This Checklist Applies to the Following Types of Insurance (TOI):

* VS01.000 Viatical Settlements

[Note: sections below can be varied to match the type of product; not all provisions included below will apply to all products – they are in place as an example of contents for the checklist, so check if they apply before leaving them in place.]

|  |  |
| --- | --- |
|  | **FILER: PLEASE TYPE IN THE SERFF FILING NUMBER AND EACH FORM NUMBER SUBMITTED FOR DOI APPROVAL IN THIS FILING, AND LIST THE TOI THAT APPLIES** |
|  | [SERFF filing number and form numbers here] | [TOI here] |
| **(DOI reviewer)****Check as completed** | **Review Requirements** | **Reference** | **Description** | **Page number, form name & number if separate document, or N/A** |
|  | **COVER PAGE** |
| 🞏 | Full Company name and address | [§ 44-350](https://nebraskalegislature.gov/laws/statutes.php?statute=44-350) | Advisable to include contact phone and email for questions. |  |
| 🞏 | Descriptive title | § 44-502(14) | A brief description of the type of product.  |  |
| 🞏 | Form number | NE Filing Requirement | Must be on all pages including cover, in the lower left corner  |  |
|  | **DEFINITIONS** |
| 🞏 | Policy and Statutory definitions, if any  | § 44-1102210 Neb. Admin. Code, ch. 76, § 002 | Include definitions for terms used in contract. |  |
|  | **STANDARD MANDATORY PROVISIONS** |
| 🞏 | Policies containing provisions for double or additional indemnity | 210 Neb. Admin. Code, ch. 76, § 007.01 | additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may thereafter designate, or in the absence of a beneficiary, to the estate of the viator. |  |
| 🞏 | Payment of Proceeds (Method) | [§ 44-1109](https://nebraskalegislature.gov/laws/statutes.php?statute=44-710.03&print=true) (4)210 Neb.Admin. Code, ch. 76, § 007.02 | Payment shall be by means of wire transfer to the account of the viator or by certified check or cashier's check. |  |
| 🞏 | Payment of Proceeds (Manner) | 210 Neb. Admin. Code, ch. 76, § 007.03 | Payment of the proceeds shall be made in a lump sum except where the viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. |  |
| 🞏 | If a viatical settlement allows the viator to retain an interest in the policy, the contract shall contain the following provisions: | 210 Neb. Admin. Code, ch. 76, § 007.06 (A-C) |  |  |
| 🞏 |  | 210 Neb. Admin. Code, ch. 76, § 007.06A | A provision that the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company. |  |
| 🞏 |  | 210 Neb. Admin. Code, ch. 76, § 007.06B | A provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either; |  |
| 🞏 |  | 210 Neb. Admin. Code, ch. 76, § 007.06B (1) | Advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy; or |  |
| 🞏 |  | 210 Neb. Admin. Code, ch. 76, § 007.06B (2) | Send a copy of the instrument sent from the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy; and |  |
| 🞏 |  | 210 Neb. Admin. Code, ch. 76, § 007.06C | A provision that apportions the premiums to be paid by the viatical settlement provider and the viator. It is permissible for the viatical settlement contract to specify that all premiums shall be paid by the viatical settlement provider. The contract may also require that the viator reimburse the viatical settlement provider for the premiums attributable to the retained interest. |  |
| 🞏 | Disclosures by viatical settlement provider | § 44-1108 (2)(a-f) | These disclosures must be provided to the viator no later than the time the viatical settlement contract is signed by all parties. Must be conspicuously displayed in the viatical settlement contract or in a separate document. |  |
| 🞏 | Disclosures by viatical settlement broker | § 44-1108 (3)(a-e) | These disclosures must be provided to the viator no later than the time the viatical settlement contract is signed by all parties. Must be conspicuously displayed in the viatical settlement contract or in a separate document. |  |
| 🞏 | Disclosures by viatical settlement provider | § 44-1108 (4) | If the viatical settlement mentions transfers of ownership or changes of the beneficiary of the insurance policy, the provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty days after the change. If the viatical settlement does not included the disclosure in the contract provide your assurance that the insured will be informed of the change as required.  |  |
| 🞏 | Recission | § 44-1109(3) | Viator must be given an absolute right to rescind the contract before the earlier of sixty calendar days after the date on which the viatical settlement contract is executed by all parties or thirty calendar days after the viatical settlement proceeds have been sent to the viator as provided in subsection (5) of this section. |  |
| 🞏 | Instructions to Viator | § 44-1109(4) | The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. |  |
| 🞏 | Voidability | § 44-1109(5) | Failure to tender consideration to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to subdivision (1)(g) of section 44-1108 renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. |  |
