

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE INSURANCE DIVISION

January 2016

RE: VIATICAL SETTLEMENT BROKER—INDIVIDUAL LICENSE APPLICATION PROCEDURES

The Viatical Settlement Broker—Individual License Application is attached. The law governing this activity is Minnesota Statutes, Section 60A.957-9585, which may be viewed at www.revisor.leg.state.mn.us. You are advised to review this statute to become familiar with all its provisions. The data furnished on the application or in supporting documents will be used to assess the applicant's qualifications for a license. The license expires annually on the anniversary of its effective date.

- **Viatical Settlement Broker**
“Viatical settlement broker” means a person, including a life insurance producer as provided in section 60A.9572, who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. Exempt from licensure as a viatical settlement broker are attorneys, certified public accountants, and financial planners accredited by a nationally recognized accreditation agency, who are retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.
- **Viatical Settlement Provider**
“Viatical settlement provider” means a person, other than a viator, that enters into or effectuates a viatical settlement contract with a viator resident in Minnesota. There are certain entities that are exempt from licensure, including banks, credit unions, and other licensed lending institutions; a premium finance company making premium finance loans and exempted by the commissioner from the licensing requirement under the premium finance laws that takes an assignment of a life insurance policy solely as collateral for a loan; the issuer of the life insurance policy; and others. A complete list of exemptions is found in Minnesota Statutes, Section 60A.957, subd. 17.
- **Viator**
“Viator” means the owner of a life insurance policy or a certificate holder under a group policy that resides in Minnesota and enters or seeks to enter into a viatical settlement contract.

- **Viatical Settlement Contract**

“Viatical settlement contract” means a written agreement between a viator and a viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance. Viatical settlement contract also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such a policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts, which life insurance contract insures the life of a person residing in this state. In addition, viatical settlement contract includes a premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy where the viator or the insured receives on the date of the premium finance loan a guarantee of a future viatical settlement value of the policy; or the viator or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

The application must include an **antifraud plan** that includes at least the following:

- A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;
- A description of the procedures for reporting possible fraudulent viatical settlement acts to the commissioner;
- A description of the plan for antifraud education and training of underwriters and other personnel; and
- A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

Antifraud plans submitted to the commissioner are privileged and confidential. They are not a public record and not subject to discovery or subpoena in a civil or criminal action.

The \$750 non-refundable fee, in the form of a check made payable to “**Minnesota Department of Commerce,**” must accompany the application.

Mail or deliver the completed, signed application, together with supporting documents and the fee to the Department of Commerce, Licensing Division, 85 – 7th Place East, Suite 500, St. Paul, Minnesota 55101-2198. Should there be any questions, please contact the Licensing Division at (651) 539-1744 or marylou.houde@state.mn.us

On your application, the Minnesota Department of Commerce is requesting information, such as Social Security numbers, that is classified as “private data” under the Minnesota Government Data Practices Act (*Minnesota Statutes*, chapter 13). The Data Practices Act requires any governmental entity asking an individual to supply private data to inform the individual of:

- (a) the purpose and intended use of the requested data;
- (b) whether the individual may refuse to supply the requested data or is legally required to supply it;
- (c) any known consequence of supplying or refusing to supply private data; and
- (d) the identity of other persons or entities authorized by state or federal law to receive the data.

The information contained in (a)-(d) is called a “Tennessee Warning” and is set forth below. The Tennessee Warning also satisfies the federal notice requirement under 5 U.S.C. § 552a Note, which is triggered by our request for Social Security numbers in the application. If the Commissioner of Commerce issues a license to you, all information contained in your application, except any Social Security number(s) and nondesignated addresses, will be public pursuant to *Minnesota Statutes*, section 13.41, subdivision 5.

TENNESSEN WARNING

(a) Purpose and Intended Use of the Data

The data you give us about yourself is needed to:

- Identify you;
- Enable us to contact you when required;
- Assist us in determining your qualifications and eligibility for the license you are applying for;
- Comply with certain federal and state reporting requirements; and
- Evaluate the administration and management of this licensing/registration program.

