

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R120-06**

Effective September 18, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 2 and 5, NRS 679B.130; §§3, 4 and 8, NRS 688C.170; §§6 and 7, NRS 688C.230.

A REGULATION relating to insurance; requiring providers and brokers of viatical settlements to provide certain forms of financial security as a condition of doing business; and providing other matters properly relating thereto.

**Section 1.** Chapter 688C of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

**Sec. 2.** *“Provider of viatical settlements” has the meaning ascribed to it in NRS 688C.080.*

**Sec. 3. 1.** *A provider of viatical settlements shall, as a condition of doing business, deposit with the Commissioner and keep in full force and effect a surety bond in the amount of \$500,000. In lieu of the bond, a provider of viatical settlements may:*

*(a) Maintain a policy of insurance covering the errors and omissions of the provider of viatical settlements and any partner, member, officer or employee of the provider of viatical settlements; or*

*(b) Deposit with the Commissioner, under such terms and conditions as the Commissioner may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065.*

*2. A provider of viatical settlements must provide to the Commissioner, upon request, proof of his compliance with the provisions of this section.*

*3. A provider of viatical settlements shall not cancel the surety bond or insurance policy or withdraw any cash or security deposited with the Commissioner unless, at least 30 days before the cancellation or withdrawal, he provides written notice to the Commissioner.*

**Sec. 4.** *1. A broker of viatical settlements shall, as a condition of doing business, deposit with the Commissioner and keep in full force and effect a surety bond in the amount of \$250,000. In lieu of the bond, a broker of viatical settlements may:*

*(a) Maintain a policy of insurance covering the errors and omissions of the broker of viatical settlements and any partner, member, officer or employee of the broker of viatical settlements; or*

*(b) Deposit with the Commissioner, under such terms and conditions as the Commissioner may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065.*

*2. A broker of viatical settlements must provide to the Commissioner, upon request, proof of his compliance with the provisions of this section.*

*3. A broker of viatical settlements shall not cancel the surety bond or insurance policy or withdraw the cash or other security deposited with the Commissioner unless, at least 30 days before the cancellation or withdrawal, he provides written notice to the Commissioner.*

**Sec. 5.** NAC 688C.010 is hereby amended to read as follows:

688C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 688C.020 to 688C.120, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 6.** NAC 688C.220 is hereby amended to read as follows:

688C.220 1. On or before March 1 of each year, a provider of viatical settlements shall submit a report to the Commissioner that must include:

(a) The viatical settlements that the provider of viatical settlements entered into during the previous calendar year with a viator who is a resident of this State ; ~~and~~

(b) The viatical settlements that the provider of viatical settlements entered into in which a death occurred during the previous calendar year ~~and~~;

*(c) A statement by any partner, member, officer or authorized representative of the provider of viatical settlements certifying that the provider of viatical settlements was in compliance with the provisions of section 3 of this regulation during the previous calendar year;*

*(d) An attestation by any partner, member, officer or authorized representative of the provider of viatical settlements that the information contained in the report is true and accurate to the best of his knowledge, information and belief;*

*(e) The signature of any partner, member, officer or authorized representative of the provider of viatical settlements; and*

*(f) The date on which the partner, member, officer or authorized representative of the provider of viatical settlements signed the report.*

2. For each viatical settlement that a provider of viatical settlements must report pursuant to paragraph (a) of subsection 1, the provider of viatical settlements shall submit to the Commissioner the following information:

(a) The date on which the viatical settlement was entered;

(b) The state in which the viator resided at the time of the viatical settlement;

