

# Senate Study Bill 3268

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON WARNSTADT)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for life settlement arrangements, providing  
2 penalties, providing for fees, and providing an effective  
3 date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 5896XC 82  
6 da/rj/24

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1 1 DIVISION I  
1 2 LIFE SETTLEMENT CONTRACTS  
1 3 Section 1. NEW SECTION. 508G.1 SHORT TITLE.  
1 4 This chapter may be cited as the "Life Settlements Act".  
1 5 Sec. 2. NEW SECTION. 508G.2 DEFINITIONS.  
1 6 As used in this chapter, unless the context otherwise  
1 7 requires:  
1 8 1. "Advertisement" means any written, electronic, or  
1 9 printed communication or any communication by means of  
1 10 recorded telephone messages or transmitted on radio,  
1 11 television, the internet, or similar communications media,  
1 12 including film strips, motion pictures, and videos, published,  
1 13 disseminated, circulated, or placed before the public,  
1 14 directly or indirectly, for the purpose of creating an  
1 15 interest in or inducing a person to purchase or sell, assign,  
1 16 devise, bequest, or transfer the death benefit or ownership of  
1 17 a life insurance policy or an interest in a life insurance  
1 18 policy pursuant to a life settlement contract.  
1 19 2. "Broker" means a person who, on behalf of an owner and  
1 20 for a fee, commission or other valuable consideration, offers  
1 21 or attempts to negotiate a life settlement contract between an  
1 22 owner and a provider. A broker represents only the owner and  
1 23 owes a fiduciary duty to the owner to act according to the  
1 24 owner's instructions, and in the best interest of the owner,  
1 25 notwithstanding the manner in which the broker is compensated.  
1 26 A broker does not include an attorney, certified public  
1 27 accountant, or financial planner retained in the type of  
1 28 practice customarily performed in the attorney's,  
1 29 accountant's, or planner's professional capacity to represent  
1 30 the owner whose compensation is not paid directly or  
1 31 indirectly by the provider or any other person, except the  
1 32 owner.  
1 33 3. "Business of life settlement" means an activity  
1 34 involved in but not limited to offering to enter into,  
1 35 soliciting, negotiating, procuring, effectuating, monitoring,  
2 1 or tracking, of life settlement contracts.  
2 2 4. "Chronically ill" means any of the following:  
2 3 a. Being unable to perform at least two activities of  
2 4 daily living such as eating, toileting, transferring, bathing,  
2 5 dressing, or continence.  
2 6 b. Requiring substantial supervision to protect the  
2 7 individual from threats to health and safety due to severe  
2 8 cognitive impairment.  
2 9 c. Having a level of disability similar to that described  
2 10 in paragraph "a" as determined by the United States secretary  
2 11 of health and human services.  
2 12 5. "Commissioner" means the commissioner of insurance.  
2 13 6. a. "Financing entity" means a person who is an  
2 14 underwriter, placement agent, lender, purchaser of securities,  
2 15 purchaser of a policy or certificate from a provider, credit  
2 16 enhancer, or any entity that has a direct ownership in a  
2 17 policy or certificate that is the subject of a life settlement

2 18 contract, if all of the following apply:

2 19 (1) The person's principal activity related to the  
2 20 transaction is providing funds to effect the life settlement  
2 21 contract or purchase of one or more policies.

2 22 (2) The person has an agreement in writing with one or  
2 23 more providers to finance the acquisition of one or more life  
2 24 settlement contracts.

2 25 b. "Financing entity" does not include a nonaccredited  
2 26 investor or purchaser.

2 27 7. "Financing transaction" means a transaction in which a  
2 28 licensed provider obtains financing from a financing entity  
2 29 including but not limited to any secured or unsecured  
2 30 financing, any securitization transaction, or any securities  
2 31 offering which either is registered or exempt from  
2 32 registration under federal and state securities law, including  
2 33 chapter 502.

2 34 8. "Fraudulent life settlement act" includes any of the  
2 35 following:

3 1 a. An act or omission committed by a person who, knowingly  
3 2 and with intent to defraud, for the purpose of depriving  
3 3 another of property or for pecuniary gain, commits, or permits  
3 4 its employees or its agents to engage in, an act including but  
3 5 not limited to any of the following:

3 6 (1) Presenting, causing to be presented, or preparing with  
3 7 knowledge and belief that it will be presented to or by a  
3 8 provider, premium finance lender, broker, insurer, insurance  
3 9 producer, or any other person, false material information, or  
3 10 concealing material information, as part of, in support of, or  
3 11 concerning a fact material to one or more of the following:

3 12 (a) An application for the issuance of a life settlement  
3 13 contract or insurance policy.

3 14 (b) The underwriting of a life settlement contract or  
3 15 insurance policy.

3 16 (c) A claim for payment or benefit pursuant to a life  
3 17 settlement contract or life insurance policy.

3 18 (d) Premiums paid on a life insurance policy.

3 19 (e) Payments and changes in ownership or beneficiary made  
3 20 in accordance with the terms of a life settlement contract or  
3 21 life insurance policy.

3 22 (f) The reinstatement or conversion of a life insurance  
3 23 policy.

3 24 (g) In the solicitation, offer to enter into, or  
3 25 effectuation of a life settlement contract or life insurance  
3 26 policy.

3 27 (h) The issuance of written evidence of a life settlement  
3 28 contract or life insurance policy.

3 29 (i) Any application for or the existence of, or any  
3 30 payments related to, a loan secured directly or indirectly by  
3 31 any interest in a life insurance policy.

3 32 (j) A stranger-originated life insurance policy.

3 33 (2) Failing to disclose to the insurer where the request  
3 34 for such disclosure has been asked for by the insurer that the  
3 35 prospective insured has undergone a life expectancy evaluation  
4 1 by any person or entity other than the insurer or its  
4 2 authorized representatives in connection with the issuance of  
4 3 the life insurance policy.

4 4 (3) Employing any device, scheme, or artifice to defraud  
4 5 in the business of life settlements.

4 6 (4) In the solicitation, application or issuance of a life  
4 7 insurance policy, employing any device, scheme or artifice in  
4 8 violation of state insurable interest laws.

4 9 b. In the furtherance of a fraud, or to prevent the  
4 10 detection of a fraud, a person commits or permits its employee  
4 11 or its agent to do any of the following:

4 12 (1) Remove, conceal, alter, destroy, or sequester from the  
4 13 commissioner the assets or records of a licensee or other  
4 14 person engaged in the business of life settlements.

4 15 (2) Misrepresent or conceal the financial condition of a  
4 16 licensee, financing entity, insurer, or other person.

4 17 (3) Transact the business of life settlements in violation  
4 18 of laws requiring a license, certificate of authority, or  
4 19 other legal authority for the transaction of the business of  
4 20 life settlements.

4 21 (4) File with the commissioner or the chief insurance  
4 22 regulatory official of another jurisdiction a document  
4 23 containing false information or otherwise concealing  
4 24 information about a material fact from the commissioner.

4 25 (5) Engage in embezzlement, theft, misappropriation, or  
4 26 conversion of moneys, funds, premiums, credits, or other

4 27 property of a provider, broker insurer, insured, owner, or any  
4 28 other person engaged in the business of life settlement

4 29 contracts or insurance policy.

4 30 (6) Knowingly and with intent to defraud, enter into,  
4 31 broker, or otherwise deal in a life settlement contract, the  
4 32 subject of which is a life insurance policy that was obtained  
4 33 by presenting false information concerning any fact material  
4 34 to the life insurance policy or by concealing, for the purpose  
4 35 of misleading another, information concerning any fact  
5 1 material to the life insurance policy, where the owner or the  
5 2 owner's agent intended to defraud the life insurance policy's  
5 3 issuer.

5 4 (7) Attempt to commit, assist, aid, or abet in the  
5 5 commission of, or conspiracy to commit an act or omission  
5 6 specified in this subsection.

5 7 (8) Misrepresent the state of residence of an owner to be  
5 8 a state or jurisdiction that does not have a law substantially  
5 9 similar to this chapter for the purpose of evading or avoiding  
5 10 the provisions of this chapter.

5 11 9. "Insured" means the person covered under the life  
5 12 insurance policy being considered for sale in a life  
5 13 settlement contract.

5 14 10. "Life expectancy" means the arithmetic mean of the  
5 15 number of months the insured under the life insurance policy  
5 16 to be settled can be expected to live as determined by a life  
5 17 expectancy company considering medical records and appropriate  
5 18 experiential data.

5 19 11. "Life insurance policy" means an individual or group  
5 20 policy, group certificate, contract, or arrangement of life  
5 21 insurance owned by a resident of this state, regardless of  
5 22 whether delivered or issued for delivery in this state.

5 23 12. "Life insurance producer" or "producer" means any  
5 24 person licensed in this state as a resident or nonresident  
5 25 insurance producer who has received qualification or authority  
5 26 for life insurance coverage or a life line of coverage  
5 27 pursuant to title XIII, subtitle I of the Code.

5 28 13. a. "Life settlement contract" means a written  
5 29 agreement entered into between a provider and an owner,  
5 30 establishing the terms under which compensation or anything of  
5 31 value will be paid, which compensation or thing of value is  
5 32 less than the expected death benefit of the life insurance  
5 33 policy or life insurance certificate, in return for the  
5 34 owner's assignment, transfer, sale, devise, or bequest of the  
5 35 death benefit or any portion of a life insurance policy or  
6 1 life insurance certificate for compensation, provided,  
6 2 however, that the minimum value for a life settlement contract  
6 3 shall be greater than a cash surrender value or accelerated  
6 4 death benefit available at the time of an application for a  
6 5 life settlement contract.

6 6 b. "Life settlement contract" also includes the transfer  
6 7 for compensation or value of ownership or beneficial interest  
6 8 in a trust or other entity that owns such policy if the trust  
6 9 or other entity was formed or availed of for the principal  
6 10 purpose of acquiring one or more life insurance contracts,  
6 11 which life insurance contract insures the life of a person  
6 12 residing in this state.

6 13 c. "Life settlement contract" also includes any of the  
6 14 following:

6 15 (1) A written agreement for a loan or other lending  
6 16 transaction, secured primarily by an individual or group life  
6 17 insurance policy.

6 18 (2) A premium finance loan made for a life insurance  
6 19 policy on or before the date of issuance of the life insurance  
6 20 policy where any of the following applies:

6 21 (a) The loan proceeds are not used solely to pay premiums  
6 22 for the life insurance policy and any costs or expenses  
6 23 incurred by the lender or the borrower in connection with the  
6 24 financing.

6 25 (b) The owner receives on the date of the premium finance  
6 26 loan a guarantee of the future life settlement value of the  
6 27 life insurance policy.

6 28 (c) The owner agrees on the date of the premium finance  
6 29 loan to sell the life insurance policy or any portion of its  
6 30 death benefit on any date following the issuance of the life  
6 31 insurance policy.

6 32 d. "Life settlement contract" does not include any of the  
6 33 following:

6 34 (1) A life insurance policy loan by a life insurance  
6 35 company pursuant to the terms of the life insurance policy or  
7 1 accelerated death provisions contained in the life insurance  
7 2 policy, whether issued with the original life insurance policy  
7 3 or as a rider.

7 4 (2) A premium finance loan or any loan made by a bank or

7 5 other licensed financial institution, provided that a default  
7 6 on such loan or a transfer of the life insurance policy in  
7 7 connection with such default is pursuant to an agreement or  
7 8 understanding with any other person for the purpose of evading  
7 9 regulation under this chapter.

