

HOUSE BILL No. 6060

May 16, 2006, Introduced by Reps. Hune, Gaffney and Hildenbrand and referred to the Committee on Insurance.

A bill to amend 1996 PA 386, entitled

"An act to regulate the sale and purchase of viatical settlement contracts; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties,"

by amending the title and sections 1, 2, 3, 4, 5, 6, 7, and 8 (MCL 550.521, 550.522, 550.523, 550.524, 550.525, 550.526, 550.527, and 550.528), section 8 as amended by 1997 PA 189, and by adding sections 1a, 1b, 1c, 1d, 1e, 2a, 3a, 9, 10, 11, 12, and 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to regulate the sale and purchase of ~~viatical~~ LIFE
3 settlement contracts; TO PROVIDE FOR LICENSING OF LIFE SETTLEMENT
4 PROVIDERS; TO PRESCRIBE CERTAIN RECORDS, STATEMENTS, FORMS, AND
5 REPORTS; to prescribe the powers and duties of certain state
6 agencies and officials; and to prescribe penalties.

1 Sec. 1. As used in this act:

2 (A) "ADVERTISING" MEANS ANY WRITTEN, ELECTRONIC, OR PRINTED
3 COMMUNICATION, INCLUDING RECORDED TELEPHONE MESSAGES OR
4 COMMUNICATION TRANSMITTED ON RADIO, TELEVISION, THE INTERNET, OR
5 SIMILAR COMMUNICATIONS MEDIA, THAT IS PUBLISHED, DISSEMINATED,
6 CIRCULATED, OR PLACED DIRECTLY BEFORE THE PUBLIC IN THIS STATE, FOR
7 THE PURPOSE OF CREATING AN INTEREST IN OR INDUCING A PERSON TO
8 SELL, ASSIGN, DEVISE, BEQUEST, OR TRANSFER THE DEATH BENEFIT OR
9 OWNERSHIP OF A POLICY PURSUANT TO A LIFE SETTLEMENT CONTRACT.

10 (B) "BUSINESS OF LIFE SETTLEMENTS" MEANS AN ACTIVITY INVOLVING
11 A LIFE SETTLEMENT CONTRACT, INCLUDING, BUT NOT LIMITED TO, THE
12 OFFERING, SOLICITATION, NEGOTIATION, PROCUREMENT, EFFECTUATION,
13 PURCHASING, INVESTING, FINANCING, MONITORING, TRACKING,
14 UNDERWRITING, SELLING, TRANSFERRING, ASSIGNING, PLEDGING, OR
15 HYPOTHECATING OF LIFE SETTLEMENT CONTRACTS.

16 (C) "CHRONICALLY ILL" MEANS EITHER OF THE FOLLOWING:

17 (i) BEING UNABLE TO PERFORM AT LEAST 2 ACTIVITIES OF DAILY
18 LIVING, INCLUDING, BUT NOT LIMITED TO, EATING, TOILETING,
19 TRANSFERRING, BATHING, DRESSING, OR CONTINENCE.

20 (ii) REQUIRING SUBSTANTIAL SUPERVISION TO PROTECT THE
21 INDIVIDUAL FROM THREATS TO HEALTH AND SAFETY DUE TO SEVERE
22 COGNITIVE IMPAIRMENT.

23 (D) ~~-(a)-~~ "Commissioner" means the commissioner of ~~insurance~~
24 THE OFFICE OF FINANCIAL AND INSURANCE SERVICES.

25 (E) "ESCROW AGENT" MEANS AN ATTORNEY, CERTIFIED PUBLIC
26 ACCOUNTANT, FINANCIAL INSTITUTION, OR OTHER PERSON PROVIDING ESCROW
27 SERVICES UNDER THE AUTHORITY OF A STATE OR FEDERAL REGULATORY BODY.

1 ESCROW AGENT DOES NOT INCLUDE ANY PERSON ASSOCIATED, AFFILIATED, OR
2 UNDER COMMON CONTROL WITH A LIFE SETTLEMENT PROVIDER.

