



## THE COMMONWEALTH OF MASSACHUSETTS

### Division of Insurance

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### Licensing Requirements: Life Settlement Provider

The licensing of Life Settlement Providers 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").

Pursuant to the Life Settlement Law all Life Settlement Providers must be licensed by the Division of Insurance prior to commencing business in Massachusetts. Nonresident license applicants 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 PROVIDER LICENSE: An applicant for a Life Settlement Provider license must file:

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

1. Anti-Fraud Initiatives and Anti-Fraud Plans: Life Settlement Providers 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 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 records, and not subject to discovery or subpoena in a civil or criminal action.

2. Buyer's Guide, Forms and Consumer Disclosures: The Life Settlement Law requires that all life settlement contracts, forms and disclosures be filed and approved by the Division of Insurance. Certain written disclosures must be provided to the owner of the policy no later than the date of application for a life settlement contract. The NAIC buyer's guide or a similar consumer advisory package in a form approved by the Commissioner must be provided by the Life Settlement Provider to the owner of the policy during the solicitation process. Failure to provide the required disclosures is deemed an unfair trade practice under M.G.L. c. 176D. All consumer disclosure forms and/or statements, including any consent, waiver, rescission statement, verification request or acknowledgement forms, used in connection with a life settlement contract must meet the requirements of M.G.L. c. 175 §219, §220, §222, and §223B(b) and be expressly approved by the Division. Please refer to DOI Bulletin 2008-08 for filing guidelines. Questions should be directed to the Policy Form Review department at (617) 521-7350.
3. Reporting and Examination Requirements: The law mandates that Life Settlement Providers file an annual statement, on or before March 1<sup>st</sup> of their financial condition. In addition, the Commissioner may, when the Commissioner deems it necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license.
4. Viatical Settlement Provider Licensees – Persons currently licensed as Viatical Settlement Providers are deemed qualified for licensure as Life Settlement Providers and shall be subject to the provisions of the Life Settlement law as if originally so licensed. Any Viatical Settlement Provider transacting business prior to June 1, 2013 may continue to do so pending approval or disapproval of a Life Settlement Provider 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 providers.

Questions about Life Settlement Provider licensing requirements should be directed to Company Licensing, at [companies.mailbox@state.ma.us](mailto:companies.mailbox@state.ma.us).