- (c) The mean life expectancy in months of the insured at the time of the viatical settlement;
  - (d) The face value of the benefit of the policy purchased;
  - (e) The net death benefit of the policy purchased;
  - (f) The estimated total of premiums that will be required to be paid to keep the policy in force for the mean life expectancy of the insured;
  - (g) The net amount paid to the viator;
  - (h) If the policy was purchased from a person other than the original viator, the name of the person from whom the policy was purchased;
  - (i) Whether the policy was issued as an individual policy or as part of a group policy;
  - (j) Whether the viatical settlement was entered into during the contestable period in the policy, the period for exclusion for deaths because of suicide in the policy or both the contestable period and the period for exclusion for deaths because of suicide in the policy;
  - (k) The type of funding used to pay the viatical settlement;
  - (l) The applicable rating by a rating service recognized by the insurance industry of the insurance company that issued the policy at the time the viator enters into the viatical settlement;
- and
- (m) Whether the insured suffered from:
    - (1) A disease of the cardiovascular system;
    - (2) A disease of the central nervous system;
    - (3) A disease of the peripheral nervous system;
    - (4) A disease associated with old age;
    - (5) An infectious disease;
    - (6) A disease of the autoimmune system;

- (7) A disease of the liver or renal system;
- (8) Neoplasms;
- (9) Nonneoplastic diseases of the pulmonary system; or
- (10) A disease or injury not listed in subparagraphs (1) to (9), inclusive.

3. For each viatical settlement that a provider of viatical settlements must report pursuant to paragraph (b) of subsection 1, the provider of viatical settlements shall submit to the Commissioner the following information:

- (a) The date upon which the viatical settlement was entered;
- (b) The state in which the viator resided at the time of the viatical settlement;
- (c) The mean life expectancy in months of the insured at the time of the viatical settlement;
- (d) The net death benefit received by the provider of viatical settlements;
- (e) The total of premiums paid to keep the policy in force before the death of the insured;
- (f) The net amount paid to the viator;
- (g) The date of death of the insured;
- (h) The number of months between the date of the viatical settlement and the date of death of the insured;
- (i) The difference between:
  - (1) The number of months between the date of the viatical settlement and the date of death of the insured; and
  - (2) The mean life expectancy in months of the insured as determined by the provider of viatical settlements;
- (j) Whether the policy was issued as an individual policy or as part of a group policy;

(k) Whether the viatical settlement was entered into during the contestable period in the policy, the period for exclusion for deaths because of suicide in the policy or both the contestable period and the period for exclusion for deaths because of suicide in the policy; and

(l) Whether the insured died from:

- (1) A disease of the cardiovascular system;
- (2) A disease of the central nervous system;
- (3) A disease of the peripheral nervous system;
- (4) A disease associated with old age;
- (5) An infectious disease;
- (6) A disease of the autoimmune system;
- (7) A disease of the liver or renal system;
- (8) Neoplasms;
- (9) Nonneoplastic diseases of the pulmonary system; or
- (10) A disease or injury not listed in subparagraphs (1) to (9), inclusive.

4. The first report required pursuant to subsection 1 must be filed with the Commissioner on or before March 1, 2005, for the period of January 1, 2004, to December 31, 2004.

**Sec. 7.** NAC 688C.230 is hereby amended to read as follows:

688C.230 1. On or before March 1 of each year, a broker of viatical settlements shall submit a report to the Commissioner detailing the business of viatical settlements conducted by the broker of viatical settlements during the previous calendar year.

2. The report submitted pursuant to subsection 1 must contain:

- (a) A title called "Broker Reporting Form";

(b) The complete name and license number of the broker of viatical settlements submitting the report;

(c) The calendar year for which the report is submitted;

(d) A list of all providers of viatical settlements with whom the broker arranged a viatical settlement;

(e) *A statement certifying that the broker of viatical statements was in compliance with the provisions of section 4 of this regulation during the previous calendar year;*

(f) An attestation that the information contained in the report is true and accurate to the best knowledge, information and belief of the broker of viatical settlements submitting the report;

~~(g)~~ (g) The signature of the broker of viatical settlements submitting the report; and

~~(g)~~ (h) The date on which the broker of viatical settlements signed the report.

3. The first report required pursuant to subsection 1 must be filed with the Commissioner on or before March 1, 2005, for the period of January 1, 2004, to December 31, 2004.

**Sec. 8.** A provider of viatical settlements or broker of viatical settlements is not required to comply with the provisions of section 3 or 4 of this regulation until December 15, 2006.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R120-06**

The Commissioner of Insurance adopted regulations assigned LCB File No. R120-06 which pertain to chapter 688C of the Nevada Administrative Code on July 30, 2006.

