60A.9572 LICENSE AND BOND REQUIREMENTS.

Subdivision 1. **Provider or broker license required.** A person shall not operate as a viatical settlement provider or viatical settlement broker in this state without first obtaining a license from the commissioner of the state of residence of the viator.

Subd. 2. **Agent license required.** A person shall not operate as a viatical settlement investment agent in this state without first obtaining a license from the commissioner of the state of residence of the viatical settlement purchaser. If there is more than one purchaser of a single policy and the purchasers are residents of different states, the viatical settlement purchase agreement shall be governed by the law of the state in which the purchaser having the largest percentage ownership resides or, if the purchasers hold equal ownership, the state of residence of one purchaser agreed upon in writing by all purchasers.

Subd. 3. **Life insurance producer.** (a) An insurance producer who is currently licensed with the life line of authority and has been licensed in good standing for at least one year is deemed to meet the licensing requirements of this section and is permitted to operate as a viatical settlement broker.

(b) Not later than 30 days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the commissioner that the life insurance producer is acting as a viatical settlement broker on a form prescribed by the commissioner, and shall pay any applicable fee to be determined by the commissioner. Notification includes an acknowledgment by the life insurance producer that the life insurance producer will operate as a viatical settlement broker in accordance with sections 60A.957 to 60A.9585.

(c) The insurer that issued the policy being viaticated is not responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

(d) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

Subd. 4. **Application.** An application for a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and these applications shall be accompanied by the fees specified in section 60A.964.

Subd. 5. **Renewals.** A license may be renewed from year to year on the anniversary date upon payment of the annual renewal fees specified in section 60A.964. Failure to pay the fees by the renewal date results in expiration of the license.

Subd. 6. **Disclosures.** The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders who hold more than ten percent of the shares of the company, partners, officers, members, and employees, and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member of the legal entity who may materially influence the applicant's conduct meets the standards of sections 60A.957 to 60A.9585.

Subd. 7. **Legal entity license.** A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers, viatical settlement brokers, or viatical settlement investment agents, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

Subd. 8. **Investigation.** Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

(1) if a viatical settlement provider, has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;

(4) if a viatical settlement provider or a viatical settlement broker, has demonstrated evidence of financial responsibility in a format prescribed by the commissioner through either a surety bond executed and issued by an insurer authorized to issue surety bonds in this state or a deposit of cash, certificates of deposit, or securities or any combination thereof in an amount to be determined by the commissioner. The commissioner shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this clause have been filed with one or more states where the applicant is licensed as a viatical settlement provider or a viatical settlement broker. The commissioner may ask for evidence of financial responsibility at any time the commissioner deems necessary. Any surety bond issued pursuant to this clause shall be in favor of this state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the viatical settlement provider or a viatical settlement broker;

(5) if a legal entity, provides a certificate of good standing from the state of its domicile; and

(6) if a viatical settlement provider or viatical settlement broker, has provided an antifraud plan that meets the requirements of section 60A.9583.

Subd. 9. **Consent to service of process.** The commissioner shall not issue a license to a nonresident applicant, unless a written designation of an agent for service of process is filed and maintained with the commissioner or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

Subd. 10. **Duty to supplement information.** A viatical settlement provider, viatical settlement broker, or viatical settlement investment agent shall provide to the commissioner new or revised information about officers, ten percent or more stockholders, partners, directors, members, or designated employees within 30 days of the change.

Subd. 11. **Training required.** An individual licensed as a viatical settlement broker shall complete on an annual basis six hours of training related to viatical settlements and viatical settlement transactions, as required by the commissioner; provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to subdivision 3 shall not be subject to the requirements of this subdivision. Any

person failing to meet the requirements of this subdivision is subject to the penalties imposed by the commissioner.

History: *2009 c 62 s 3; 2010 c 384 s 11*