(b) Disclosure: Mandatory or Voluntary?

You are legally required to supply all of the data required on the application pursuant to Minnesota Statutes, section 60A.9572, subdivision 4. In particular, you must provide your Social Security number pursuant to Minnesota Statutes, section 270C.72, subdivision 4.

(c) Consequences of Supplying or Refusing to Supply Requested Data

If you supply all of the requested data, your application will be processed. If you refuse to supply data requested on the application, your application will not be processed. Whatever information you do supply to the Department will be maintained by us, whether or not the application is approved.

(d) Others Authorized to Receive the Data

The information about you that is collected on the application will be classified as either public or private data. Public data will be accessible to the public. Private data about you will be accessible only to:

- You;
- State personnel who determine your eligibility for licensure;
- Employees of license database vendors;
- The Minnesota Department of Revenue (Minnesota Statutes, section 270C.72, subd. 4);
- The public authority responsible for child support in Minnesota (Minnesota Statutes, section 256.978);
- Any appropriate person(s) or agency, if the Commissioner of Commerce determines that failure to make the data accessible is likely to create a clear and present danger to public health or safety;
- Person(s) authorized by a court order; or
- Any other person authorized by state or federal law.

STATE OF MINNESOTA
 DEPARTMENT OF COMMERCE
 INSURANCE DIVISION
 85 - 7th PLACE EAST, SUITE 500
 ST. PAUL, MINNESOTA 55101-2198
 (651) 539-1748



VIATICAL SETTLEMENT BROKER –
 INDIVIDUAL
 LICENSE APPLICATION

OFFICE USE ONLY	CASHIER USE ONLY
Review _____	
Data Entry _____	

License Number	Processing Date
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Please read the application carefully and complete all information requested. The application must be completed and signed by the applicant. **Please return the completed application to the Department of Commerce at the above address.** Keep a copy of the application for your records. For further information on the application process, applicants may contact the Insurance Division at (651) 539-1748 or via e-mail, tuan.tran@state.mn.us. This application form is available on the Department of Commerce insurance website: www.insurance.state.mn.us. The fee is \$750.

To the Commissioner of Commerce:

The undersigned hereby makes application to engage in business under and pursuant to the provisions of Minnesota Statutes, Section 60A.957-9585.

1. APPLICANT INFORMATION

Full Legal Name _____

Name under which Viatical Settlement Broker business will be conducted in Minnesota (dba or Assumed Name) _____

Principal Street Address and Suite or Room Number (P.O. Boxes are not acceptable) _____

City	State	Zip Code	County
()	()		

Phone Number	Fax Number	E-mail Address
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Social Security Number: _____

2. Do you intend to conduct business on the Internet?

YES NO If YES, list the website address: _____

3. If you answer "YES" to any question below, provide a detailed written explanation and supporting legal documentation with the application.

Have you:

YES NO

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | a. Been a defendant in any lawsuit involving claims of gross negligence, fraud, misrepresentation, mismanagement of funds, conversion, breach of fiduciary duty, breach of conduct, or deceit? |
| <input type="checkbox"/> | <input type="checkbox"/> | b. Been the subject of any inquiry or investigation by the Minnesota Department of Commerce or ever been censured, suspended, revoked, cancelled or terminated or been the subject of any type of administrative action in any state including Minnesota, or by any other federal regulatory agency? |
| <input type="checkbox"/> | <input type="checkbox"/> | c. Been found by any civil court to have failed to account to a client or customer for money or property collected for or on behalf of the client or customer? |
| <input type="checkbox"/> | <input type="checkbox"/> | d. Been a principal or officer of any firm, corporation, partnership, or association, which has filed a bankruptcy petition, been declared bankrupt or filed personal bankruptcy? |
| <input type="checkbox"/> | <input type="checkbox"/> | e. Been charged with, indicted for, or convicted of, or entered a plea to, any criminal offense (felony, gross misdemeanor or misdemeanor), <u>other than</u> traffic violations, in any state or federal court? |
| <input type="checkbox"/> | <input type="checkbox"/> | f. Been notified by the Commissioner of Revenue pursuant to Minn. Stat. § 270.72 of delinquent taxes which are currently owed to the State of Minnesota? |
| <input type="checkbox"/> | <input type="checkbox"/> | g. Have any unclaimed property (unclaimed funds or property over three years old) to report under Minn. Stat. § 345? |

For each question answered "YES," provide a detailed written explanation and supporting legal documentation with the application.