7 10 (3) A collateral assignment of a life insurance policy by  
7 11 an owner.

7 12 (4) A loan made by a lender, provided such loan is not  
7 13 described in paragraph "c", and is not otherwise a life  
7 14 settlement contract.

7 15 (5) An agreement where all the parties (a) are closely  
7 16 related to the insured by blood or law or (b) have a lawful  
7 17 substantial economic interest in the continued life, health,  
7 18 and bodily safety of the person insured, or are trusts  
7 19 established primarily for the benefit of such parties.

7 20 (6) Any designation, consent, or agreement by an insured  
7 21 who is an employee of an employer in connection with the  
7 22 purchase by the employer, or trust established by the  
7 23 employer, of life insurance on the life of the employee.

7 24 (7) A bona fide business succession planning arrangement  
7 25 that is between any of the following:

7 26 (a) One or more shareholders in a corporation or between a  
7 27 corporation and one or more of its shareholders or one or more  
7 28 trusts established by its shareholders.

7 29 (b) One or more partners in a partnership or between a  
7 30 partnership and one or more of its partners or one or more  
7 31 trusts established by its partners.

7 32 (c) One or more members in a limited liability company or  
7 33 between a limited liability company and one or more of its  
7 34 members or one or more trusts established by its members.

7 35 (8) An agreement entered into by a service recipient, or a  
8 1 trust established by the service recipient, and a service  
8 2 provider, or a trust established by the service provider, who  
8 3 performs significant services for the service recipient's  
8 4 trade or business.

8 5 (9) Any other contract, transaction, or arrangement that  
8 6 qualifies as a life settlement contract but that the  
8 7 commissioner determines is not of the type intended to be  
8 8 regulated by this chapter.

8 9 14. "Net death benefit" means the amount of the life  
8 10 insurance policy or life insurance certificate to be settled  
8 11 less any outstanding debts or liens.

8 12 15. "Owner" means the owner of a life insurance policy or  
8 13 a life insurance certificate holder under a group policy, with  
8 14 or without a terminal illness, who enters or seeks to enter  
8 15 into a life settlement contract.

8 16 a. "Owner" includes but is not limited to an owner of a  
8 17 life insurance policy or a life insurance certificate holder  
8 18 under a group policy that insures the life of an individual  
8 19 with a terminal or chronic illness or condition.

8 20 b. "Owner" does not include any of the following:

8 21 (1) A provider or other licensee under this chapter.

8 22 (2) A qualified institutional buyer as defined in 17  
8 23 C.F.R. } 230.144 promulgated by the United States securities  
8 24 and exchange commission under the federal Securities Act of  
8 25 1933, as amended, 15 U.S.C. } 77a et seq.

8 26 (3) A financing entity.

8 27 (4) A special purpose entity.

8 28 (5) A related provider trust.

8 29 16. "Premium finance loan" means a loan made primarily for  
8 30 the purposes of making premium payments on a life insurance  
8 31 policy, which loan is secured by an interest in such life  
8 32 insurance policy.

8 33 17. a. "Provider" means a person, other than an owner,  
8 34 who enters into or effectuates a life settlement contract with  
8 35 an owner.

9 1 b. "Provider" does not include any of the following:

9 2 (1) A bank, savings bank, savings and loan association, or  
9 3 credit union.

9 4 (2) A licensed lending institution or creditor or secured  
9 5 party pursuant to a premium finance loan agreement which takes  
9 6 an assignment of a life insurance policy or certificate issued  
9 7 pursuant to a group life insurance policy as collateral for a  
9 8 loan.

9 9 (3) The insurer of a life insurance policy or rider to the  
9 10 extent of providing accelerated death benefits, riders, or  
9 11 cash surrender value.

9 12 (4) A natural person who enters into or effectuates not  
9 13 more than one agreement in a calendar year for the transfer of  
9 14 a life insurance policy or certificate issued pursuant to a  
9 15 group life insurance policy, for compensation or anything of

9 16 value less than the expected death benefit payable under the  
9 17 policy.

9 18 (5) A purchaser.

9 19 (6) An authorized or eligible insurer that provides stop  
9 20 loss coverage to a provider, purchaser, financing entity,  
9 21 special purpose entity, or related provider trust.

9 22 (7) A financing entity.

9 23 (8) A special purpose entity.

9 24 (9) A related provider trust.

9 25 (10) A broker.

9 26 (11) An accredited investor or qualified institutional  
9 27 buyer as defined, respectively, in 17 C.F.R. } 230.501(a) or  
9 28 17 C.F.R. } 230.144A as promulgated by the United States  
9 29 securities and exchange commission under the federal  
9 30 Securities Act of 1933, as amended, 15 U.S.C. } 77a et seq.,  
9 31 who purchases a life settlement policy from a provider.

9 32 18. "Purchased policy" means a policy or group certificate  
9 33 that has been acquired by a provider pursuant to a life  
9 34 settlement contract.

9 35 19. "Purchaser" means a person who pays compensation or  
10 1 anything of value as consideration for a beneficial interest  
10 2 in a trust which is vested with, or for the assignment,  
10 3 transfer or sale of, an ownership or other interest in a life  
10 4 insurance policy or a certificate issued pursuant to a group  
10 5 life insurance policy which has been the subject of a life  
10 6 settlement contract.

10 7 20. a. "Related provider trust" means a titling trust or  
10 8 other trust established by a licensed provider or a financing  
10 9 entity for the sole purpose of holding the ownership or  
10 10 beneficial interest in purchased policies in connection with a  
10 11 financing transaction.

10 12 b. In order to qualify as a related provider trust, the  
10 13 trust must have a written agreement with the licensed provider  
10 14 under which the licensed provider is responsible for ensuring  
10 15 compliance with all statutory and regulatory requirements and  
10 16 under which the trust agrees to make all records and files  
10 17 relating to life settlement transactions available to the  
10 18 commissioner as if those records and files were maintained  
10 19 directly by the licensed provider.

10 20 21. "Settled policy" means a life insurance policy or life  
10 21 insurance certificate that has been acquired by a provider  
10 22 pursuant to a life settlement contract.

10 23 22. "Special purpose entity" means a corporation,  
10 24 partnership, trust, limited liability company, or other legal  
10 25 entity formed solely to provide, either directly or  
10 26 indirectly, access to institutional capital markets as  
10 27 follows:

10 28 a. For a financing entity or provider.

10 29 b. In connection with a transaction in which the  
10 30 securities in the special purpose entity are acquired by the  
10 31 owner or by a qualified institutional buyer as defined in 17  
10 32 C.F.R. } 230.144 promulgated by the United States securities  
10 33 and exchange commission under the federal Securities Act of  
10 34 1933, as amended, 15 U.S.C. } 77a et seq.

10 35 c. In connection with a transaction in which the  
11 1 securities pay a fixed rate of return commensurate with  
11 2 established asset-backed institutional capital markets.

11 3 23. "Stranger-originated life insurance" means the  
11 4 procurement of new life insurance by persons or entities that  
11 5 lack insurable interest on the insured and, at policy  
11 6 inception, such person or entity owns or controls the policy  
11 7 or the majority of the death benefit in the life insurance  
11 8 policy and the insured or the insured's beneficiaries receive  
11 9 little or none of the proceeds of the death benefits of the  
11 10 life insurance policy.

11 11 24. "Terminally ill" means having an illness or sickness  
11 12 that can reasonably be expected to result in death in  
11 13 twenty-four months or less.

11 14 Sec. 3. NEW SECTION. 508G.3 LICENSING REQUIREMENTS.

11 15 1. A person, wherever located, shall not act as a provider  
11 16 or broker with an owner or multiple owners residing in this  
11 17 state, without first having obtained a license from the  
11 18 commissioner. If there is more than one owner on a single  
11 19 policy and the owners are residents of different states, the  
11 20 life settlement contract shall be governed by the law of the  
11 21 state in which the owner having the largest percentage  
11 22 ownership resides or, if the owners hold equal ownership, the  
11 23 state of residence of one owner agreed upon in writing by all  
11 24 owners.

11 25 2. An application for a provider or broker license shall  
11 26 be made to the commissioner by the applicant on a form

11 27 prescribed by the commissioner, and the application shall be  
11 28 accompanied by a fee in an amount established by the  
11 29 commissioner, provided, however, that a license or renewal fee  
11 30 for a provider license shall be reasonable and that a license  
11 31 or renewal fee for a broker license shall not exceed the fee  
11 32 established for an insurance producer.

11 33 3. A life insurance producer who has been duly licensed as  
11 34 a resident insurance producer with a life line of authority in  
11 35 this state or in the life insurance producer's home state for  
12 1 at least one year and is licensed as a nonresident producer in  
12 2 this state shall be deemed to meet the licensing requirements  
12 3 of this section and shall be permitted to operate as a broker.

12 4 4. Not later than thirty days from the first day of  
12 5 operating as a broker, the life insurance producer shall  
12 6 notify the commissioner that the life insurance producer is  
12 7 acting as a broker on a form prescribed by the commissioner,  
12 8 and shall pay an applicable fee established by rules adopted  
12 9 by the commissioner. Notification shall include an  
12 10 acknowledgment by the life insurance producer that the life  
12 11 insurance producer will operate as a broker in accordance with  
12 12 this chapter.

12 13 5. The insurer that issued the life insurance policy that  
12 14 is the subject of a life settlement contract shall not be  
12 15 responsible for any act or omission of a broker, provider, or  
12 16 purchaser arising out of or in connection with the life  
12 17 settlement transaction, unless the insurer receives  
12 18 compensation for the placement of a life settlement contract  
12 19 from the broker, provider, or purchaser in connection with the  
12 20 life settlement contract.

12 21 6. A person licensed as an attorney, certified public  
12 22 accountant, or financial planner accredited by a nationally  
12 23 recognized accreditation agency, who is retained to represent  
12 24 the owner, whose compensation is not paid directly or  
12 25 indirectly by the provider or purchaser, may negotiate life  
12 26 settlement contracts on behalf of the owner without having to  
12 27 obtain a license as a broker.

12 28 7. The term of a provider license shall be equal to that  
12 29 of a domestic stock life insurance company and the term of a  
12 30 broker license shall be equal to that of an insurance producer  
12 31 license. A license requiring periodic renewal may be renewed  
12 32 on its anniversary date upon payment of the periodic renewal  
12 33 fee as specified in subsection 2. A failure to pay a fee on  
12 34 or before the renewal date shall result in revocation of the  
12 35 license.

13 1 8. The applicant shall provide such information as the  
13 2 commissioner may require on forms prepared by the  
13 3 commissioner. The commissioner may, at any time, require such  
13 4 applicant to fully disclose the identity of its stockholders  
13 5 except for a stockholder owning fewer than ten percent of the  
13 6 shares of an applicant whose shares are publicly traded;  
13 7 partners; officers; and employees. The commissioner may, in  
13 8 the exercise of the commissioner's sole discretion, refuse to  
13 9 issue such a license in the name of any person if not  
13 10 satisfied that any officer, employee, stockholder, or partner  
13 11 of the applicant who may materially influence the applicant's  
13 12 conduct meets the standards of this chapter.

13 13 9. A license issued to a partnership, corporation, limited  
13 14 liability company, or other entity authorizes a person who is  
13 15 a member, officer, or designated employee to act as a licensee  
13 16 under the license, if the person is named in the application  
13 17 or a supplement to the application.

