



DEPARTMENT OF

Professional &  
Financial Regulation

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

## MAINE BUREAU OF INSURANCE

### A Consumer's Guide to...

### Selling Your Life Insurance Policy

*What You Should Know About Viatical and Life Settlements*

#### The Basics

##### ***What is a Viatical or Life Settlement?***

***Viatical settlement:*** occurs when a person with a terminal or a chronic illness sells his or her life insurance policy to a third party (a viatical & life settlement provider), for a cash payment that is less than the full amount of the death benefit. The person selling the life insurance policy is the "viator." VIATICAL comes from the Latin word (vi-at-i-cum), meaning: "Supplies for a journey."

***Life settlement:*** occurs when a person who does not have a terminal or chronic illness sells his or her life insurance policy to a third party (a viatical & life settlement provider) in return for a cash payment of less than the full amount of the death benefit.

##### ***Who pays future premiums?***

A viatical & life settlement provider is the person or company that becomes the new policy owner in return for a payment made to the seller. As the new policy owner, the viatical & life settlement provider must pay any premiums that are due, and eventually collects the full amount of the death benefit from the insurance company.

##### ***Who can buy and who can sell life insurance policies?***

All viatical & life settlement providers doing business in Maine must hold a Maine license as a viatical & life settlement provider and must comply with Maine law.

Only the owner of the life insurance policy can sell the policy to a viatical & life settlement provider. If you are the insured, but not the owner, your consent to the transaction will be required if the sale involves an examination of your medical records.

If your employer provides you with a group life insurance policy, check with the insurance company that issued the policy to see if you are the owner or can become the owner. In many cases, if you leave your job the insurance company allows your employer to transfer the policy to you (which means that you become the owner of the policy).

## **Get the Facts Before you Decide**

Before you enter into any viatical or life settlement transaction you should:

- Contact a viatical & life settlement broker or viatical & life settlement provider for information about settlements.
- Understand how the process works.
- Contact the Maine Bureau of Insurance for information about current laws that may protect you, and to confirm that the broker or company you are considering doing business with is properly licensed in Maine.
- Know that you don't have to accept any settlement offer.
- Know that you must be truthful when you answer application questions.
- Know that in Maine you have a certain period of time to change your mind after signing a settlement agreement or after receiving the proceeds. You may cancel the contract without question on the earlier of the following: the 30<sup>th</sup> day after the date the viatical settlement contract is signed by both parties or the 15<sup>th</sup> day after the date you receive the check.

If you decide to cancel the transaction within the given time period, you will need to return the proceeds you were paid and any premiums the buyer paid.

- Contact a professional tax advisor to find out the tax implications. Proceeds are only tax-free under certain circumstances.
- Consult with your own financial advisor who knows your personal financial needs and who can advise you of other financial consequences if you sell your policy.
- Know that your creditors could claim the proceeds.
- Find out if you'll lose any public assistance benefits such as food stamps or Medicaid before electing to receive any proceeds
- Know that you will be required to provide certain medical and personal information.

## Consider all your Options

A viatical or life settlement may or may not be the right choice for you. If you need money, you may have other choices besides selling your life insurance policy to a viatical & life settlement provider:

- Check to see if your policy has an "Accelerated Death Benefit" provision or find out if your life insurance carrier will offer accelerated death benefits. An accelerated death benefit is a feature of a life insurance policy that typically pays some or all of the policy's death benefit before the insured dies. It could pay you a substantial portion of your policy's death benefit and you wouldn't have to sell your policy to a third party. This usually has little or no cost.
- Find out if your life insurance policy has any cash value. You may be able to use some of the cash value to meet your immediate needs and keep your policy in force for your beneficiaries without having to sell it to a third party. You may also be able to use the cash value as security for a loan from a financial institution.
- Contact your life insurance carrier to learn about other options under your policy.

## Questions to Ask Before You Sell Your Policy

- Do I still need life insurance protection?
- Will I qualify for a new life insurance policy in the future?
- If I sell my policy, how will the viatical & life settlement provider decide how much money I will be offered?
- Is this an employer or other group policy? If so, do I need their permission to sell it?
- If I sell my policy, who will be the legal owner?
- After I sell my policy, can the policy be resold?
- Will investors have specific information about me, my family, or my health status?

## Consumer Tips

Decide whether to sell your policy directly to a viatical & life settlement provider or whether to go through a viatical settlement broker who will do the comparison shopping for you. (You should not have to pay a fee for this.)

If you don't use a viatical settlement broker, comparison shop on your own. Talk to at least three viatical & life settlement companies to make sure you are getting a fair deal.

Check all application forms for accuracy, especially information about your medical history.

Make sure the viatical & life settlement provider agrees to put your settlement proceeds in escrow with an independent party or financial institution to be sure your funds are safe during the transfer. The escrow account must be maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

Understand whether buyers may learn your identity when they buy your policy and whether they will know certain medical and personal information about you, such as your address and life expectancy.

If you are interested in selling your life insurance policy, contact the Maine Bureau of Insurance to receive more information.

If you are buying someone else's life insurance policy as an investment or if you are asked to invest in or buy a life settlement, contact the Securities Division of Maine's Department of Professional & Financial Regulation at (207) 624-8551.

Additionally, if you've been contacted by someone who wants you to buy a policy and then sell it immediately, contact the Maine Bureau of Insurance. This activity may be considered fraudulent and the parties may be prosecuted by the appropriate authorities.

### **The Maine Bureau of Insurance**

34 State House Station  
Augusta ME 04333  
800-300-5000; TTY Relay 711  
Email: [www.insure.pfr@maine.gov](mailto:www.insure.pfr@maine.gov)  
Web: [www.maine.gov/insurance](http://www.maine.gov/insurance)