

§6808. Disclosure

With each application for a settlement, a settlement provider shall disclose in writing at least the following disclosures to a viator. Disclosure to a viator must include distribution of a brochure, approved by the superintendent, describing the process of settlements. The disclosures must be provided to the viator no later than the time the application for the settlement contract is signed by all parties and must be signed by the viator and the settlement provider and provide the following information: [PL 2003, c. 636, §10 (AMD).]

1. Alternatives or options. Possible alternatives to or options that can be used in conjunction with settlement contracts, including, but not limited to, accelerated death benefits or policy loans offered by the issuer of the life insurance policy;
[PL 2003, c. 636, §10 (AMD).]

2. Federal tax implications. The fact that some or all of the proceeds of the settlement contract may be free from federal income tax under the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191; and that restrictions, qualifications and other tax laws, particularly those of the state in which the viator resides, may apply and assistance should be sought from a professional tax advisor;
[PL 2003, c. 636, §10 (AMD).]

3. State tax implications. The fact that some or all of the proceeds of the settlement may be free from state income tax under section 6809 and that restrictions, qualifications and other tax laws, including those of the state in which the viator resides, may apply and assistance should be sought from a professional tax advisor;
[PL 2003, c. 636, §10 (AMD).]

4. Claims of creditors. The fact that proceeds of the settlement could be subject to the claims of creditors;
[PL 2003, c. 636, §10 (AMD).]

5. Effect on government benefits. The fact that receipt of the proceeds of the settlement may adversely affect the recipient's eligibility for Medicaid or other means-based government programs, benefits or entitlements and that advice should be obtained from the appropriate agencies;
[PL 2003, c. 636, §10 (AMD).]

6. Right to rescind. The fact that the viator has the right to rescind a settlement contract before the earlier of 30 calendar days after the date upon which the settlement contract is executed by all parties or 15 calendar days after the date upon which payment is received by the viator as provided in section 6809. If exercised by the viator, rescission is effective only if both notice of the rescission is given and repayment of all proceeds and any premiums, loans and loan interest to the settlement provider is made within the rescission period. If the insured dies during the rescission period, the settlement contract is deemed to have been rescinded, subject to repayment of all proceeds and any premiums, loans and loan interest to the settlement provider;
[PL 2003, c. 636, §10 (AMD).]

7. Potential reduction or loss of benefits to beneficiary. The fact that entering into a settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator and that assistance should be sought from a financial adviser;
[PL 2003, c. 636, §10 (AMD).]

7-A. Potential inability to purchase additional insurance. The fact that, because of limits insurers may set on the amount of insurance on a single life, a change of ownership could leave the viator without the ability to purchase insurance in the future to replace the transferred policy;
[PL 2009, c. 376, §9 (NEW).]

8. Funds. The fact that funds will be sent to the viator within 3 business days after the settlement provider has received the insurer's or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated; and [PL 2003, c. 636, §10 (NEW).]

9. Privacy disclosure. A statement containing the following language: "All medical, financial or personal information solicited or obtained by a settlement provider or settlement producer about an insured, including the insured's identity or the identity of family members, a spouse or a significant other, may be disclosed as necessary to effect the settlement contract between the viator and the settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every 2 years." [PL 2003, c. 636, §10 (NEW).]

SECTION HISTORY

PL 1997, c. 430, §1 (NEW). PL 1997, c. 430, §2 (AFF). PL 2003, c. 636, §10 (AMD). PL 2009, c. 376, §9 (AMD).

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