13 18 10. Upon the filing of an application and the payment of  
13 19 the license fee, the commissioner shall make an investigation  
13 20 of each applicant and may issue a license if the commissioner  
13 21 finds that all of the following apply:

13 22 a. If the applicant is a provider, the applicant has  
13 23 provided a detailed plan of operation.

13 24 b. The applicant is competent and trustworthy and intends  
13 25 to transact its business in good faith.

13 26 c. The applicant has a good business reputation and has  
13 27 had experience, training, or education so as to be qualified  
13 28 in the business for which the license is applied.

13 29 d. If the applicant is a legal entity, is formed or  
13 30 organized pursuant to the laws of this state or is a foreign  
13 31 legal entity authorized to transact business in this state, or  
13 32 provides a certificate of good standing from the state of its  
13 33 domicile.

13 34 e. The applicant has provided to the commissioner an  
13 35 antifraud plan that meets the requirements of section 508G.14  
14 1 and includes all of the following:

14 2 (1) A description of the procedures for detecting and

14 3 investigating a possible fraudulent act and procedure for  
14 4 resolving material inconsistencies between a medical record  
14 5 and insurance applications.

14 6 (2) A description of the procedures for reporting a  
14 7 fraudulent insurance act to the commissioner.

14 8 (3) A description of the plan for antifraud education and  
14 9 training of its underwriters and other personnel.

14 10 (4) A written description or chart outlining the  
14 11 arrangement of the antifraud personnel who are responsible for  
14 12 the investigation and reporting of a possible fraudulent  
14 13 insurance act and investigating any unresolved material  
14 14 inconsistency between a medical record and the insurance  
14 15 application.

14 16 11. The commissioner shall not issue a license to a  
14 17 nonresident applicant, unless a written designation of an  
14 18 agent for service of process is filed and maintained with the  
14 19 commissioner or unless the applicant has filed with the  
14 20 commissioner the applicant's written irrevocable consent that  
14 21 any action against the applicant may be commenced against the  
14 22 applicant by service of process on the commissioner.

14 23 12. A licensee shall file with the commissioner on or  
14 24 before the first day of March of each year an annual statement  
14 25 containing such information as the commissioner by rule may  
14 26 prescribe.

14 27 13. A provider shall not use any person to perform the  
14 28 functions of a broker unless the person holds a license as a  
14 29 broker as provided in this section.

14 30 14. A broker shall not use a person to perform the  
14 31 functions of a provider unless such person holds a license as  
14 32 a provider as provided in this section.

14 33 15. A provider or broker shall provide to the commissioner  
14 34 new or revised information about an officer, ten percent or  
14 35 more stockholders, a partner, director, members, or a

15 1 designated employee within thirty days of a change.  
15 2 16. An individual licensed as a broker shall complete on a  
15 3 biennial basis fifteen hours of training related to a life  
15 4 settlement or a life settlement transaction, as required by  
15 5 the commissioner. However, a life insurance producer who is  
15 6 operating as a broker pursuant to this section shall not be  
15 7 subject to the requirements of this subsection. A person  
15 8 failing to meet the requirements of this subsection shall be  
15 9 subject to the penalties imposed by the commissioner.

15 10 Sec. 4. NEW SECTION. 508G.4 LICENSE SUSPENSION,  
15 11 REVOCATION, OR REFUSAL TO RENEW.

15 12 1. The commissioner may suspend, revoke, or refuse to  
15 13 renew the license of a licensee if the commissioner finds any  
15 14 of the following:

15 15 a. There was any material misrepresentation in the  
15 16 application for the license.

15 17 b. The licensee or any officer, partner, member, or  
15 18 director has been guilty of a fraudulent or dishonest  
15 19 practice, is subject to a final agency action under chapter  
15 20 17A, or is otherwise shown to be untrustworthy or incompetent  
15 21 to act as a licensee.

15 22 c. The provider demonstrates a pattern of unreasonably  
15 23 withholding payments to policy owners.

15 24 d. The licensee no longer meets the requirements for  
15 25 initial licensure.

15 26 e. The licensee or any officer, partner, member, or  
15 27 director has been convicted of a felony, or of any misdemeanor  
15 28 of which criminal fraud or moral turpitude is an element; or  
15 29 the licensee has pleaded guilty or nolo contendere with  
15 30 respect to any felony or any misdemeanor of which criminal  
15 31 fraud or moral turpitude is an element, regardless of whether  
15 32 a judgment of conviction has been entered by the court.

15 33 f. The provider has entered into a life settlement  
15 34 contract that has not been approved pursuant to this chapter.

15 35 g. The provider has failed to honor contractual  
16 1 obligations set out in a life settlement contract.

16 2 h. The provider has assigned, transferred, or pledged a  
16 3 settled policy to a person other than a provider licensed in  
16 4 this state; a purchaser; an accredited investor or qualified  
16 5 institutional buyer as defined, respectively, in 17 C.F.R. }  
16 6 230.501(a) or 17 C.F.R. } 230.144A as promulgated by the  
16 7 United States securities and exchange commission under the  
16 8 federal Securities Act of 1933, as amended, 15 U.S.C. } 77a et  
16 9 seq.; a financing entity; a special purpose entity; or a  
16 10 related provider trust.

16 11 i. The licensee or any officer, partner, member, or key  
16 12 management personnel has violated any of the provisions of  
16 13 this chapter.

16 14 2. Before the commissioner denies a license application or  
16 15 suspends, revokes, or refuses to renew the license of any  
16 16 licensee under this chapter, the commissioner shall conduct a  
16 17 contested case proceeding in accordance with chapter 17A.

16 18 Sec. 5. NEW SECTION. 508G.5 CONTRACT REQUIREMENTS.

16 19 1. A person shall not use any form of life settlement  
16 20 contract in this state unless it has been filed with and  
16 21 approved, if required, by the commissioner in a manner that  
16 22 conforms with the filing procedures and any time restrictions  
16 23 or deeming provisions, if any, for life insurance forms,  
16 24 policies, and contracts.

16 25 2. An insurer shall not, as a condition of responding to a  
16 26 request for verification of coverage or in connection with the  
16 27 transfer of a life insurance policy pursuant to a life  
16 28 settlement contract, require that the owner, insured provider,  
16 29 or broker sign any form, disclosure, consent, waiver, or  
16 30 acknowledgment that has not been expressly approved by the  
16 31 commissioner for use in connection with life settlement  
16 32 contracts in this state.

16 33 3. A person shall not use a life settlement contract form  
16 34 or provide to an owner a disclosure statement form in this  
16 35 state unless first filed with and approved by the  
17 1 commissioner. The commissioner shall disapprove a life  
17 2 settlement contract form or disclosure statement form if, in  
17 3 the commissioner's opinion, the contract or provisions  
17 4 contained in such form fail to meet the requirements of  
17 5 sections 508G.8, 508G.9, or 508G.11, or are unreasonable,  
17 6 contrary to the interests of the public, or otherwise  
17 7 misleading or unfair to the owner. At the commissioner's  
17 8 discretion, the commissioner may require the submission of  
17 9 advertising material.

17 10 Sec. 6. NEW SECTION. 508G.6 REPORTING REQUIREMENTS AND  
17 11 PRIVACY.

17 12 1. For any life insurance policy settled within five years  
17 13 of policy issuance, each provider shall file with the  
17 14 commissioner on or before March 1 of each year an annual  
17 15 statement containing such information as the commissioner may  
17 16 prescribe by rule. In addition to any other requirements, the  
17 17 annual statement shall specify the total number, aggregate  
17 18 face amount, and life settlement proceeds of life insurance  
17 19 policies settled during the immediately preceding calendar  
17 20 year, together with a breakdown of the information by policy  
17 21 issue year for each insurer.

17 22 a. Such information shall be limited to only those  
17 23 transactions where the insured is a resident of this state and  
17 24 shall not include individual transaction data regarding the  
17 25 business of life settlements or information that there is a  
17 26 reasonable basis to believe could be used to identify the  
17 27 owner or the insured.

17 28 b. A provider that willfully fails to file an annual  
17 29 statement as required in this section, or willfully fails to  
17 30 reply within thirty days to a written inquiry by the  
17 31 commissioner in connection to the filing of the annual  
17 32 statement, shall, in addition to other penalties provided by  
17 33 this chapter, be subject to a civil penalty of up to two  
17 34 hundred fifty dollars per day of delay, not to exceed  
17 35 twenty-five thousand dollars in the aggregate, for each such  
18 1 failure.

18 2 2. A provider, broker, insurer, insurance producer,  
18 3 information bureau, rating agency, or company, or any other  
18 4 person with actual knowledge of an insured's identity, shall  
18 5 not disclose the identity of an insured or information that  
18 6 there is a reasonable basis to believe could be used to  
18 7 identify the insured or the insured's financial or medical  
18 8 information to any other person unless the disclosure is any  
18 9 of the following:

18 10 a. Necessary to effect a life settlement contract between  
18 11 the owner and a provider and the owner and insured have  
18 12 provided prior written consent to the disclosure.

18 13 b. Necessary to effectuate the sale of life settlement  
18 14 contracts, or interest in a life insurance contract as an  
18 15 investment, provided the sale is conducted in accordance with  
18 16 applicable federal securities law, including chapter 502, and  
18 17 provided further that the owner and the insured have both  
18 18 provided prior written consent to the disclosure.

18 19 c. Is provided in response to an investigation or  
18 20 examination by the commissioner or any other governmental  
18 21 officer or agency or pursuant to the requirements of section  
18 22 508G.13.

18 23 d. Is a term or condition to the transfer of a policy by  
18 24 one provider to another provider, in which case the receiving



18 25 provider shall be required to otherwise comply with the  
18 26 confidentiality requirements of this subsection.

18 27 e. (1) Is necessary to allow the provider or broker or  
18 28 its authorized representatives to make a contact for the  
18 29 purpose of determining health status. A provider or broker  
18 30 shall require its authorized representative to agree in  
18 31 writing to adhere to the privacy provisions of this chapter.

18 32 (2) An authorized representative does not include any  
18 33 person who has or may have any financial interest in the life  
18 34 settlement contract other than a provider, licensed broker,  
18 35 financing entity, related provider trust, or special purpose  
19 1 entity.

19 2 f. Is required to purchase stop loss coverage.

19 3 3. Nonpublic personal information solicited or obtained in  
19 4 connection with a proposed or actual life settlement contract  
19 5 shall be subject to the provisions applicable to financial  
19 6 institutions under the federal Gramm Leach Bliley Act, 15  
19 7 U.S.C. } 6801 et seq., and all other federal and state laws  
19 8 relating to confidentiality of nonpublic personal information.

19 9 Sec. 7. NEW SECTION. 508G.7 EXAMINATION.

19 10 1. The commissioner may, when the commissioner deems it  
19 11 reasonably necessary to protect the interests of the public,  
19 12 examine the business and affairs of any licensee or applicant  
19 13 for a license. The commissioner may order any licensee or  
19 14 applicant to produce any records, books, files, or other  
19 15 information reasonably necessary to ascertain whether such  
19 16 licensee or applicant is acting or has acted in violation of  
19 17 the law or otherwise contrary to the interests of the public.  
19 18 The expenses incurred in conducting any examination shall be  
19 19 paid by the licensee or applicant.

19 20 2. In lieu of an examination under this section of any  
19 21 foreign or alien licensee licensed in this state, the  
19 22 commissioner may, at the commissioner's discretion, accept an  
19 23 examination report on the licensee as prepared by the  
19 24 commissioner for the licensee's state of domicile or  
19 25 port-of-entry state.

19 26 3. Notwithstanding chapter 22, the name and individual  
19 27 identification data for each owner and insured shall be  
19 28 considered private and confidential information and shall not  
19 29 be disclosed by the commissioner unless required by law.

19 30 4. The records of all consummated transactions and life  
19 31 settlement contracts shall be maintained by the provider for  
19 32 three years after the death of the insured and shall be  
19 33 available to the commissioner for inspection during reasonable  
19 34 business hours.

19 35 5. For the conduct of examinations, all of the following  
20 1 shall apply:

20 2 a. Upon determining that an examination is appropriate,  
20 3 the commissioner shall issue an examination warrant appointing  
20 4 one or more examiners to perform the examination and  
20 5 instructing them as to the scope of the examination. In  
20 6 conducting the examination, an examiner shall use methods  
20 7 common to the examination of any life settlement licensee and  
20 8 may use those guidelines and procedures set forth in an  
20 9 examiners' handbook adopted by a national organization as  
20 10 required by the commissioner.

20 11 b. A licensee or other person from whom information is  
20 12 sought, its officers, directors, or agents shall provide to an  
20 13 examiner timely, convenient, and free access at all reasonable  
20 14 hours at its office to all books, records, accounts, papers,  
20 15 documents, assets, and computer or other recordings relating  
20 16 to the property, assets, business, and affairs of the licensee  
20 17 or other person being examined. The officer, director,  
20 18 employee, or agent of the licensee or other person shall  
20 19 facilitate the examination and aid in the examination so far  
20 20 as it is in the person's power to do so. The refusal of a  
20 21 licensee, by an officer, director, employee, or agent, to  
20 22 submit to examination or to comply with any reasonable written  
20 23 request of the commissioner shall be grounds for suspension or  
20 24 refusal of, or nonrenewal of any license or authority held by  
20 25 the licensee to engage in the business of life settlements or  
20 26 other business subject to the commissioner's jurisdiction.  
20 27 Any proceedings for suspension, revocation, or refusal of a  
20 28 license or authority shall be conducted pursuant to chapter  
20 29 17A.

20 30 c. The commissioner may issue subpoenas, administer oaths,  
20 31 and examine under oath any person as to any matter pertinent  
20 32 to the examination. Upon the failure or refusal of a person  
20 33 to obey a subpoena, the commissioner may petition a court of  
20 34 competent jurisdiction, and upon proper showing, the court may  
20 35 enter an order compelling the witness to appear and testify or

21 1 produce documentary evidence.

21 2 d. When making an examination under this chapter, the  
21 3 commissioner may retain one or more attorneys, appraisers,  
21 4 independent actuaries, independent certified public  
21 5 accountants, or other professionals and specialists as  
21 6 examiners, the reasonable cost of which shall be borne by the  
21 7 licensee that is the subject of the examination.

21 8 e. This chapter shall not be construed to limit the  
21 9 commissioner's authority to terminate or suspend an  
21 10 examination in order to pursue other legal or administrative  
21 11 action pursuant to the insurance laws of this state. Findings  
21 12 of fact and conclusions made pursuant to any examination shall  
21 13 be prima facie evidence in any legal or regulatory action.

21 14 f. This chapter shall not be construed to limit the  
21 15 commissioner's authority to use and, if appropriate, to make  
21 16 public any final or preliminary examination report, any  
21 17 examiner or licensee work papers or other documents, or any  
21 18 other information discovered or developed during the course of  
21 19 any examination in the furtherance of any legal or  
21 20 administrative action which the commissioner may, in the  
21 21 commissioner's sole discretion, deem appropriate.

21 22 6. For the examination report, all of the following apply:

21 23 a. An examination report shall be comprised of only facts  
21 24 appearing upon the books, from the testimony of its officers  
21 25 or agents or other persons examined concerning its affairs,  
21 26 and such conclusions and recommendations as the examiners find  
21 27 reasonably warranted from the facts.

21 28 b. Not later than sixty days following completion of the  
21 29 examination, the examiner in charge shall file with the  
21 30 commissioner a verified written report of examination under  
21 31 oath. Upon receipt of the verified report, the commissioner  
21 32 shall transmit the report to the licensee examined, together  
21 33 with a notice that shall afford the licensee examined a  
21 34 reasonable opportunity of not more than thirty days to make a  
21 35 written submission or rebuttal with respect to any matter  
22 1 contained in the examination report and which shall become  
22 2 part of the report or to request an administrative hearing on  
22 3 any matter in dispute as provided in chapter 17A.

22 4 c. In the event the commissioner determines that  
22 5 regulatory action is appropriate as a result of an  
22 6 examination, the commissioner may initiate any proceeding or  
22 7 action provided by law.

22 8 7. For the confidentiality of examination information, all  
22 9 of the following apply:

22 10 a. The name and individual identification data for each  
22 11 owner, purchaser, or insured shall be considered private and  
22 12 confidential information and shall not be disclosed by the  
22 13 commissioner, unless the disclosure is to another regulator or  
22 14 is required by law.

22 15 b. Except as otherwise provided in this chapter, an  
22 16 examination report, working papers, recorded information,  
22 17 documents or materials, and copies produced by, obtained by,  
22 18 or disclosed to the commissioner or any other person in the  
22 19 course of an examination made under this chapter, or in the  
22 20 course of analysis or investigation by the commissioner of the  
22 21 financial condition or market conduct of a licensee shall be  
22 22 confidential by law and privileged, shall not be subject to  
22 23 chapter 22, shall not be subject to subpoena, and shall not be  
22 24 subject to discovery or admissible in evidence in any private  
22 25 civil action. The commissioner may use the examination  
22 26 report, working papers, recorded information, documents,  
22 27 materials, or other information in the furtherance of any  
22 28 administrative or legal action brought as part of the  
22 29 commissioner's official duties. The licensee being examined  
22 30 may have access to all documents used to make the report.

22 31 8. For conflict of interest, all of the following apply:

22 32 a. An examiner shall not be appointed by the commissioner  
22 33 if the examiner, either directly or indirectly, has a conflict  
22 34 of interest or is affiliated with the management of or owns a  
22 35 pecuniary interest in any person subject to examination under  
23 1 this chapter. This section shall not be construed to  
23 2 automatically preclude an examiner from being any of the  
23 3 following:

23 4 (1) An owner.

23 5 (2) An insured in a life settlement contract or life  
23 6 insurance policy.

23 7 (3) A beneficiary in a life insurance policy that is  
23 8 proposed for a life settlement contract.

23 9 b. Notwithstanding the requirements of this subsection,  
23 10 the commissioner may retain from time to time, on an  
23 11 individual basis, one or more qualified actuaries, certified

23 12 public accountants, or other similar individuals who are  
23 13 independently practicing their professions, even though these  
23 14 persons may from time to time be similarly employed or  
23 15 retained by persons subject to examination under this chapter.

23 16 9. For immunity from liability, all of the following shall  
23 17 apply:

23 18 a. A cause of action shall not arise and liability shall  
23 19 not be imposed against the commissioner, the commissioner's  
23 20 authorized representative, or any examiner appointed by the  
23 21 commissioner for any statements made or conduct performed in  
23 22 good faith while carrying out the provisions of this chapter.

23 23 b. A cause of action shall not arise, and liability shall  
23 24 not be imposed, against any person for communicating or  
23 25 delivering information or data to the commissioner or the  
23 26 commissioner's authorized representative or examiner pursuant  
23 27 to an examination made under this chapter, if the  
23 28 communication or delivery was performed in good faith and  
23 29 without fraudulent intent or the intent to deceive. This  
23 30 paragraph does not abrogate or modify in any way any common  
23 31 law or statutory privilege or immunity enjoyed by any person  
23 32 identified in paragraph "a".

23 33 c. (1) A person identified in paragraph "a" or "b" shall  
23 34 be entitled to an award of attorney fees and costs if the  
23 35 person is the prevailing party in a civil cause of action for  
24 1 libel, slander, or any other relevant tort arising out of  
24 2 activities in carrying out the provisions of this chapter and  
24 3 the party bringing the action was not substantially justified  
24 4 in doing so.

24 5 (2) For purposes of subparagraph (1), a proceeding is  
24 6 substantially justified if it has a reasonable basis in law or  
24 7 fact at the time that it was initiated.

24 8 10. The commissioner may investigate a suspected  
24 9 fraudulent life settlement act and a person engaged in the  
24 10 business of life settlements.

24 11 11. The commission by rule may establish reasonable costs  
24 12 for examinations imposed upon a person.

24 13 Sec. 8. NEW SECTION. 508G.8 ADVERTISING.

24 14 1. A broker or provider licensed pursuant to this chapter  
24 15 may conduct or participate in an advertisement within this  
24 16 state. Such advertisement shall comply with all statutes or  
24 17 rules adopted by the commissioner that are applicable to life  
24 18 insurers or to brokers, and providers licensed pursuant to  
24 19 this chapter.

24 20 2. An advertisement shall be accurate, truthful, and not  
24 21 misleading in fact or by implication.

24 22 3. A person shall not do any of the following:

24 23 a. Directly or indirectly market, advertise, solicit, or  
24 24 otherwise promote the purchase of a life insurance policy for  
24 25 the sole purpose of or with an emphasis on settling the life  
24 26 insurance policy.

24 27 b. Use the words "free", "no cost", or words of similar  
24 28 import in the marketing, advertising, soliciting, or otherwise  
24 29 promoting of the purchase of a life insurance policy.

24 30 Sec. 9. NEW SECTION. 508G.9 DISCLOSURES TO OWNERS.

24 31 1. A provider shall provide in writing, a separate  
24 32 disclosure document that is signed by the owner and provider,  
24 33 to the owner not later than the date the life settlement  
24 34 contract is signed by all parties.

24 35 a. The disclosure document shall include all of the  
25 1 following information:

25 2 (1) That possible alternatives to life settlement  
25 3 contracts exist including but not limited to accelerated  
25 4 benefits offered by the issuer of the life insurance policy.

25 5 (2) That some or all of the proceeds of a life settlement  
25 6 contract may be taxable and that assistance should be sought  
25 7 from a professional tax advisor.

25 8 (3) That the proceeds from a life settlement contract  
25 9 could be subject to the claims of creditors.

25 10 (4) That receipt of proceeds from a life settlement  
25 11 contract may adversely affect the recipient's eligibility for  
25 12 public assistance or other government benefits or entitlements  
25 13 and that advice should be obtained from the appropriate  
25 14 agencies.

25 15 (5) That the owner has a right to rescind a life  
25 16 settlement contract within fifteen days of the date it is  
25 17 executed by all parties and the owner has received the  
25 18 disclosures required in this section. Rescission, if exercised  
25 19 by the owner, is effective only if both notice of the rescission  
25 20 is given, and the owner repays all proceeds and any premiums,  
25 21 loans, and loan interest paid on account of the provider  
25 22 within the rescission period. If the insured dies during the

25 23 rescission period, the contract shall be deemed to have been  
25 24 rescinded subject to repayment by the owner or the owner's  
25 25 estate of all proceeds and any premiums, loans, and loan  
25 26 interest to the provider.

25 27 (6) That proceeds will be sent to the owner within three  
25 28 business days after the provider has received the insurer or  
25 29 group administrator's acknowledgment that ownership of the  
25 30 life insurance policy or interest in the life insurance  
25 31 certificate has been transferred and the beneficiary has been  
25 32 designated in accordance with the terms of the life settlement  
25 33 contract.

25 34 (7) That entering into a life settlement contract may  
25 35 cause other rights or benefits, including conversion rights  
26 1 and waiver of premium benefits that may exist under the life  
26 2 insurance policy or certificate of a group life insurance  
26 3 policy, to be forfeited by the owner and that assistance  
26 4 should be sought from a professional financial advisor.

26 5 (8) (a) The amount and method of calculating the  
26 6 compensation paid or to be paid to the broker, or any other  
26 7 person acting for the owner in connection with the  
26 8 transaction.

26 9 (b) As used in subparagraph subdivision (a), compensation  
26 10 includes anything of value paid or given.

26 11 (9) The date by which the funds will be available to the  
26 12 owner and the transmitter of the funds.

26 13 (10) That the commissioner requires delivery of a buyer's  
26 14 guide or a similar consumer advisory package in the form  
26 15 prescribed by the commissioner to owners during the  
26 16 solicitation process.

26 17 (11) The following language:

26 18 "All medical, financial, or personal information solicited  
26 19 or obtained by a provider or broker about an insured,  
26 20 including the insured's identity or the identity of family  
26 21 members, a spouse, or a significant other may be disclosed as  
26 22 necessary to effect the life settlement contract between the  
26 23 owner and provider. If you are asked to provide this  
26 24 information, you will be asked to consent to the disclosure.  
26 25 The information may be provided to someone who buys the policy  
26 26 or provides funds for the purchase. You may be asked to renew  
26 27 your permission to share information every two years."

26 28 (12) That the commissioner requires providers and brokers  
26 29 to print separate signed fraud warnings on their applications  
26 30 and on their life settlement contracts as follows:

26 31 "Any person who knowingly presents false information in an  
26 32 application for a life insurance policy or life settlement  
26 33 contract is guilty of a crime and may be subject to fines and  
26 34 confinement in prison."

26 35 (13) That the insured may be contacted by either the  
27 1 provider or broker or its authorized representative for the  
27 2 purpose of determining the insured's health status or to  
27 3 verify the insured's address. This contact is limited to once  
27 4 every three months if the insured has a life expectancy of  
27 5 more than one year, and no more than once per month if the  
27 6 insured has a life expectancy of one year or less.

27 7 (14) The affiliation, if any, between the provider and the  
27 8 issuer of the life insurance policy to be settled.

27 9 (15) That a broker represents exclusively the owner, and  
27 10 not the insurer or the provider or any other person, and owes  
27 11 a fiduciary duty to the owner, including a duty to act  
27 12 according to the owner's instructions and in the best interest  
27 13 of the owner.

27 14 (16) The name, address, and telephone number of the  
27 15 provider.

27 16 (17) The name, business address, and telephone number of  
27 17 the independent third-party escrow agent, and the fact that  
27 18 the owner may inspect or receive copies of the relevant escrow  
27 19 or trust agreements or documents.

27 20 (18) That a change of ownership could in the future limit  
27 21 the insured's ability to purchase future insurance on the  
27 22 insured's life because of a limit on the amount of coverage  
27 23 insurers will issue on one life.

27 24 b. The written disclosure as provided in paragraph "a"  
27 25 shall be conspicuously displayed in any life settlement  
27 26 contract furnished to the owner by a provider including the  
27 27 disclosure of any affiliations or contractual arrangements  
27 28 between the provider and the broker.

27 29 2. A broker shall provide the owner and the provider with  
27 30 at least the following disclosures not later than the date the  
27 31 life settlement contract is signed by all parties. The  
27 32 disclosures shall be conspicuously displayed in the life  
27 33 settlement contract or in a separate document signed by the

27 34 owner and provide all of the following information:

27 35 a. The name, business address, and telephone number of the  
28 1 broker.

28 2 b. A full, complete, and accurate description of all the  
28 3 offers, counteroffers, acceptances, and rejections relating to  
28 4 the proposed life settlement contract.

28 5 c. A written disclosure of any affiliation or contractual  
28 6 arrangement between the broker and any person making an offer  
28 7 in connection with the proposed life settlement contract.

28 8 d. The name of each broker who receives compensation and  
28 9 the amount of compensation received by that broker, which  
28 10 compensation includes anything of value paid or given to the  
28 11 broker in connection with the life settlement contract.

28 12 e. (1) A complete reconciliation of the gross offer or  
28 13 bid by the provider to the net amount of proceeds or value to  
28 14 be received by the owner.

28 15 (2) For the purpose of subparagraph (1), "gross offer" or  
28 16 "bid" means the total amount or value offered by the provider  
28 17 for the purchase of one or more life insurance policies,  
28 18 inclusive of commissions and fees.

28 19 f. The failure to provide the disclosures or rights  
28 20 described in this section is deemed an unfair trade practice  
28 21 pursuant to section 508G.17.

28 22 Sec. 10. NEW SECTION. 508G.10 DISCLOSURE BY INSURER.

28 23 1. In addition to other questions an insurer may lawfully  
28 24 pose to a life insurance applicant, insurers may inquire in  
28 25 the application for insurance whether the proposed owner  
28 26 intends to pay premiums with the assistance of financing from  
28 27 a lender that will use the policy as collateral to support the  
28 28 financing.

28 29 a. If, as described in the definition of life settlement  
28 30 contract in section 508G.2, the loan provides funds which can  
28 31 be used for a purpose other than paying for the premiums,  
28 32 costs, and expenses associated with obtaining and maintaining  
28 33 the life insurance policy and loan, the application shall be  
28 34 rejected as a violation of the prohibited practices in section  
28 35 508G.13.

29 1 b. If the financing does not violate section 508G.13 in  
29 2 the manner provided in paragraph "a", the insurer may do any  
29 3 of the following:

29 4 (1) Make a disclosure, including but not limited to such  
29 5 as the following, to the applicant and the insured, either on  
29 6 the application or an amendment to the application to be  
29 7 completed no later than the delivery of the policy:

29 8 "If you have entered into a loan arrangement where the life  
29 9 insurance policy is used as collateral, and the life insurance  
29 10 policy does change ownership at some point in the future in  
29 11 satisfaction of the loan, the following may be true:

29 12 A change of ownership could lead to a stranger owning an  
29 13 interest in the insured's life.

29 14 A change of ownership could in the future limit your  
29 15 ability to purchase future insurance on the insured's life  
29 16 because of a limit on the amount of coverage insurers will  
29 17 issue on one life.

29 18 Should there be a change of ownership and you wish to  
29 19 obtain more insurance coverage on the insured's life in the  
29 20 future, the insured's higher issue age, a change in health  
29 21 status, or other factors may reduce the ability to obtain  
29 22 coverage or may result in significantly higher premiums.

29 23 You should consult a professional advisor, since a change  
29 24 in ownership in satisfaction of the loan may result in tax  
29 25 consequences to the owner, depending on the structure of the  
29 26 loan."

29 27 (2) Require certifications, such as the following, from  
29 28 the applicant or the insured:

29 29 "I have not entered into any agreement or arrangement  
29 30 providing for the future sale of this life insurance policy.

29 31 My loan arrangement for this life insurance policy provides  
29 32 funds sufficient to pay for some or all of the premiums,  
29 33 costs, and expenses associated with obtaining and maintaining  
29 34 my life insurance policy, but I have not entered into any  
29 35 agreement by which I am to receive consideration in exchange  
30 1 for procuring this life insurance policy.

30 2 The borrower has an insurable interest in the insured."

30 3 2. With respect to each life insurance policy issued by an  
30 4 insurer, the insurer shall send written notice to the owner of  
30 5 an individual life insurance policy, or a certificate holder  
30 6 under a group life insurance policy, where the insured person  
30 7 under such life insurance policy is age sixty or older or is  
30 8 known to be terminally ill or chronically ill, that a life  
30 9 settlement is an available alternative transaction to such

30 10 owner at the time of each of the following:

30 11 a. When an insurer receives from such owner a request to  
30 12 surrender, in whole or in part, an individual life insurance  
30 13 policy, or a certificate under a group life insurance policy.

30 14 b. When an insurer receives from such owner a request to  
30 15 receive an accelerated death benefit under an individual life  
30 16 insurance policy, or a certificate under a group life  
30 17 insurance policy.

30 18 c. When an insurer receives from such owner a request to  
30 19 collaterally assign an individual life insurance policy, or a  
30 20 certificate under a group life insurance policy as security  
30 21 for a loan.

30 22 d. When an insurer sends to such owner a notice of lapse  
30 23 of an individual life insurance policy, or a certificate under  
30 24 a group life insurance policy.

30 25 e. At any other time the commissioner may require by rule.

30 26 Sec. 11. NEW SECTION. 508G.11 GENERAL RULES.

30 27 1. A provider entering into a life settlement contract  
30 28 with an owner of a life insurance policy, where the insured is  
30 29 terminally ill or chronically ill, shall first obtain all of  
30 30 the following:

30 31 a. If the owner is the insured, a written statement from a  
30 32 licensed attending physician that the owner is of sound mind  
30 33 and under no constraint or undue influence to enter into a  
30 34 life settlement contract.

30 35 b. A document in which the insured consents to the release  
31 1 of the owner's medical records to a provider, broker, or  
31 2 insurance producer and, if the life insurance policy was  
31 3 issued less than two years from the date of application for a  
31 4 life settlement contract, to the insurance company that issued  
31 5 the policy.

31 6 2. An insurer shall respond to a request for verification  
31 7 of coverage submitted by a provider, broker, or life insurance  
31 8 producer not later than thirty calendar days of the date the  
31 9 request is received. The request for verification of coverage  
31 10 must be made on a form approved by the commissioner. The  
31 11 insurer shall complete and issue the verification of coverage  
31 12 or indicate in which respects it is unable to respond. In its  
31 13 response, the insurer shall indicate whether, based on the  
31 14 medical evidence and documents provided, the insurer intends  
31 15 to pursue an investigation at this time regarding the validity  
31 16 of the life insurance policy.

31 17 3. Before or at the time of the execution of the life  
31 18 settlement contract, the provider shall obtain a witnessed  
31 19 document in which the owner consents to the life settlement  
31 20 contract, represents that the owner has a full and complete  
31 21 understanding of the life settlement contract, that the owner  
31 22 has a full and complete understanding of the benefits of the  
31 23 life insurance policy, acknowledges that the owner is entering  
31 24 into the life settlement contract freely and voluntarily, and,  
31 25 for persons with a terminal or chronic illness or condition,  
31 26 acknowledges that the insured has a terminal or chronic  
31 27 illness and that the terminal or chronic illness or condition  
31 28 was diagnosed after the life insurance policy was issued.

31 29 4. The insurer shall not unreasonably delay effecting  
31 30 change of ownership or beneficiary with any life settlement  
31 31 contract lawfully entered into in this state or with a  
31 32 resident of this state.

31 33 5. If a broker or life insurance producer performs any  
31 34 activities required of the provider, the provider is deemed to  
31 35 have fulfilled the requirements of this section.

32 1 6. If a broker performs verification of coverage  
32 2 activities required of the provider, the provider is deemed to  
32 3 have fulfilled the requirements of section 508G.9, subsection  
32 4 1.

32 5 7. Within twenty days after an owner executes the life  
32 6 settlement contract, a provider shall give written notice to  
32 7 the insurer that issued the life insurance policy that the  
32 8 policy has become subject to a life settlement contract. The  
32 9 notice shall be accompanied by the documents required by  
32 10 section 508G.10, subsection 1, paragraph "b".

32 11 8. All medical information solicited or obtained by any  
32 12 licensee shall be subject to the applicable provision of state  
32 13 law relating to confidentiality of medical information, if not  
32 14 otherwise provided in this chapter.

32 15 9. A life settlement contract entered into in this state  
32 16 shall provide that the owner may rescind the contract on or  
32 17 before fifteen days after the date it is executed by all  
32 18 parties. Rescission, if exercised by the owner, is effective  
32 19 only if both notice of the rescission is given, and the owner  
32 20 repays all proceeds and any premiums, loans, and loan interest

32 21 paid on account of the provider within the rescission period.  
32 22 If the insured dies during the rescission period, the contract  
32 23 shall be deemed to have been rescinded subject to repayment by  
32 24 the owner or the owner's estate of all proceeds and any  
32 25 premiums, loans, and loan interest to the provider.  
32 26 10. Within three business days after receipt from the  
32 27 owner of documents to effect the transfer of the insurance  
32 28 policy, the provider shall pay the proceeds of the settlement  
32 29 to a trust or escrow account managed by a trustee or escrow  
32 30 agent in a state or federally chartered financial institution  
32 31 pending acknowledgment of the transfer by the issuer of the  
32 32 policy. The trustee or escrow agent shall be required to  
32 33 transfer the proceeds due to the owner within three business  
32 34 days of acknowledgment of the transfer from the insurer.  
32 35 11. A failure to tender life settlement contract proceeds  
33 1 to the owner by the date disclosed to the owner renders the  
33 2 contract voidable by the owner for lack of consideration until  
33 3 the time the proceeds are tendered to and accepted by the  
33 4 owner. A failure to give written notice of the right of  
33 5 rescission shall toll the right of rescission until thirty days  
33 6 after the written notice of the right of rescission has been  
33 7 given.  
33 8 12. Any fee paid by a provider, party, individual, or an  
33 9 owner to a broker in exchange for services provided to the  
33 10 owner pertaining to a life settlement contract shall be  
33 11 computed as a percentage of the offer obtained, not the face  
33 12 value of the life insurance policy. This section shall not be  
33 13 construed as prohibiting a broker from reducing the broker's  
33 14 fee below this percentage if the broker so chooses.  
33 15 13. A broker shall disclose to the owner anything of value  
33 16 paid or given to the broker, which relates to a life  
33 17 settlement contract.  
33 18 14. A person shall not at any time prior to, or at the  
33 19 time of, the application for, or issuance of, a life insurance  
33 20 policy, or during a two-year period commencing with the date  
33 21 of issuance of the life insurance policy, enter into a life  
33 22 settlement contract regardless of the date the compensation is  
33 23 to be provided and regardless of the date the assignment,  
33 24 transfer, sale, devise, bequest, or surrender of the policy is  
33 25 to occur. This prohibition shall not apply if the owner  
33 26 certifies to the provider that any of the following applies:  
33 27 a. The life insurance policy was issued upon the owner's  
33 28 exercise of conversion rights arising out of a group or  
33 29 individual life insurance policy, provided the total of the  
33 30 time covered under the conversion policy plus the time covered  
33 31 under the prior life insurance policy is at least twenty-four  
33 32 months. The time covered under a group life insurance policy  
33 33 must be calculated without regard to a change in insurers,  
33 34 provided the coverage has been continuous and under the same  
33 35 group sponsorship.  
34 1 b. The owner submits independent evidence to the provider  
34 2 that one or more of the following conditions have been met  
34 3 within the two-year period:  
34 4 (1) The owner or insured is terminally ill or chronically  
34 5 ill.  
34 6 (2) The owner or insured disposes of the owner's or  
34 7 insured's ownership interests in a closely held corporation,  
34 8 pursuant to the terms of a buyout or other similar agreement  
34 9 in effect at the time the life insurance policy was initially  
34 10 issued.  
34 11 (3) The owner's spouse dies.  
34 12 (4) The owner divorces the owner's spouse.  
34 13 (5) The owner retires from full-time employment.  
34 14 (6) The owner becomes physically or mentally disabled and  
34 15 a physician determines that the disability prevents the owner  
34 16 from maintaining full-time employment.  
34 17 (7) A final order, judgment, or decree is entered by a  
34 18 court of competent jurisdiction, on the application of a  
34 19 creditor of the owner, adjudicating the owner bankrupt or  
34 20 insolvent, or approving a petition seeking reorganization of  
34 21 the owner or appointing a receiver, trustee, or liquidator to  
34 22 all or a substantial part of the owner's assets.  
34 23 c. Copies of the independent evidence required by  
34 24 subsection 14, paragraph "b", shall be submitted to the  
34 25 insurer when the provider submits a request to the insurer for  
34 26 verification of coverage. The copies shall be accompanied by  
34 27 a letter of attestation from the provider that the copies are  
34 28 true and correct copies of the documents received by the  
34 29 provider. This section does not prohibit an insurer from  
34 30 exercising its right to contest the validity of any life  
34 31 insurance policy.

34 32 d. If the provider submits to the insurer a copy of  
34 33 independent evidence provided for in paragraph "b",  
34 34 subparagraph (1), when the provider submits a request to the  
34 35 insurer to effect the transfer of the policy to the provider,  
35 1 the copy is deemed to establish that the life settlement  
35 2 contract satisfies the requirements of this section.

35 3 Sec. 12. NEW SECTION. 508G.12 AUTHORITY TO ADOPT RULES  
35 4 == CONFLICT OF LAWS.

35 5 1. The commissioner may adopt rules implementing this  
35 6 chapter and regulating the activities and relationships of  
35 7 providers, brokers, insurers, and their agents, pursuant to  
35 8 chapter 17A.

35 9 2. For conflict of laws, all of the following shall apply:  
35 10 a. If there is more than one owner on a single policy, and  
35 11 the owners are residents of different states, the life  
35 12 settlement contract shall be governed by the law of the state  
35 13 in which the owner having the largest percentage ownership  
35 14 resides or, if the owners hold equal ownership, the state of  
35 15 residence of one owner agreed upon in writing by all of the  
35 16 owners. The law of the state of the insured shall govern in  
35 17 the event that equal owners fail to agree in writing upon a  
35 18 state of residence for jurisdictional purposes.

35 19 b. A provider from this state who enters into a life  
35 20 settlement contract with an owner who is a resident of another  
35 21 state that has enacted statutes or adopted regulations  
35 22 governing life settlement contracts shall be governed in the  
35 23 effectuation of that life settlement contract by the statutes  
35 24 and regulations of the owner's state of residence. If the  
35 25 state in which the owner is a resident has not enacted  
35 26 statutes or regulations governing life settlement contracts,  
35 27 the provider shall give the owner notice that neither state  
35 28 regulates the transaction into which the owner is entering.  
35 29 For transactions in those states, however, the provider shall  
35 30 maintain all records required as if the transactions were  
35 31 executed in the state of residence. The forms used in those  
35 32 states need not be approved by the commissioner.

35 33 c. If there is a conflict in the laws that apply to an  
35 34 owner and a purchaser in any individual transaction, the laws  
35 35 of the state that apply to the owner shall take precedence and  
36 1 the provider shall comply with those laws.

36 2 Sec. 13. NEW SECTION. 508G.13 PROHIBITED PRACTICES.

36 3 1. A person shall not do any of the following:  
36 4 a. Enter into a life settlement contract if the person  
36 5 knows or reasonably should have known that the life insurance  
36 6 policy was obtained by means of a false, deceptive, or  
36 7 misleading application for such life insurance policy.

36 8 b. Engage in any transaction, practice, or course of  
36 9 business if such person knows or reasonably should have known  
36 10 that the intent was to avoid the notice requirements of this  
36 11 chapter.

36 12 c. Engage in any fraudulent act or practice in connection  
36 13 with any transaction relating to any settlement involving an  
36 14 owner who is a resident of this state.

36 15 d. Issue, solicit, market, or otherwise promote the  
36 16 purchase of a life insurance policy for the purpose of or with  
36 17 an emphasis on settling the life insurance policy.

36 18 e. Enter into a life settlement contract on a life  
36 19 insurance policy that was the subject of a premium finance  
36 20 loan as described in the definition of life settlement  
36 21 contract in section 508G.2.

36 22 f. With respect to any life settlement contract or life  
36 23 insurance policy and a broker, knowingly solicit an offer  
36 24 from, effectuate a life settlement contract with, or make a  
36 25 sale to any provider, financing entity, or related provider  
36 26 trust that is controlling, controlled by, or under common  
36 27 control with such broker.

36 28 g. With respect to any life settlement contract or life  
36 29 insurance policy and a provider, knowingly enter into a life  
36 30 settlement contract with an owner, if, in connection with such  
36 31 life settlement contract, anything of value will be paid to a  
36 32 broker that is controlling, controlled by, or under common  
36 33 control with such provider or the financing entity or related  
36 34 provider trust that is involved in such life settlement  
36 35 contract.

37 1 h. With respect to a provider, enter into a life  
37 2 settlement contract unless the life settlement promotional,  
37 3 advertising, and marketing materials, as may be adopted by  
37 4 rule, have been filed with the commissioner. In no event  
37 5 shall any marketing materials expressly reference that the  
37 6 insurance is free for any period of time. The inclusion of  
37 7 any reference in the marketing materials that would cause an



37 8 owner to reasonably believe that the insurance is free for any  
37 9 period of time shall be considered a violation of this  
37 10 chapter.

37 11 i. With respect to any life insurance producer, insurer,  
37 12 broker, or provider, make any statement or representation to  
37 13 the applicant or policyholder in connection with the sale or  
37 14 financing of a life insurance policy to the effect that the  
37 15 insurance is free or without cost to the policyholder for any  
37 16 period of time unless provided in the policy.

37 17 2. A violation of this section shall be deemed a  
37 18 fraudulent life settlement act.

37 19 Sec. 14. NEW SECTION. 508G.14 FRAUD PREVENTION AND  
37 20 CONTROL.

37 21 1. This subsection applies to a fraudulent life settlement  
37 22 act, interference, and convicted felons as follows:

37 23 a. A person shall not commit a fraudulent life settlement  
37 24 act.

37 25 b. A person shall not knowingly and intentionally  
37 26 interfere with the enforcement of the provisions of this  
37 27 chapter or an investigation of suspected or actual violations  
37 28 of this chapter.

37 29 c. A person in the business of life settlements shall not  
37 30 knowingly or intentionally permit any person convicted of a  
37 31 felony involving dishonesty or breach of trust to participate  
37 32 in the business of life settlements.

37 33 2. This subsection applies to required fraud warnings as  
37 34 follows:

37 35 a. A life settlement contract and an application for a  
38 1 life settlement contract, regardless of the form of  
38 2 transmission, shall contain the following statement or a  
38 3 substantially similar statement:

38 4 "Any person who knowingly presents false information in an  
38 5 application for a life insurance policy or life settlement  
38 6 contract is guilty of a crime and may be subject to fines and  
38 7 confinement in prison."

38 8 b. The lack of a statement as required in paragraph "a"  
38 9 does not constitute a defense in any prosecution for a  
38 10 fraudulent life settlement act.

38 11 3. This section applies to the mandatory reporting of  
38 12 fraudulent life settlement acts as follows:

38 13 a. Any person engaged in the business of life settlements  
38 14 having knowledge or a reasonable belief that a fraudulent life  
38 15 settlement act is being, will be, or has been committed shall  
38 16 provide to the commissioner the information required by, and  
38 17 in a manner prescribed by, the commissioner.

38 18 b. Any other person having knowledge or a reasonable  
38 19 belief that a fraudulent life settlement act is being, will  
38 20 be, or has been committed may provide to the commissioner the  
38 21 information required by, and in a manner prescribed by, the  
38 22 commissioner.

38 23 4. This subsection applies to immunity from liability as  
38 24 follows:

38 25 a. Civil liability shall not be imposed on and a cause of  
38 26 action shall not arise from a person's furnishing information  
38 27 concerning suspected, anticipated, or a completed fraudulent  
38 28 life settlement act, if the information is provided to or  
38 29 received from any of the following:

38 30 (1) The commissioner or the commissioner's employees,  
38 31 agents, or representatives.

38 32 (2) Federal, state, or local law enforcement or regulatory  
38 33 officials or their employees, agents, or representatives.

38 34 (3) A person involved in the prevention and detection of  
38 35 fraudulent life settlement acts or that person's agents,  
39 1 employees, or representatives.

39 2 (4) Any regulatory body or its employees, agents, or  
39 3 representatives, overseeing life insurance, life settlements,  
39 4 securities, or investment fraud.

39 5 (5) The life insurer that issued the life insurance policy  
39 6 covering the life of the insured.

39 7 (6) The licensee and any agents, employees, or  
39 8 representatives.

39 9 b. Paragraph "a" shall not apply to a statement made with  
39 10 actual malice. In an action brought against a person for  
39 11 filing a report or furnishing other information concerning a  
39 12 fraudulent life settlement act, the party bringing the action  
39 13 shall plead specifically any allegation that paragraph "a"  
39 14 does not apply because the person filing the report or  
39 15 furnishing the information did so with actual malice.

39 16 c. (1) A person identified in paragraph "a" shall be  
39 17 entitled to an award of attorney fees and costs if the person  
39 18 is the prevailing party in a civil cause of action for libel,

39 19 slander, or any other relevant tort arising out of activities  
39 20 in carrying out the provisions of this chapter and the party  
39 21 bringing the action was not substantially justified in doing  
39 22 so.

39 23 (2) For purposes of this paragraph "c", a proceeding is  
39 24 substantially justified if it had a reasonable basis in law or  
39 25 fact at the time that it was initiated.

39 26 d. This section does not abrogate or modify common law or  
39 27 statutory privileges or immunities enjoyed by a person  
39 28 described in paragraph "a".

39 29 5. This subsection applies to confidentiality as follows:

39 30 a. The documents and evidence provided pursuant to  
39 31 subsection 4 or obtained by the commissioner in an  
39 32 investigation of a suspected or actual fraudulent life  
39 33 settlement act shall be privileged and confidential and shall  
39 34 not be subject to chapter 22, and shall not be subject to  
39 35 discovery or subpoena in a civil or criminal action.

40 1 b. Paragraph "a" does not prohibit a release by the  
40 2 commissioner of documents and evidence obtained in an  
40 3 investigation of a suspected or actual fraudulent life  
40 4 settlement act to any of the following:

40 5 (1) In administrative or judicial proceedings to enforce  
40 6 laws administered by the commissioner.

40 7 (2) To federal, state, or local law enforcement or  
40 8 regulatory agencies, to an organization established for the  
40 9 purpose of detecting and preventing fraudulent life settlement  
40 10 acts or to the national association of insurance  
40 11 commissioners.

40 12 (3) At the discretion of the commissioner, to a person in  
40 13 the business of life settlements that is aggrieved by a  
40 14 fraudulent life settlement act.

40 15 c. Release of documents and evidence under paragraph "b"  
40 16 does not abrogate or modify the privilege granted in paragraph  
40 17 "a".

40 18 6. This chapter shall not do any of the following:

40 19 a. Preempt the authority or relieve the duty of other law  
40 20 enforcement or regulatory agencies to investigate, examine, or  
40 21 prosecute suspected violations of law.

40 22 b. Preempt, supersede, or limit any provision of any state  
40 23 securities law or any rule, order, or notice issued under this  
40 24 chapter.

40 25 c. Prevent or prohibit a person from voluntarily  
40 26 disclosing information concerning life settlement fraud to a  
40 27 law enforcement or regulatory agency other than the  
40 28 commissioner.

40 29 d. Limit the powers granted elsewhere by the laws of this  
40 30 state to the commissioner or the insurance division, or an  
40 31 insurance fraud unit, to investigate and examine possible  
40 32 violations of law and to take appropriate action against  
40 33 wrongdoers.

40 34 7. This subsection applies to life settlement antifraud  
40 35 initiatives as follows:

41 1 a. A provider or broker shall have in place antifraud  
41 2 initiatives reasonably calculated to detect, prosecute, and  
41 3 prevent a fraudulent life settlement act. At the discretion  
41 4 of the commissioner, the commissioner may order, or a licensee  
41 5 may request and the commissioner may grant, such modifications  
41 6 of the following required initiatives as necessary to ensure  
41 7 an effective antifraud program. The modifications may be more  
41 8 or less restrictive than the required initiatives so long as  
41 9 the modifications may reasonably be expected to accomplish the  
41 10 purpose of this section. The antifraud initiatives shall  
41 11 include all of the following:

41 12 (1) Fraud investigators, who may be provider or broker  
41 13 employees or independent contractors.

41 14 (2) An antifraud plan, which shall be submitted to the  
41 15 commissioner. The antifraud plan shall include but not be  
41 16 limited to any of the following:

41 17 (a) A description of the procedures for detecting and  
41 18 investigating possible fraudulent life settlement acts and  
41 19 procedures for resolving material inconsistencies between  
41 20 medical records and insurance applications.

41 21 (b) A description of the procedures for reporting possible  
41 22 fraudulent life settlement acts to the commissioner.

41 23 (c) A description of the plan for antifraud education and  
41 24 training of underwriters and other personnel.

41 25 (d) A description or chart outlining the organizational  
41 26 arrangement of the antifraud personnel who are responsible for  
41 27 the investigation and reporting of possible fraudulent life  
41 28 settlement acts and investigating unresolved material  
41 29 inconsistencies between medical records and insurance

41 30 applications.

41 31 b. Antifraud plans submitted to the commissioner shall be  
41 32 privileged and confidential, shall not be subject to chapter  
41 33 22, and shall not be subject to discovery or subpoena in a  
41 34 civil or criminal action.

41 35 Sec. 15. NEW SECTION. 508G.15 INJUNCTIONS == CIVIL  
42 1 REMEDIES == CEASE AND DESIST.

42 2 1. In addition to the penalties and other enforcement  
42 3 provisions of this chapter, if any person violates this  
42 4 chapter or any rule implementing this chapter, the  
42 5 commissioner may seek an injunction in a court of competent  
42 6 jurisdiction in the county where the person resides or has a  
42 7 principal place of business and may apply for temporary and  
42 8 permanent orders that the commissioner determines necessary to  
42 9 restrain the person from further committing the violation.

42 10 2. A person damaged by an act of another person in  
42 11 violation of this chapter or any rule implementing or  
42 12 administering this chapter, may bring a civil action for  
42 13 damages against the person committing the violation in a court  
42 14 of competent jurisdiction.

42 15 3. The commissioner may issue a cease and desist order  
42 16 upon a person who violates any provision of this chapter, any  
42 17 rule adopted or order issued by the commissioner, or any  
42 18 written agreement entered into with the commissioner.

42 19 4. If the commissioner finds that such an action presents  
42 20 an immediate danger to the public and requires an immediate  
42 21 final order, the commissioner may issue an emergency cease and  
42 22 desist order reciting with particularity the facts underlying  
42 23 such findings. The emergency cease and desist order is  
42 24 effective immediately upon service of a copy of the order on  
42 25 the respondent and remains effective for ninety days. If the  
42 26 commissioner begins nonemergency cease and desist proceedings  
42 27 under subsection 1, the emergency cease and desist order  
42 28 remains effective, absent an order by a court of competent  
42 29 jurisdiction pursuant to chapter 17A. In the event of a  
42 30 willful violation of this chapter, the court may award  
42 31 statutory damages in addition to actual damages in an  
42 32 additional amount up to three times the actual damage award.

42 33 The provisions of this chapter shall not be waived by  
42 34 agreement. A choice of law provision shall not be utilized to  
42 35 prevent the application of this chapter to any life settlement  
43 1 in which a party to the life settlement is a resident of this  
43 2 state.

43 3 Sec. 16. NEW SECTION. 508G.16 PENALTIES.

43 4 1. It is a violation of this chapter for any person,  
43 5 provider, broker, or any other party related to the business  
43 6 of life settlements, to commit a fraudulent life settlement  
43 7 act.

43 8 2. For criminal liability purposes, a person that commits  
43 9 a fraudulent life settlement act is guilty of a class "D"  
43 10 felony.

43 11 3. In addition to the penalty provided in subsection 2,  
43 12 the commissioner may establish, assess, and collect a civil  
43 13 penalty not exceeding ten thousand dollars for each violation  
43 14 of this chapter, including a person or the person's employee  
43 15 licensed pursuant to this chapter, who commits a fraudulent  
43 16 life settlement act or violates any other provision of this  
43 17 chapter and penalties shall be deposited into the general fund  
43 18 of the state.

43 19 4. The license of a person licensed under this chapter  
43 20 that commits a fraudulent life settlement act shall be revoked  
43 21 for a period of five years.

43 22 Sec. 17. NEW SECTION. 508G.17 UNFAIR TRADE PRACTICES.

43 23 A violation of sections 508G.3 through 508G.16 by a  
43 24 provider, broker, or insurer shall be considered an unfair  
43 25 trade practice pursuant to chapter 507B.

43 26 DIVISION II  
43 27 COORDINATING CHANGES

43 28 Sec. 18. Section 502.102, subsection 17, paragraph d, Code  
43 29 2007, is amended to read as follows:

43 30 d. With respect to a ~~viatical life settlement investment~~  
43 31 contract as defined in section 508G.2, "issuer" means a person  
43 32 involved in creating, transferring, or selling to an investor  
43 33 any interest in such a contract, including but not limited to  
43 34 fractional or pooled interests, but does not include an agent  
43 35 or a broker-dealer.

44 1 Sec. 19. Section 502.102, subsection 28, paragraph f, Code  
44 2 2007, is amended to read as follows:

44 3 f. It includes a ~~viatical life settlement investment~~  
44 4 contract as defined in section 508G.2.

44 5 Sec. 20. Section 502.102, subsection 31A, Code 2007, is

44 6 amended by striking the subsection.

44 7 Sec. 21. Section 502.201, subsection 9E, Code 2007, is  
44 8 amended to read as follows:

44 9 9E. ~~VIATICAL LIFE SETTLEMENT CONTRACTS.~~ A viatical life  
44 10 settlement contract as defined in section 508.102, or  
44 11 fractional or pooled interest in such contract, provided any  
44 12 of the following conditions are satisfied:

44 13 a. The assignment, transfer, sale, devise, or bequest of a  
44 14 death benefit of a life insurance policy or contract is made  
44 15 by the ~~viator to owner of a life insurance policy to an~~  
44 16 ~~insurance company as provided under Title XIII, subtitle 1~~  
44 17 chapter 508G.

