

K.A.R. 40-2-31. Minimum requirements for viaticating a policy. (a) As used in this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Insured” means the person covered under a policy being considered for viatication.

(2) “Life expectancy” means the average number of months that the insured can be expected to live as determined by the viatical settlement provider, as defined in K.S.A. 40-5002 and amendments thereto, considering medical records and appropriate experiential data.

(3) “Policy” has the meaning specified in K.S.A. 40-5002, and amendments thereto.

(4) “Viaticating a policy” means selling a policy to a viatical settlement provider pursuant to a viatical settlement contract.

(5) “Viator” has the meaning specified in K.S.A. 40-5002, and amendments thereto.

(b)(1) The viatical settlement provider shall apply the following schedule and pay the viator at least the minimum of one of the following, after deducting any outstanding loans against the policy:

(A) 80 percent of the remaining death benefit, if the insured has a life expectancy of less than six months;

(B) 70 percent of the remaining death benefit, if the insured has a life expectancy of at least six months but less than 12 months;

(C) 65 percent of the remaining death benefit, if the insured has a life expectancy of at least 12 months but less than 18 months; or

(D) 60 percent of the remaining death benefit, if the insured has a life expectancy of 18 months but less than 25 months.

(2) If the insured has a life expectancy of 25 months or more, the viatical settlement provider shall pay the viator the greater of the cash surrender value or the accelerated death benefit of the policy, after deducting any outstanding loans.

(3) Unless the cash surrender value is paid, any percentage or amount specified in this subsection may be reduced by five percent for viaticating a policy written by an insurer rated less than the highest four categories by a rating agency. (Authorized by K.S.A. 40-103, K.S.A. 40-5015; implementing K.S.A. 40-5015; effective July 12, 2024.)