

# Alaska

## Title 21. Insurance

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### § 21.27.040. Application for license

(a) Application for a license shall be made to the director upon forms prescribed by the director. As a part of or in connection with the application, the applicant shall furnish information concerning the applicant's identity, personal history, experience, business record, purposes, and other pertinent facts that the director may reasonably require. The applicant shall declare, subject to penalty of denial, nonrenewal, suspension, or revocation of a license issued by the director, that the statements made in or in connection with the application are true, correct, and complete to the best of the applicant's knowledge and belief. Payment of an application fee established under AS 21.06.250 must be submitted with the application.

(b) Repealed.

(c) In addition to any other penalty provided by law, a person wilfully misrepresenting a fact required to be disclosed in or in connection with the application or other information required by this section is subject to the penalties provided for under AS 21.27.440.

(d) The director may require an applicant or licensee at any time, including at the time of license renewal, to supply current information of the type made in or supplemental to an application.

(e) As part of the application required by (a) of this section, an applicant shall furnish to the director a full set of fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check so that the director may obtain criminal justice information as provided under AS 12.62 about the applicant. The director shall submit the completed fingerprint card and fees to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

(f) If, through inaction, an applicant fails to complete the application process, the applicant's application filed with the director under (a) of this section is considered withdrawn. The withdrawal becomes effective 120 days after the filing of the application. If the director has initiated administrative action with respect to an application, withdrawal becomes effective at the time and on the conditions required by an order issued under this chapter.

### **§ 21.36.055. Violation of viatical settlement provisions prohibited**

A person may not violate the viatical settlement transaction provisions of AS 21.89.110 or regulations adopted under AS 21.89.110.

### **§ 21.89.110. Viatical settlement transactions**

(a) The director shall regulate the transaction of viatical settlement contracts for the protection of viators, insureds, and insurers. The authority of the director under this subsection extends to the regulation of transactions between a viator and a viatical settlement provider and between a viator and a person acting as an agent in viaticating a life insurance policy, while the authority of the commissioner extends to the regulation of viatical settlement investments as provided under AS 45.55.905(c).

(b) A viatical settlement provider, representative, or broker must apply for a license with the director, submit information required by the director, and pay the required fee established under AS 21.06.250 with the application for licensure. A person may not act as or represent to be a viatical settlement provider, representative, or broker relative to a subject resident, located, or to be performed in this state unless licensed under this section.

(c) Viatical settlement contract forms, viator and insured disclosure statements, and viatical settlement advertising materials must be filed by the viatical settlement provider, representative, or broker with the director and must be approved by the director.

(d) The director may examine a licensed viatical settlement provider, representative, or broker, or an applicant for a viatical settlement provider, representative, or broker license. The cost of the examination shall be paid by the person examined under AS 21.06.160.

(e) Except as may be required in the course of conduct of the division's responsibilities, a viatical settlement provider, representative, or broker may not disclose to another person the identity of the viator or insured of an insurance policy that is the subject of a viatical settlement contract. The viator may waive this prohibition against disclosure if the waiver is in writing and is signed by the viator.

(f) The director may adopt regulations to implement this section, including standards for

(1) viatical settlement provider, representative, and broker reporting requirements and records retention;

(2) viator and insured privacy protection;

(3) viatical settlement contract provisions, advertising materials, and filing requirements;

(4) payments to viators or insureds, including evaluating the reasonableness of payments under a viatical settlement contract;

- (5) licensing requirements, including license qualification, disqualification, and renewal;
- (6) financial accountability of viatical settlement providers;
- (7) the relationship and responsibilities of insurers, viators, insureds, and viatical settlement providers, representatives, and brokers in the transaction of a viatical settlement contract;
- (8) viator, insured, and insurer protection, including full and fair disclosure setting out the manner and content of required disclosures and filing requirements; and
- (9) assessment of fees to cover the cost of regulating viatical settlement contracts, providers, representatives, and brokers.

(g) A violation of this section or a regulation adopted under this section is an unfair trade practice and subject to penalty under AS 21.36.

(h) In this section,

(1) “transaction” means, with respect to viatical settlement contracts,

(A) solicitation and inducement;

(B) preliminary negotiations;

(C) effectuation of a viatical settlement contract;

(D) transaction of matters subsequent to the effectuation of the viatical settlement contract and arising out of it;

(2) “viatical settlement broker”

(A) means a person that, on behalf of a viator or insured and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator or insured and one or more viatical settlement providers;

(B) does not include a person acting as an attorney or accountant retained to represent a viator or insured and compensated by or at the direction of the viator or insured;

(3) “viatical settlement contract”

(A) means a written agreement between a viator or insured and a viatical settlement provider for the sale, assignment, transfer, devise, or bequest to the viatical settlement provider by the viator or insured of all or a portion of the death benefit or ownership of a life insurance policy for consideration that is less than the expected death benefit of the life insurance policy;

(B) includes a contract for a loan or other financial transaction secured primarily by an individual or group life insurance policy;

(C) does not include

(i) a loan by a life insurance company under the terms of a life insurance contract;

(ii) a loan secured by the cash value of a policy;

(iii) the assignment of a life insurance policy as collateral for a loan to a bank, saving bank, savings and loan association, credit union, or other licensed lending institution;

(iv) the exercise by the viator or insured of an accelerated benefits provision under the terms of the life insurance contract; or

(v) the sale, assignment, transfer, devise, or bequest of a life insurance policy for less than the expected death benefit by a viator or insured to a friend or family member if the friend or family member does not enter into more than one agreement in a calendar year;

(4) “viatical settlement provider” means a person, other than a viator or insured, that enters into a viatical settlement contract, including a person that

(A) obtains financing for the purchase, acquisition, transfer, or other assignment of one or more viatical settlement contracts, viaticated policies, or interests in viatical settlement contracts or viaticated policies; or

(B) sells, assigns, transfers, pledges, hypothecates, or disposes of one or more viatical settlement contracts, viaticated policies, or interests in viatical settlement contracts or viaticated policies;

(5) “viatical settlement representative”

(A) means a person that is an authorized agent of a viatical settlement provider or broker and that acts or aids in any manner in the transaction of a viatical settlement contract;

(B) does not include

(i) a person acting as an attorney or an accountant, or a person exercising a power of attorney granted by a viator or insured; or

(ii) a person retained to represent a viator or insured and compensated by or at the direction of the viator or insured;

(6) “viaticated policy” means a life insurance policy that has been acquired by a viatical settlement provider under a viatical settlement contract;

(7) “viator” means the owner of a life insurance policy insuring the life of an individual who enters or seeks to enter into a viatical settlement contract.