**Notice date:** 5/10/2006  
**Hearing date:** 6/22/2006

**Date of adoption by agency:** 7/30/2006  
**Filing date:** 9/18/2006

**INFORMATIONAL STATEMENT**

A hearing was held on June 22, 2006, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning annuity suitability.

Public comment was solicited by posting notice of the hearing in the following public locations: Division's Carson City Office, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Capitol Press Room, and the Division's Las Vegas Office.

The Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

No one from the public was in attendance at the hearing. Oral testimony was provided by Debbie Thurner, Chief of Producer Licensing, representing the Division. The Division received two written comments on the proposed regulation from Doug Head, Executive Director of the Life Insurance Settlement Association (LISA). A summary of LISA's written comments is as follows:

- Does not dispute that the Commissioner has authority to make the proposed regulation.
- The amount of financial responsibility proposed in the regulation is one of the highest among the states and would cause a financial burden on viatical settlement providers and brokers, as well as a "barrier" to entry for viatical settlement providers and brokers.
- Could result in existing licensees discontinuing business in Nevada.
- Will ultimately harm Nevada's life insurance consumers by giving them fewer options to sell their life insurance policy or access the true market value of their policy in an otherwise competitive market.



There were no revisions made to the Proposed Regulation, LCB File No. R120-06, dated June 20, 2006. The Commissioner has issued an Order adopting the proposed regulation, pursuant to the workshop and hearing, as a permanent regulation of the Division.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The proposed regulation will have some immediate effect on the industry. However, many forms of financial responsibility are accepted. The viatical business is a prospering industry and there should be no long term adverse effects.
- (b) On the public: The proposed regulation will have a beneficial, immediate and long term effect on the public by partially protecting viators (Nevada consumers) or investors from total loss of monies.

The Division may incur some minor additional expense to enforce the proposed regulation that cannot be measured at this time.

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **06.463**  
LCB File No. **R120-06**

**REGULATION CONCERNING VIATICAL  
SETTLEMENT PROVIDER AND BROKER  
FINANCIAL RESPONSIBILITY.**

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**SUMMARY OF PROCEEDINGS  
AND ORDER**

**SUMMARY OF PROCEEDINGS**

A public workshop, as required by Nevada Revised Statute (NRS) 233B.061, on the proposed regulation concerning viatical settlement provider and broker financial responsibility was held before Gary Cooper, Chief, Self-Insured Workers' Compensation Section, on June 22, 2006, at the office of the Department of Business and Industry, Division of Insurance (Division), in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before Gary Cooper, Chief, Self-Insured Workers' Compensation Section, on June 22, 2006, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

No one from the public was in attendance at the hearing. Oral testimony was provided by Debbie Thurner, representing the Division. The Division received two written comments on the proposed regulation, both from Doug Head, Executive Director of the Life Insurance Settlement Association (LISA). A summary of LISA's comments is as follows:

While LISA does not dispute the Commissioner's authority for the proposed regulation, they feel that the amount of financial responsibility the Division has proposed is one of the highest among the states and would impose a financial burden on viatical settlement providers and brokers. LISA believes it would represent a "barrier" to entry for viatical settlement

providers and brokers and could result in existing licensees discontinuing business in the state. As a result, LISA believes that, while intending to protect the Nevada consumer, the proposed regulation will ultimately harm Nevada's life insurance consumers by giving them fewer options to sell their life insurance policy or access the true market value of their policy in an otherwise competitive market.

After the presentation of the proposed regulation and the written comments, there were no revisions made to LCB File No. R120-06.

**RECOMMENDED ORDER OF THE HEARING OFFICER**

It is recommended that the proposed regulation regarding viatical settlement provider and broker financial responsibility, LCB File No. R120-06, be adopted as a permanent regulation of the Division.

SO RECOMMENDED this \_\_\_\_\_ day of July, 2006.

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GARY COOPER  
Hearing Officer

**ORDER OF THE COMMISSIONER**

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation regarding viatical settlement provider and broker financial responsibility, LCB File No. R120-06, be adopted as a permanent regulation of the Division.

SO ORDERED this \_\_\_\_\_ day of July, 2006.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance