to continue to purchase policies from individuals on or after April 1, 2002.

- Q5. Our company is not currently registered as a viatical settlement provider. We purchase "senior settlements" and "life settlements". How do we handle any business in progress if we [are] closed out until our licensed is issued? If an offer has been made prior to April 1st can we close it? Or do we have to drop it?

Answer: An unlicensed provider involved in "Life Settlement" and "Senior Settlement" business in progress prior to the implementation of the Viatical Settlements Act (April 1, 2002) must complete the transaction before April 1, 2002 or the provider will be considered as violating North Carolina insurance law.

- Q6. We are interested in expanding our viatical settlement license. Will we be required to file a life settlement application also, or can our existing license be expanded to cover life settlements as well?

Answer: Viatical settlement providers are currently registered in North Carolina and not licensed. A currently registered viatical settlement provider must file the license application with the Commissioner no later than July 1, 2002 if the provider intends, after April 1, 2002, to continue to purchase policies from individuals in North Carolina with life threatening illnesses

General Questions

- Q1. When will the viatical settlement regulations be finalized?

Answer: The regulations will be proposed on an emergency basis and will be effective on a temporary basis on April 1, 2002.

- Q2. NCGS 58-58-250(c) requires if the policy being viaticated has been in effect for less than five years, the provider must deliver a medical release and copy of the viator's application to the insurer. NCGS 58-58-250(d) requires the insurer to respond to a request for verification of coverage submitted within 30 days after the date the request is received and must indicate whether the insurer intends to pursue an investigation at this time regarding the validity of the policy. It appears the insurer has the ability to contest a policy after the two years permitted by NCGS 58-58-22.

Answer: NCGS 58-58-250(d) does not confer any right on an insurer to contest a policy beyond the 2-year contestability period in NCGS 58-58-22. It just says the insurer shall indicate whether it intends to pursue an investigation about the validity of the policy.

- Q3. Are registered companies going to be required to submit completely new applications for a license? They were required to provide extensive information for registration and should merely submit the additional item(s) to evidence compliance.

Answer: Registered companies are required to submit new applications for a license, complete with supporting documentation.

- Q4. Will existing registrants be allowed to use their previously approved forms or will entirely new forms have to be submitted? If new forms are to be submitted when is the deadline?

Answer: Registered providers are required to submit all of their forms, including those that may have been accepted previously by the Department, for approval with their application for license. Any previously accepted forms should be reviewed by the provider prior to submission and amended to comply with the Act where necessary. Forms that are currently approved for registered providers may continue to be used for purchasing policies pursuant to NCGS 58-58-42, that is from viators with a life threatening illness as long as the provider submits an application for license by July 1, 2002.

Questions regarding this document or House Bill 359 should be directed to Rebecca Hill at 919-733-5060 extension 355.