



## Ohio Revised Code

### Section 3916.06 Required disclosures with application.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

---

(A)(1) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall disclose at least the following to a viator no later than the time all parties sign the application for the viatical settlement contract:

(a) That there are possible alternatives to viatical settlement contracts, including any accelerated death benefits offered under the viator's policy;

(b) That some or all of the proceeds of the viatical settlement may be subject to federal income taxation and state franchise and income taxation, and that assistance should be sought from a professional tax advisor;

(c) That the proceeds of the viatical settlement could be subject to the claims of creditors;

(d) That receipt of the proceeds of the viatical settlement may adversely affect the viator's eligibility for the medicaid program or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;

(e) That the viator has a right to rescind the viatical settlement contract for at least fifteen calendar days after the viator receives the viatical settlement proceeds, as provided in section 3916.08 of the Revised Code. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds to the viatical settlement company.

(f) That funds will be sent to the viator within three business days after the viatical settlement provider has received written acknowledgment from the insurer or group administrator that ownership of the policy or interest in the certificate has been transferred and that the beneficiary has been designated pursuant to the viatical settlement contract;



(g) That entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator and that assistance should be sought from a financial advisor.

(h) That following execution of the viatical settlement contract, the viatical settlement provider or the authorized representative of the viatical settlement provider may contact the insured for the purpose of determining the insured's health status and to confirm the insured's residential or business address and telephone number or for other purposes permitted by law. Any such contact shall be limited to once in any three-month period if the insured has a life expectancy of more than one year or to once per month if the insured has a life expectancy of one year or less.

(2) The viatical settlement provider or viatical settlement broker shall provide the disclosures under division (A)(1) of this section in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker.

(3) Disclosure to a viator under division (A)(1) of this section shall include distribution of a brochure describing the process of viatical settlements. The viatical settlement provider or viatical settlement broker shall use the NAIC's form for the brochure unless another form is developed or approved by the superintendent.

(4) The disclosure document under division (A)(1) of this section shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(B)(1) A viatical settlement provider shall disclose at least the following to a viator prior to the date the viatical settlement contract is signed by all the necessary parties:



- (a) The affiliation, if any, between the viatical settlement provider and the issuer of the policy to be viaticated;
  - (b) The name, business address, and telephone number of the viatical settlement provider;
  - (c) Regarding a viatical settlement broker, the amount and method of calculating the broker's compensation. As used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy or certificate.
  - (d) Any affiliations or contractual arrangements between the viatical settlement provider and the viatical settlement broker;
  - (e) If a policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the possible loss of coverage on the other lives under the policy and that advice should be sought from the viator's insurance agent or the company issuing the policy;
  - (f) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy, and, if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the extent to which the viator's interest in those benefits will be transferred as a result of the viatical settlement contract.
  - (g) That an escrow agent shall provide escrow services to the parties pursuant to a written agreement, signed by the viatical settlement provider, the viatical settlement broker, and the viator. At the close of escrow, the escrow agent will distribute the proceeds of the sale to the viator, minus any compensation to be paid to any other persons who provided services and to whom the viator has agreed to compensate out of the gross amount offered by the viatical settlement purchaser. All persons receiving any form of compensation under the escrow agreement shall be clearly identified, including name, business address, telephone number, and tax identification number.
- (2) The viatical settlement broker shall disclose at least the following to a viator prior to the



execution of the viatical settlement contract:

- (a) The name, business address, and telephone number of the viatical settlement broker;
  - (b) A full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract;
  - (c) Any affiliations or contractual agreements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contract;
  - (d) The amount and method of calculating the viatical settlement broker's compensation and, if any portion of the viatical settlement broker's compensation is taken from the viatical settlement offer, the total amount of the viatical settlement offer and the viatical settlement broker's compensation as a percentage of that total. As used in this division, "compensation" includes anything of value paid or given to a viatical settlement broker related to the settlement of a policy.
- (3) The viatical settlement provider or viatical settlement broker shall conspicuously display the disclosures required under divisions (B)(1) and (2) of this section in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker, as appropriate.
- (C) If the viatical settlement provider transfers ownership or changes the beneficiary of the policy, the viatical settlement provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty days after the change.