| 🞏 | Fraud Prevention | § 44-1112(2)(a) | Application and Contract must contain the following or substantially similar statement: “Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.” |  |
| 🞏 | Reasonable Payments | 210 Neb. Admin. Code, ch. 76, § 005 | Payments must be determined to be reasonable based on the life expectancy of the viator, as follows:<6 months=80%≥6 months, <12 months=70%≥12 months, <18 months=65%≥18 months, <24 months=60%≥24 months=50%The percentage may be reduced by [5%] for viaticating a policy written by an insurer rated less than the highest [4] categories by A.M. Best, or a comparable rating by another rating agency. |  |
|  |  **APPLICATION** |
| 🞏 | Fraud Prevention | § 44-1112(2)(a) | Application and Contract must contain the following or substantially similar statement: “Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.” |  |
| 🞏 | Ambiguous questions | Nebraska filing requirement | Questions must be clear and specific. Ambiguous or open ended questions not allowed. |  |
| 🞏 | Disclosures by viatical settlement provider or broker | § 44-1108 (1)(a-j)  | These disclosures must be provided to the viator no later than the time the application is signed by all parties. Must be in a separate document. |  |
|  | **ADDITIONAL DOCUMENTS****If a form is used for the following, it must be included in the submission** |
| 🞏 | Physician Letter of Competency | § 44-1109(1)(a)(i)  | Physician must provide a written statement that viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract |  |
| 🞏 | Consent of Insured for release of medical records | § 44-1109(1)(a)(ii)  | Insured must consent to the release of their medical records to a viatical settlement provider, a viatical settlement broker, and the insurance company that issued the life insurance policy covering the life of the insured. |  |
| 🞏 | Notice to insurance company | § 44-1109(1)(b) | Written notice to the insurer that policy has or will become a viaticated policy. To be provided within 20 days after execution. |  |
| 🞏 | Witnessed Consent | § 44-1109(1)(e) | witnessed document in which the viator consents to the viatical settlement contract and represents that the viator has a full and complete understanding of the viatical settlement contract, that the viator has a full and complete understanding of the benefits of the life insurance policy, that the viator acknowledges he or she is entering into the viatical settlement contract freely and voluntarily, and, for persons with a terminal or chronic illness or condition, that the viator acknowledges the insured has a terminal or chronic illness and the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued. |  |
|  | **DISALLOWED PROVISIONS****By checking the following boxes in your submission, the company provides assurances that the following disallowed provisions are not included in the product being submitted, or that the following practices are not implemented in any way in association with the product.** |
| 🞏 | Retention of proceeds not permissible | 210 Neb. Admin. Code, ch. 76, § 007.03 | Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible. |  |
| 🞏 | No finder’s fee, commission, or other compensation | 210 Neb. Admin. Code, ch. 76, § 007.05 | A viatical settlement provider or viatical settlement broker shall not pay or offer to pay any finder's fee, commission or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a viatical settlement broker, with respect to the viatical settlement. |  |
| 🞏 | Dependents | 210 Neb. Admin. Code, ch. 76, § 007.04 | Provider may not discriminate between viators with and without dependents |  |
|  | **SUPPORTING DOCUMENTS REQUIRED****Reference name of separate document in right column.** |
| 🞏 | Flesch /readability certification | [§ 44-3405](https://nebraskalegislature.gov/laws/statutes.php?statute=44-3405)NE Filing Requirement | Minimum score of 40.  |  |
| 🞏 | Redlined version  | NE Filing Requirement | If replacing existing previous version.  |  |
| 🞏 | NE Filing Form List | NE Filing Requirement | Use page 2 for additional forms. |  |
|  | **EXPLANATION FOR ANY ITEMS MARKED NOT APPLICABLE** |
| 🞏 | Please use this space provide an explanation for any checklist requirement marked “N/A” to avoid receiving an objection in SERFF. |

**CERTIFICATION OF COMPLIANCE**

I, the undersigned authorized filer, hereby certify that this filing complies with applicable Nebraska statutes, regulations, Bulletins and guidelines, to the best of my knowledge. This filing contains no unusual or controversial content according to insurance industry norms. The forms included in this filing contain no unfair, unjust, inequitable, misleading or deceptive provisions or language. I am authorized to sign on behalf of the Company identified below.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Company

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Typed Name of Authorized Filer (Electronic Signature) Date