44 18 b. The assignment, transfer, sale, devise, or bequest of a  
44 19 life insurance policy or contract, for any value less than the  
44 20 expected death benefit, is made by the ~~viator owner of the~~  
44 21 life insurance policy to a family member or other person who  
44 22 enters into no more than one such agreement in a calendar  
44 23 year.

44 24 c. A life insurance policy or contract is assigned to a  
44 25 bank, savings bank, savings and loan association, credit  
44 26 union, or other licensed lending institution as collateral for  
44 27 a loan.

44 28 d. Accelerated benefits are exercised as provided in the  
44 29 life insurance policy or contract and consistent with  
44 30 applicable law.

44 31 e. The assignment, transfer, sale, devise, or bequest of  
44 32 the death benefit or ownership of a life insurance policy or  
44 33 contract made by the policyholder or contract owner to a  
44 34 ~~viatical settlement provider pursuant to a life settlement~~  
44 35 contract, if the ~~viatical life settlement transaction contract~~  
45 1 ~~complies with chapter 508E 508G~~, including rules adopted  
45 2 pursuant to that chapter.

45 3 Sec. 22. Chapter 508E, Code 2007, is repealed.

45 4 DIVISION III  
45 5 TRANSITIONAL PROVISIONS

45 6 Sec. 23. TRANSACTIONS OF BUSINESS.

45 7 1. A provider lawfully transacting business in this state  
45 8 prior to July 1, 2009, may continue to do so pending approval  
45 9 or disapproval of that person's application for a license as  
45 10 long as the application is filed with the commissioner not  
45 11 later than thirty days after publication by the commissioner  
45 12 of an application form and instructions for licensure of  
45 13 providers. If the publication of the application form and  
45 14 instructions is made prior to July 1, 2009, the filing of the  
45 15 application shall not be later than thirty days after July 1,  
45 16 2009. During the time that such an application is pending  
45 17 with the commissioner, the applicant may use any form of life  
45 18 settlement contract that has been filed with the commissioner  
45 19 pending approval of the application, provided that such form  
45 20 is otherwise in compliance with the provisions of this Act.  
45 21 Any person transacting business in this state under this  
45 22 provision shall be obligated to comply with all other  
45 23 requirements of this Act.

45 24 2. A person who has lawfully negotiated life settlement  
45 25 contracts between any owner residing in this state and one or  
45 26 more providers for at least one year immediately prior to July  
45 27 1, 2009, may continue to do so pending approval or disapproval  
45 28 of that person's application for a license as long as the  
45 29 application is filed with the commissioner not later than  
45 30 thirty days after publication by the commissioner of an  
45 31 application form and instructions for licensure of brokers.  
45 32 If the publication of the application form and instructions is  
45 33 prior to July 1, 2009, the filing of the application shall not  
45 34 be later than thirty days after July 1, 2009. Any person  
45 35 transacting business in this state under this provision shall  
46 1 be obligated to comply with all other requirements of this  
46 2 Act.

46 3 Sec. 24. EFFECTIVE DATE. This Act takes effect July 1,  
46 4 2009.

46 5 EXPLANATION

46 6 This bill is based on model legislation adopted by the  
46 7 national conference of insurance legislators regulating life  
46 8 settlement arrangements, by the commissioner of insurance  
46 9 (commissioner). A life insurance settlement is a transaction  
46 10 involving the sale of a life insurance policy (policy) issued  
46 11 by a life insurance company (insurer) before the policy  
46 12 matures.

46 13 DIVISION I == LIFE SETTLEMENTS ACT. The bill provides for  
46 14 a new Code chapter referred to as the "Life Settlements Act".  
46 15 It provides for the regulation of a life settlement contract  
46 16 which is a written agreement executed by a policy owner

46 17 (owner) and another party (provider) establishing the terms  
46 18 under which a life insurance company (producer) pays the  
46 19 provider the policy's expected death benefit upon the policy's  
46 20 maturity. The contract may be negotiated by another party  
46 21 (broker) on behalf of the owner and who owes a fiduciary duty  
46 22 to the owner. The rights of the proceeds may be transferred  
46 23 to another party (purchaser) presumably as an investment.  
46 24 LICENSING. The bill provides that a provider or broker  
46 25 must be licensed by the commissioner. It provides for  
46 26 application procedures, imposes requirements on producers,  
46 27 including when acting as a broker, provides for the renewal of  
46 28 licenses, and provides for the establishment and imposition of  
46 29 licensing fees, and for the imposition of disciplinary action  
46 30 for a broker or provider who fails to comply with the bill's  
46 31 requirements, including license, suspension, revocation, or a  
46 32 failure to renew.

46 33 CONTRACT REQUIREMENTS. The bill provides for the form of  
46 34 life settlement contracts including for the filing of  
46 35 contracts with the commissioner.

47 1 REPORTING REQUIREMENTS. The bill requires a provider to  
47 2 periodically report information regarding life settlement  
47 3 contracts to the commissioner, including documentation  
47 4 regarding proceeds received under such contracts. It provides  
47 5 a civil penalty not to exceed \$25,000 for a continuous delay  
47 6 in reporting. The bill also provides confidentiality  
47 7 provisions.

47 8 EXAMINATION REQUIREMENTS. The bill authorizes the  
47 9 commissioner to conduct examinations of brokers and providers  
47 10 who are applying for a license or who are doing business under  
47 11 a license. It provides for the confidentiality of information  
47 12 contained in certain records subject to examination, the  
47 13 retention of records by brokers and providers, the appointment  
47 14 of examiners, and the payment of examination fees. The bill  
47 15 also authorizes the commissioner to issue subpoenas and  
47 16 administer oaths and to seek judicial orders compelling  
47 17 persons to comply with orders compelling the production of  
47 18 information. The bill provides for the production of  
47 19 examination reports to be filed with the commissioner, and for  
47 20 the confidentiality of information gathered in the course of  
47 21 an examination. The bill prohibits an examiner from having a  
47 22 conflict of interest and provides for their immunity from  
47 23 liability.

47 24 ADVERTISING. The bill regulates how a broker or provider  
47 25 may advertise their business, and requires that advertising be  
47 26 accurate and truthful.

47 27 DISCLOSURE. The bill requires that a provider furnish an  
47 28 owner with a written disclosure statement prior to executing a  
47 29 contract. The disclosure statement must describe alternatives  
47 30 to the contract, that proceeds may be taxable, subject to the  
47 31 claims of creditors, and affect eligibility for public  
47 32 assistance. The owner is provided rights to terminate the  
47 33 contract upon the repayment of any proceeds received under the  
47 34 contract. The disclosure statement must describe the amount  
47 35 and the method of calculating compensation to be paid, and  
48 1 when the proceeds are to be paid. The disclosure must include  
48 2 fraud warnings. The bill also requires a broker to provide an  
48 3 owner and provider with a written disclosure statement,  
48 4 describing the broker and information regarding negotiations  
48 5 by the broker acting on behalf of the owner.

48 6 INSURER MAY REQUIRE INFORMATION. The bill provides that an  
48 7 insurer may require information regarding a contractual  
48 8 arrangement between a broker and a producer and the terms of a  
48 9 contract, including the payment of premiums, and the use of  
48 10 financing to pay for the premiums, and warnings regarding an  
48 11 applicant's future ability to acquire insurance.

48 12 PROVIDER MAY REQUIRE INFORMATION. The bill provides that a  
48 13 provider may require that an owner furnish information  
48 14 including information regarding the owner's health status and  
48 15 whether the owner is terminally ill or chronically ill. In  
48 16 that case, the owner must provide medical evidence regarding  
48 17 the owner's mental condition, provide a release of the owner's  
48 18 medical records, a verification of coverage, and a signed  
48 19 statement that verifies the owner understands the nature of  
48 20 the contract. The bill requires that the provider may seek  
48 21 assurances that the insurer will not unreasonably delay  
48 22 effecting a change in ownership. The information provided to  
48 23 a provider is considered confidential.

48 24 RESTRICTIONS. The bill prohibits a person from entering  
48 25 into a life settlement contract prior to applying for a life  
48 26 insurance policy, unless the policy was issued as a group  
48 27 policy or a converted policy, or extraordinary circumstances

48 28 exist, including that the owner is terminally ill or  
48 29 chronically ill, or there is a material change in the person's  
48 30 financial or personal life (e.g., the owner's spouse dies, the  
48 31 owner divorces their spouse, the owner retires, or the owner  
48 32 becomes mentally or physically disabled). The change must be  
48 33 documented and submitted to the insurer.

48 34 RULEMAKING AND CONFLICT OF LAW. The bill authorizes the  
48 35 commissioner to adopt rules necessary to implement and  
49 1 administer the bill's provisions. It also provides rules when  
49 2 there is a conflict of laws between this state and another  
49 3 state.

49 4 PROHIBITED PRACTICES == FRAUD. The bill provides for a  
49 5 number of prohibited practices, including prohibiting a person  
49 6 from entering into a contract under false, deceptive, or  
49 7 misleading conditions, or engaging in fraud. The bill  
49 8 prohibits a person from committing a fraudulent life  
49 9 settlement act in a manner that deprives another person of  
49 10 property by false material information, or concealing material  
49 11 information which concerns a material fact. The bill  
49 12 prohibits a person from interfering with the enforcement of  
49 13 the bill's provisions. It also requires the mandatory  
49 14 reporting of fraudulent life settlement acts, and provides for  
49 15 the confidentiality of information submitted as part of an  
49 16 investigation. The bill requires providers and brokers to  
49 17 provide a number of antifraud provisions, including the  
49 18 submission of an antifraud plan to the commissioner.

49 19 ENFORCEMENT. The bill authorizes the commissioner to take  
49 20 actions necessary to enforce the bill's provisions, including  
49 21 seeking injunctive relief. The bill allows a person who is  
49 22 injured by a violation of the bill's provisions to bring a  
49 23 civil action for damages. The bill authorizes the  
49 24 commissioner to take emergency action if necessary, including  
49 25 by issuing an order to immediately cease and desist from a  
49 26 prohibited practice.

49 27 PENALTIES. The bill provides that a person who commits a  
49 28 fraudulent life settlement act is guilty of a class "D"  
49 29 felony. A class "D" felony is punishable by confinement for  
49 30 no more than five years and a fine of at least \$750 but not  
49 31 more than \$7,500.

49 32 The commissioner may also establish, impose, and assess  
49 33 civil penalties for violations of the bill's provisions which  
49 34 cannot exceed \$10,000 for a single offense.

49 35 DIVISION II == COORDINATING CHANGES. The bill amends Code  
50 1 chapter 502, Iowa's so-called "blue sky law", by providing  
50 2 that a life settlement contract is not a security. The bill  
50 3 substitutes the term "life settlement contract" for "viatical  
50 4 contract" which is governed under Code chapter 508E. The bill  
50 5 repeals that Code chapter.

50 6 DIVISION III == TRANSITIONAL PROVISIONS. The bill  
50 7 preserves certain life settlement arrangements by persons who  
50 8 were transacting business in this state prior to the effective  
50 9 date of the bill, subject to approval by the commissioner.

50 10 EFFECTIVE DATE. The bill takes effect on July 1, 2009.

50 11 LSB 5896XC 82

50 12 da/rj/24