

**NORTH CAROLINA DEPARTMENT OF INSURANCE  
HOUSE BILL 359 -- SESSION LAW 2001-436  
THE VIATICAL SETTLEMENTS ACT**

The Act, which revised North Carolina's law regulating viatical settlements in accordance with the National Association of Insurance Commissioners' Model, is effective April 1, 2002.

Providers and Brokers transacting business in the State pursuant to NCGS 58-58-42 (registration required) may continue to do that business pending approval of the provider's or brokers' application for license as long as the application is filed with the Commissioner no later than July 1, 2002. The authority granted under NCGS 58-58-42 is limited to viatical settlements involving persons with life threatening illnesses.

The Act broadens the definition of viatical settlements to include any purchase of a life insurance policy from a viator, including what has come to be known as "senior settlements" and "life settlements". Previously, viatical settlements were defined to include the purchase of a policy from an individual who had a life threatening illness only.

The Act also:

- Requires viatical settlement providers and brokers to be licensed and sets out licensing requirements.
- Prohibits persons convicted of a felony involving dishonesty or breach of trust from participating in the business of viatical settlements.
- Requires viatical settlement contracts and disclosure statement forms to be filed with and approved by the Commissioner of Insurance.
- Requires viatical settlement providers and brokers to keep confidential the identity of insureds and their financial and medical information except in specified circumstances.
- Authorizes the Commissioner to investigate or examine any licensee and sets forth the procedures for examinations.
- Specifies disclosures viatical settlement providers and brokers must make to viators (persons entering viatical settlement contracts), including disclosures pertaining to alternatives to viatical settlement contracts, the right to rescind the viatical contract within 15 days, and potential adverse consequences of the settlement.
- Sets forth general public protection rules for viatical settlements that include, among other things, requirements to ensure that a viator consents to the contract, is of sound mind and under no constraint or undue influence.
- Prohibits any person from entering into a viatical settlement contract within a two-year period after an insurance policy is issued unless certain conditions are met.

