

18 NCAC 06A .1319 REQUIRED DISCLOSURES: VIATICAL SETTLEMENT CONTRACTS

(a) Disclosures Prior to Payment of Consideration. On or before the date the viatical settlement purchaser remits consideration pursuant to the purchase agreement, the purchaser shall be provided with the following written disclosures in addition to any disclosures set forth in G.S. 78A-13:

- (1) An explanation of how the insurance company will be notified of the insured's death and who will be responsible for filing a claim for benefits with the insurance company;
- (2) The name and address of the person who will receive notices from the insurance company, including, but not limited to, notices of a change in status of the insurance policy, a change in premium payments, a reduction in death benefits on a converted policy, and the end of the term for a term life insurance policy; and
- (3) The specific services to be provided by the escrow agent, and the fees charged by the escrow agent.

(b) Disclosures Prior to Closing. At least five business days prior to the date the purchase agreement is signed, the purchaser shall receive the following written disclosures in addition to any disclosures set forth in G.S. 78A-13:

- (1) No one can accurately predict the life expectancy of the insured. Many factors, including the nature of an insured's illness and improvements in medical treatments, can significantly affect the accuracy of a life expectancy prediction. Life expectancy predictions for persons who are elderly but not ill may be especially inaccurate;
- (2) Because Internal Revenue Code Section 408(a)(3) requires that no part of the trust funds of an individual retirement account may be invested in life insurance contracts, the Internal Revenue Service may disallow viatical settlement contracts held as investments inside IRA's; and
- (3) If an investment in a viatical settlement contract is made with qualified retirement plan funds, the investor may have difficulty taking the mandatory distributions beginning at age 70 1/2 because liquid funds may not be available from the plan's investments.

(c) Disclosure of the information listed in G.S. 78A-13 and in this Rule shall not be deemed to relieve any person of the duty to comply with the antifraud provisions of the North Carolina Securities Act.

History Note: Authority G.S. 78A-8; 78A-9; 78A-10; 78A-11; 78A-12; 78A-13; 78A-17(9); 78A-49; Temporary Adoption Eff. April 1, 2002; Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.