



**STATE OF WEST VIRGINIA**  
**Offices of the Insurance Commissioner**  
**Company Analysis and Examinations Division**

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**Requirements and Procedures for becoming Licensed  
as a Viatical Settlement Provider in West Virginia**

A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the commissioner pursuant to West Virginia Code section §33-13C-3 (a)(1).

**Definitions:**

**Viator** means the owner of a life insurance policy or a certificate holder under a group policy who resides in this state and enters or seeks to enter into a viatical settlement contract. For the purposes of this article, a viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one viator on a single policy and the viators are residents of different states, the transaction shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all viators.

**Viatical settlement provider** means a person, other than a viator, that enters into or effectuates a viatical settlement contract with a viator resident in this state.

The term does not include:

- 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 solely as collateral for a loan;
- ii. The issuer of the life insurance policy;
- iii. An authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity or related provider trust;
- iv. An individual who enters into or effectuates no more than one viatical settlement contract in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;
- v. A financing entity;
- vi. A special purpose entity;
- vii. A related provider trust;
- viii. A viatical settlement purchaser; or
- ix. Any other person that the commissioner determines is not the type of person intended to be covered by the definition of viatical settlement provider.

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**Viaticated policy** means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

**Viatical settlement contract means:**

- A. A written agreement between a viator and a viatical settlement provider or any affiliate of the 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;
- B. 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 in either of the following situations:
  - i. The viator or the insured receives a guarantee of a future viatical settlement value of the policy; or
  - ii. The viator or the insured agrees to sell the policy or any portion of its death benefit on any date following the issuance of the policy.
- C. The transfer or acquisition for compensation or anything of value for ownership or beneficial interest in a trust or other person that owns such a policy if the trust or other person was formed or availed of for the principal purpose of acquiring one or more life insurance policies.

**Licensing Filing Requirements**

The following must be submitted to and approved by the Insurance Commissioner in order to obtain a license to act as a Viatical Settlement Provider in the State of West Virginia:

1. A fully complete Viatical Settlement Provider Licensing Application (VSP-2).
2. A \$600.00 non-refundable application fee. (Annual license renewal fee of \$300.00).
3. Certificate of Good Standing from state of domicile.
4. West Virginia Business License from the Secretary of State's Office.
5. A copy of the last CPA Audit and the latest Examination Report from the state of domicile. If the state of domicile does not require your entity to be examined, please so state.
6. An unaudited financial statement for the most recent quarter.
7. Must provide evidence of possessing a minimum equity of not less than \$250,000 in cash or cash equivalents reflected in the applicant's audited financial statements or through a surety bond executed

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and issued by an insurer authorized to issue bond in the State of West Virginia in the amount of \$250,000.

8. Provide a detailed Plan of Operations.
9. Provide an anti-fraud plan that meets requirements of West Virginia Code §33-13C-14.
10. A NAIC UCAA biographical affidavit for each individual, member, officer or principal owner (ownership of 10% or more of the company) of applicant and each person to be authorized to act under the license. The form can be accessed through the NAIC website at [http://www.naic.org/industry\\_ucaa.htm](http://www.naic.org/industry_ucaa.htm).
11. If the applicant is a member of a holding company system, submit an organizational chart which depicts the affiliate relationships among the members. As used herein, “affiliate” means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the member specified. “Control” shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively 10% or more of the voting securities of any other person.
12. Samples of all forms the provider uses or plans to use to enter into viatical settlements with viators, and viator application forms.
13. Samples of all advertising and other solicitation materials the provider is using or plans to use in the state.
14. Samples of all information brochures.

### **Licensing Renewal Instructions**

On or before the 31<sup>st</sup> day of May of each year, every licensed viatical settlement provider shall submit a completed license application (Form VSP-2) and the applicable renewal fee of three hundred dollars (\$300.00). Each license issued expires on the 1<sup>st</sup> day of June.

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