

3901-9-02

**Viatical settlement broker license and registration of insurance agents operating as a viatical settlement broker.**

(A) Purpose

The purpose of this rule is to provide standards for applicants applying for initial licensure as a viatical settlement broker in this state or a renewal of a previously issued license and to the registration of insurance agents operating as a viatical settlement broker. This rule also provides form filing requirements and fees for licenses, renewals, and form approvals.

(B) Authority

This rule is promulgated under the authority granted the superintendent of insurance pursuant to sections 3901.011, 3901.041, 3901.19 to 3901.26, 3916.05, and 3916.20 of the Revised Code.

(C) Applicability and scope

This rule applies to all persons applying for or renewing a license or who are currently licensed as a viatical settlement broker in this state and to all persons licensed as a life insurance agent registering or registered to operate as a viatical settlement broker in this state.

(D) Definitions

The definitions from Chapter 3916. of the Revised Code are incorporated by reference herein. The following are terms used in this rule:

- (1) "Applicant" means a person who is applying to be licensed or applying to renew a license as a viatical settlement broker.
- (2) "Incidental" means, for the purpose of a licensed life insurance agent acting as a viatical settlement broker under the statutory exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code, executing not more than five viatical settlement contracts within any annual registration period.
- (3) "Home state" means the state or territory of the United States, including the District of Columbia, in which an insurance agent or viatical settlement broker maintains the life insurance agent's or viatical settlement broker's principal place of residence or principal place of business and is licensed to act as an insurance agent or viatical settlement broker.
- (4) "Insurance agent" shall have the same meaning as is set forth in division (D) of section 3905.01 of the Revised Code.
- (5) "License" means the authority issued by the superintendent to a person to act as

an insurance agent with a life insurance line of authority or as a viatical settlement broker, but that does not create any actual, apparent, or inherent authority in the person to represent or commit an insurer.

(6) "Life line of authority" means authorized in this state to sell life insurance products under an agent license in accordance with subdivision (B)(1) of section 3905.06 of the Revised Code.

(7) "Person" means an individual or a business entity.

(8) "Registered life insurance agent" means an insurance agent who meets the standards set forth in subdivision (C)(2) of section 3916.02 of the Revised Code and who has registered, as set forth in this rule, with the superintendent of insurance. The registered life insurance agent may operate as a viatical settlement broker in this state, provided that the agent's viatical settlement broker activities are incidental to the agent's regular life insurance business activities as defined in this rule.

(9) "Viatical settlement broker activities" means engaging in the viatication of one or more life policies, as defined by division (J) of section 3916.01 of the Revised Code, for compensation, on behalf of a viator or policy owner who resides in this state.

(E) Initial license requirements for viatical settlement broker applicants

(1) Applicants shall submit a complete application, on a form prescribed by the superintendent.

(2) An application shall not be considered complete until the superintendent receives the application completed in its entirety, required attachments, and the applicable fee.

(3) If the superintendent determines that an application is incomplete and will not be considered for licensure, the applicant shall be notified.

(4) All fees paid, as set forth in this rule are non-refundable and non-transferable.

(5) An individual viatical settlement broker license whose license has expired, and who applies for and is issued a new viatical settlement broker license within one year of the prior license expiration, shall be assigned the same "Viatical Settlement Continuing Education" ("VSE") compliance period that the individual was assigned for the individual's previous viatical settlement broker license.

(a) In order to qualify for a new viatical settlement broker license after the expiration of a previous viatical settlement broker license, the individual viatical settlement broker applicant must complete all of the

"VSE" credit requirements that were not completed prior to the expiration of the individual's previous viatical settlement broker license; and

- (b) The viatical settlement broker applicant must provide proof of completion of the required number of approved "VSE" credits by submitting documentation acceptable to the superintendent such as course completion certificates and/or course rosters;
- (c) The viatical settlement broker applicant must pay the "VSE" extension fee, if any "VSE" credits were taken beyond the previous "VSE" compliance period deadline date. The "VSE" extension fee is in addition to any application fees;
- (d) The effective date of the new viatical settlement broker license for applicants whose previous viatical settlement license expired within one year of the date of the new application for a license shall be the date that the Department processes and approves the license application.

(F) Renewal requirements for all licensed viatical settlement brokers

- (1) A license as a viatical settlement broker expires on March thirty-first of the year following the initial issuance or the continuance of a previously renewed license.
- (2) To apply to renew a license to operate as a viatical settlement broker in this state, the applicant shall submit a viatical settlement broker renewal application on a form prescribed by the superintendent, completed in its entirety, all required attachments, and the applicable renewal fee.
- (3) If the superintendent determines that an application is incomplete and will not be considered for licensure, the applicant shall be notified.
- (4) The superintendent shall not renew the license of an individual licensed as a viatical settlement broker if the licensee has not completed the required continuing education within the licensee's assigned biennial compliance period or approved extension period, except in the case of an extension granted pursuant to division (H)(1) in rule 3901-9-03 of the Administrative Code for medical disability or special circumstance.
- (5) The superintendent shall not renew the license of a viatical settlement business entity broker unless the licensee has one actively licensed individual viatical settlement broker designated as the individual who is responsible for the licensee's compliance with the laws of this state.