4. Do you have an ownership interest in or connection with any other licensee under Minnesota Statutes, Chapter 60A.957-9585?

YES NO If YES, explain: _____

5. Have you previously held a license under Minnesota Statutes, Chapter 60A.957-9585?

YES NO If YES, explain: _____

6. Is the business for which this application is being submitted currently in existence? YES NO

Date Business Established

Name Under Which Established

7. Do you now operate or have you previously operated a viatical settlement business in any other state?

YES NO If YES, list the state and the license name and type in that state: _____

8. Will any other business licensed/registered by the Minnesota Department of Commerce, or required to be licensed/registered by the Minnesota Department of Commerce, be conducted in addition to that specifically authorized by Chapter 60A.957-9585?

YES NO If YES, explain nature of business: _____

9. **BOND OR OTHER EVIDENCE OF FINANCIAL RESPONSIBILITY**

Each application must be accompanied by either (1) a surety bond executed and issued by an insurer authorized to issue surety bonds in Minnesota or evidence of the existence of a deposit of cash, certificates of deposit, or securities or any combination thereof in the amount of \$250,000, or (2) proof that financial instruments in accordance with these requirements have been filed with one or more states where the applicant is licensed as a viatical settlement broker.

Any surety bond issued pursuant to this clause must be in favor of Minnesota and must specifically authorize recovery by the commissioner on behalf of any person in Minnesota who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the viatical settlement broker. The bond remains in effect until cancellation, which may occur only after 30 days' written notice to the commissioner. Cancellation does not affect the rights of any claimant for any liability incurred or accrued during the period for which the bond was in force.

Please mark the applicable option:

SURETY BOND

1. A surety bond in the amount of \$250,000. **The surety bond must be executed on the form included in this application.** Attach the original copy of the properly executed bond and power of attorney and acknowledgement of principal/surety.

OTHER EVIDENCE OF FINANCIAL RESPONSIBILITY

2. In lieu of a surety bond, the applicant may deposit with the commissioner, or with banks in Minnesota that the applicant designates and the commissioner approves, cash, certificates of deposit, or securities or any combination thereof to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of \$250,000. The cash, certificates of deposit, or securities must be deposited and held to secure the same obligations as would the security device. The depositor shall receive all interest and dividends. The depositor may, with the approval of the commissioner, substitute other securities for those deposited, and is required to do so on written order of the commissioner made for good cause shown.

10. **ENCLOSURES TO ACCOMPANY APPLICATION.** Check the box if the item is included in the application.
- a. Fee. A check (only) for \$750 made payable to “Minnesota Department of Commerce.”
 - b. The name under which the business will be conducted must be exactly the same as the name under which the license will be issued. If operating under any name other than your full legal name, attach a copy of the “Assumed Name Certificate” issued by the **Minnesota Secretary of State.**
 - c. Certificate of good standing from the state of domicile.
 - d. Surety bond or other evidence of financial responsibility in the amount of \$250,000.
 - e. Biographical Statement-See attached.
 - f. Antifraud plan.
 - g. All viatical settlement broker contracts and any other forms, disclosures, or documents planned to be used while engaging in viatical settlement business.
 - h. Affidavit of Applicant-See attached.

AFFIDAVIT OF APPLICANT

I hereby certify that all the information contained in this application and any accompanying documents are true and correct to the best of my knowledge. I certify that this document has not been altered or changed in any manner from the form adopted by the Department of Commerce.

STATE OF _____)
COUNTY OF _____) ss.

Applicant Signature

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, _____.

