



## THE COMMONWEALTH OF MASSACHUSETTS

### Division of Insurance

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### **Licensing Requirements: Life Settlement Broker**

Licensing of Life Settlement Brokers in Massachusetts is governed by Chapter 434 of the Acts of 2012, which regulates Life Settlement Contracts, Life Settlement Providers, and Life Settlement Brokers. Chapter 434 establishes a new regulatory process for the life settlement industry and is codified in sections 212 to 223E of M.G.L. Chapter 175 (the “Life Settlement Law”).

Unless exempted, any person acting as a Life Settlement Broker in Massachusetts must be licensed by the Division of Insurance. A Life Settlement Broker license issued to a business entity authorizes its members, officers and designated employees to act as licensees under the license provided those persons are identified in the initial application or in any supplements to the application.

An application for a business entity life settlement broker license must name at least one person who is individually licensed in Massachusetts as a life settlement broker who will be responsible for the business entity’s compliance with the life settlement laws of the Commonwealth.

Nonresident license applicants must be licensed as Life Settlement Brokers in their resident state prior to applying for licensure as Life Settlement Brokers in Massachusetts. Nonresidents must file and maintain with the Commissioner of Insurance (“Commissioner”) a written designation of an agent for service of process or file with the Commissioner a written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Commissioner.

**LIFE SETTLEMENT BROKER LICENSE:** An applicant for a Life Settlement Broker license must file:

- A complete life settlement broker license application;
- A check payable to the Commonwealth of Massachusetts for the application fee;
- An Anti-fraud plan that meets the requirements of MGL c. 175, §223B (g);
- If applicant is a business entity, it must be organized under the laws of the Massachusetts or a foreign entity authorized to transact business in the Commonwealth; and
- A Certificate of Good Standing from the state of its domicile.

1. **Anti-Fraud Initiatives and Anti-Fraud Plans:** Life Settlement Brokers must have antifraud initiatives in place to detect, prosecute and prevent fraudulent life settlement acts. Antifraud initiatives shall include:

- Fraud investigators, who may be life settlement provider or life settlement broker employees or independent contractors; and
- An antifraud plan, which shall be submitted to and approved by the Commissioner.

Anti-fraud plans must include, but are not limited to, the following:

- A description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;
- A description of the procedures for reporting possible fraudulent life settlement acts to the Commissioner;
- A description of the plan for antifraud education and training of underwriters and other personnel; and

- A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent life settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

Antifraud plans submitted to the Commissioner are privileged and confidential, not public record, and not subject to discovery or subpoena in a civil or criminal action.

2. Life Settlement Broker License Exemption: A licensed attorney, certified public accountant or financial planner accredited by a nationally recognized accreditation agency, who is retained in the type of practice customarily performed in their professional capacity to represent the owner of a life insurance policy or a certificate holder under a group policy ("Owner") and whose compensation is not paid directly or indirectly by the life settlement provider or purchaser, may negotiate life settlement contracts on behalf of the Owner without obtaining a license as a Life Settlement Broker.
3. Licensed Life Insurance Producers acting as Life Settlement Broker: An insurance producer, resident or nonresident, licensed and holding the life line of authority for at least one (1) year may operate as a Life Settlement Broker provided that not later than 30 days from the first day of operating as a Life Settlement Broker, the life insurance producer shall notify the Commissioner by filing a Life Settlement Broker application certifying that the producer is acting as a Life Settlement Broker and paying the prescribed fee.
4. Viatical Settlement or Loan Brokers: Persons currently licensed as Viatical Settlement or Loan Brokers are deemed qualified for licensure as Life Settlement Brokers and shall be subject to the provisions of the Life Settlement law as if originally so licensed. Life Settlement Broker applications will be provided upon renewal.
5. Continuing Education Requirement for Life Settlement Brokers: A person licensed as a Life Settlement Broker shall, on a biennial basis, complete 15 hours of continuing education training related to the business of life settlements and life settlement transactions. This requirement does not apply to a licensed life insurance producer operating as a Life Settlement Broker.
6. Life Settlement Brokers who have negotiated life settlement contracts between an Owner residing in Massachusetts and a Life Settlement Provider for at least one (1) year immediately prior to June 1, 2013 may continue to do so pending approval or disapproval of a Life Settlement Broker license as long as the application is filed not later than 30 days after publication by the Commissioner of an application form and instructions for licensure of life settlement brokers. Persons transacting business under this section shall be obligated to comply with all other requirements of the Life Settlement law.
7. Fiduciary Duty of Life Settlement Broker: A person licensed as a Life Settlement Broker shall represent only the Owner and shall owe a fiduciary duty to the Owner to act according to the Owner's instructions and in the best interest of the Owner, regardless of the manner in which the Life Settlement Broker is compensated.

Questions about licensing requirements should be directed to the Division's Producer Licensing Department at 617-521-7794.