(G) Use of assumed name by viatical settlement brokers, registered life insurance agents and licensed life insurance agents acting as a viatical settlement broker under the

exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code

(1) A viatical settlement broker, registered life insurance agent, or licensed insurance agents acting as a viatical settlement broker under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code shall use only the name that appears on the broker's or agent's license, except:

(a) A viatical settlement broker, registered life insurance agent, or licensed insurance agent acting as a viatical settlement broker under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code that intends to do business in this state under any name other than the name that appears on the broker's or agent's license shall notify the superintendent in writing prior to using the assumed name in this state.

(b) Viatical settlement brokers, registered life insurance agents, and licensed insurance agents acting as a viatical settlement broker under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code shall include the name appearing on the broker's or agent's license in all advertisements, correspondence, and other documents used by the broker or agent in this state.

(H) Registration and requirements for a life insurance agent to operate as a viatical settlement broker under the exception to the viatical settlement broker licensing set forth in subdivision (C)(2) of section 3916.02 of the Revised Code and is defined in this rule as a registered agent.

(1) Any individual life insurance agent who intends to operate in this state as a viatical settlement broker and meets the requirements of subdivision (C)(2) of section 3916.02 of the Revised Code shall register annually with the superintendent of insurance as a registered life insurance agent on a form designated for that purpose by the superintendent.

(2) Registered life insurance agent registrations expire on March thirty-first of each succeeding year unless the agent submits a new registration form to the superintendent prior to the expiration date each year.

(3) The superintendent shall cancel a licensed insurance agent's registered life insurance agent registration upon the occurrence of the following events:

(a) The registered life insurance agent is granted a viatical settlement broker license in this state; or

(b) The registered life insurance agent no longer meets the requirements of division (C)(2) of section 3916.02 of the Revised Code.

(4) Registered life insurance agents are exempt from the continuing education

requirements set forth in section 3916.03 of the Revised Code. Registered life insurance agents are not prohibited from attending such continuing education courses.

- (5) A registered life insurance agent is only permitted to provide viatical settlement broker services when such activity is incidental to the insurance agent's business activities as defined in this rule.
- (6) All fees, commissions, compensation, or other valuable consideration, related to a viatical or life settlement, shall be paid to a registered agent by the escrow agent from the funds deposited into the escrow account by the viatical settlement provider, unless otherwise required by state or federal law. The registered life agent shall provide proof of registration with the superintendent to the escrow agent, or other payer if required by other state or federal law, prior to receipt of any compensation.
- (7) Registered life insurance agents shall use only forms that have been previously filed by licensed viatical settlement brokers or viatical settlement providers and approved by the superintendent for use in this state.
- (8) All individual life insurance agents acting as viatical settlement brokers under the exemption set forth in subdivision (C)(2) of section 3916.02 of the Revised Code and all registered life insurance agents as defined in this rule are subject to the provisions of Chapter 3916. of the Revised Code and the rules promulgated thereunder.

#### (I) Form filings by licensed viatical settlement brokers

- (1) If a license is issued, and before the licensee can conduct business in this state, the licensee shall submit the forms required to be filed pursuant to division (A) of section 3916.05 of the Revised Code and obtain approval from the superintendent for use in this state.
- (2) Forms shall not be accepted for filing and approval until after a viatical settlement broker license has been issued.
- (3) Forms shall not be accepted for filing from individual life insurance agents acting as viatical settlement brokers under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code or from registered life insurance agents as defined in this rule. All individual life insurance agents acting as viatical settlement brokers and registered life insurance agents under this exception shall use only forms that have been filed by licensed viatical settlement providers and licensed viatical settlement brokers and have been approved by the superintendent for use in this state.

#### (J) Fees for viatical settlement brokers

(1) Viatical settlement broker initial application fees.

The filing fee for the initial application to be licensed as a viatical settlement broker is two hundred dollars.

(2) Viatical settlement broker renewal application fees.

The filing fee for an application for renewal is one hundred dollars.

(3) The fee for an extension request of "VSE" credit requirements within the allowable "VSE" extension period or for completing any "VSE" credit requirements that were not completed prior to the end of the "VSE" compliance period of the expired viatical settlement broker license is one hundred dollars.

(4) The fee for a new form filing is fifty dollars per filing.

(K) Viatical settlement broker obligation to assure reasonable payments to viators

(1) Viatical settlement brokers, registered life agents, and licensed agents operating as a viatical settlement broker under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code shall comply with the requirements set forth in division (L) in rule 3901-9-01 of the Administrative Code.

(2) Failure by a viatical settlement broker, registered life agent, or licensed agent operating as viatical settlement broker under the exception set forth in subdivision (C)(2) of section 3916.02 of the Revised Code, to assure that viators the broker or licensed insurance agent or registered life agent represents are paid at least the required minimum payout as set forth in division (L) in rule 3901-9-01 of the Administrative Code in any viatical or life settlement arranged by the broker or agent shall be grounds for revocation of the broker's or agent's license.

(L) Penalties

A violation of this rule is an unfair and deceptive trade practice under sections 3901.19 to 3901.26 of the Revised Code and a violation of Chapter 3916. of the Revised Code. In addition, a violation of section 3916.02 of the Revised Code is a third degree felony pursuant to section 3916.99 of the Revised Code.

(M) Severability

If any paragraph, subparagraph, term, or provision of this rule be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other paragraph, subparagraph, term, or provision of this rule, but the remaining

paragraphs, subparagraphs, terms, and provisions shall be and continue in full force and effect.

Effective:

R.C. 119.032 review dates:

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Certification

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Date

Promulgated Under:	119.03
Statutory Authority:	3916.05, 3916.20
Rule Amplifies:	3916.01, 3916.02, 3916.03, 3916.05, 3916.16, 3916.20