Notary Public Signature

NOTARY SEAL

State of _____

County of _____

My commission expires _____

BIOGRAPHICAL STATEMENT
THIS FORM MUST BE USED IN ITS ENTIRETY

INSTRUCTIONS

Complete all items, submit and sign all copies. If more space is needed, attach an additional sheet and identify the item by number.

1. Full Name and Social Security Number SSN:

2. Other names you have used or are now using (if none, so state)

3. General Information _____
Date of Birth Place of Birth

4. _____
Business Address City State Phone Email

Residence Address City State Phone Email

_____ Address Phone

5. What is your highest level of education? Check one.

- Less than High School
- High School Graduate
- Some higher education but no degree
- B.S. or B.A. degree
- Masters degree or higher

6. Present occupation or business activities (describe in detail, giving name, address and type of business)

7. Past occupations and business activities (describe in detail or attach a resume)

8. a. Have you ever been discharged from employment for reasons other than lack of work?

YES NO If answer is YES, explain fully.

b. Have you ever been required by a former employer to tender your resignation?

YES NO If answer is YES, explain fully.

9. Give names and address of three (3) business references from within the insurance industry who can attest to your character, reputation, experience, financial responsibility and general fitness.

Name

Address

a.	_____	_____
b.	_____	_____
c.	_____	_____

10. Describe your experience, training, or education so as to be qualified to operate as a viatical settlement broker.

* * * * *

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
VIATICAL SETTLEMENT BROKER SURETY BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____
(name of Viatical Settlement Broker)

as Principal and _____,
(name of surety)

laws of the state of _____, which is authorized to engage in the business of insurance in the State of Minnesota, as Surety, are hereby held and firmly bound to the Department of Commerce of the State of Minnesota, in the sum of _____ (\$_____). Principal and Surety bind themselves, their representatives, successors and assigns, jointly and severally by these presents.

THE PARTIES FURTHER AGREE THAT:

1. The purpose of this obligation, which is required by Minnesota Statutes, Section 60A.9572, subd. 8, is to secure the compliance by Principal with the terms of Minnesota Statutes, Sections 60A.957 to 60A.9585, and any other legal obligations arising out of the Principal's conduct as a Viatical Settlement Broker.
2. This bond is for the benefit of the State of Minnesota and any person suffering damages by reason of Principal's failure to comply with Minnesota Statutes, Sections 60A.957 to 60A.9585 or other legal obligation arising out of Principal's conduct as a Viatical Settlement Broker.
3. If Principal shall violate Minnesota Statutes, Sections 60A.957 to 60A.9585, or other legal obligation arising out of Principal's conduct as a Viatical Settlement Broker, the Commissioner of Commerce, as well as any person damaged as a result of such violation, shall have, in addition to all other legal remedies, a right of action on this bond in the name of the injured party for damages sustained by the injured party as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the Viatical Settlement Broker.
4. This bond shall be in effect from _____, 20____ until December 31, 20_____.

Signed and sealed this _____ day of _____, 20_____.

By: _____ By: _____
(Name of Surety) (Signature of Attorney in Fact of Surety Company)

By: _____ By: _____
(Name of Viatical Settlement Broker) (Signature of Sole Proprietor, Partner, or President)

SIGNATURES MUST BE NOTARIZED ON THE FOLLOWING PAGE

- 1. This page is to be completed by a notary public for both the Principal and the Surety.
- 2. Please attach the **Power of Attorney** and **Certified Copy of the Corporate Resolution** for the Surety listed herein.

ACKNOWLEDGMENT OF PRINCIPAL

STATE OF _____)
 COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, _____,
 by _____.
 (Name of person acknowledged)

NOTARY SEAL

 Notary Public

ACKNOWLEDGMENT OF SURETY

STATE OF _____)
 COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, _____,
 by _____,
 (Name and title of officer or agent)
 of _____,
 (Name of corporation acknowledging)
 a _____ corporation, on behalf of the corporation.
 (state of incorporation)

NOTARY SEAL

 Notary Public