3 (F) "FINANCING ENTITY" MEANS AN UNDERWRITER, PLACEMENT AGENT,
4 LENDER, PURCHASER OF SECURITIES, PURCHASER OF A POLICY OR
5 CERTIFICATE FROM A LIFE SETTLEMENT PROVIDER, CREDIT ENHANCER, OR AN
6 ENTITY THAT HAS A DIRECT OWNERSHIP IN A POLICY THAT IS THE SUBJECT
7 OF A LIFE SETTLEMENT CONTRACT, BUT WHOSE PRINCIPAL ACTIVITY RELATED
8 TO THE TRANSACTION IS PROVIDING FUNDS TO EFFECT THE LIFE SETTLEMENT
9 OR PURCHASE OF 1 OR MORE PURCHASED POLICIES AND WHO HAS AN
10 AGREEMENT IN WRITING WITH 1 OR MORE LICENSED LIFE SETTLEMENT
11 PROVIDERS TO FINANCE THE ACQUISITION OF LIFE SETTLEMENT CONTRACTS
12 OR TO PROVIDE STOP LOSS INSURANCE. FINANCING ENTITY DOES NOT
13 INCLUDE A NONACCREDITED INVESTOR.

14 (G) "FRAUDULENT LIFE SETTLEMENT ACT" INCLUDES ALL OF THE
15 FOLLOWING:

16 (i) ACTS OR OMISSIONS COMMITTED BY A PERSON WHO, KNOWINGLY OR
17 WITH INTENT TO DEFRAUD, FOR THE PURPOSE OF DEPRIVING ANOTHER OF
18 PROPERTY OR FOR PECUNIARY GAIN, COMMITS OR PERMITS ITS EMPLOYEES OR
19 ITS AGENTS TO ENGAGE IN ACTS INCLUDING:

20 (A) PRESENTING, CAUSING TO BE PRESENTED, OR PREPARING, WITH
21 KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY A LIFE
22 SETTLEMENT PROVIDER, FINANCING ENTITY, INSURER, INSURANCE PRODUCER,
23 OR ANOTHER PERSON, FALSE MATERIAL INFORMATION, OR CONCEALING
24 MATERIAL INFORMATION, AS PART OF, IN SUPPORT OF, OR CONCERNING A
25 FACT MATERIAL TO 1 OR MORE OF THE FOLLOWING:

26 (I) AN APPLICATION FOR THE ISSUANCE OF A LIFE SETTLEMENT
27 CONTRACT OR POLICY.

1 (II) THE UNDERWRITING OF A LIFE SETTLEMENT CONTRACT OR POLICY.

2 (III) A CLAIM FOR PAYMENT OR BENEFIT PURSUANT TO A LIFE
3 SETTLEMENT CONTRACT OR POLICY.

4 (IV) PREMIUMS PAID ON A POLICY.

5 (V) PAYMENTS AND CHANGES IN OWNERSHIP OR BENEFICIARY MADE IN
6 ACCORDANCE WITH THE TERMS OF A LIFE SETTLEMENT CONTRACT OR POLICY.

7 (VI) THE REINSTATEMENT OR CONVERSION OF A POLICY.

8 (VII) IN THE SOLICITATION, OFFER, NEGOTIATION, OR SALE OF A
9 LIFE SETTLEMENT CONTRACT OR POLICY.

10 (VIII) THE ISSUANCE OF WRITTEN EVIDENCE OF A LIFE SETTLEMENT
11 CONTRACT OR INSURANCE.

12 (IX) A FINANCING TRANSACTION.

13 (B) EMPLOYING ANY DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD
14 RELATED TO PURCHASED POLICIES.

15 (ii) IN THE FURTHERANCE OF A FRAUD OR TO PREVENT THE DETECTION
16 OF A FRAUD, A PERSON COMMITS OR PERMITS ITS EMPLOYEES OR ITS AGENTS
17 TO DO ANY OF THE FOLLOWING:

18 (A) REMOVE, CONCEAL, ALTER, DESTROY, OR SEQUESTER FROM THE
19 COMMISSIONER THE ASSETS OR RECORDS OF A LIFE SETTLEMENT PROVIDER OR
20 OTHER PERSON ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS.

21 (B) MISREPRESENT OR CONCEAL THE FINANCIAL CONDITION OF A LIFE
22 SETTLEMENT PROVIDER, FINANCING ENTITY, INSURER, OR OTHER PERSON.

23 (C) TRANSACT THE BUSINESS OF LIFE SETTLEMENTS IN VIOLATION OF
24 LAWS REQUIRING A LICENSE, CERTIFICATE OF AUTHORITY, OR OTHER LEGAL
25 AUTHORITY FOR THE TRANSACTION OF THE BUSINESS OF LIFE SETTLEMENTS.

26 (D) FILE WITH THE COMMISSIONER OR THE CHIEF INSURANCE
27 REGULATORY OFFICIAL OF ANOTHER JURISDICTION A DOCUMENT CONTAINING

1 FALSE INFORMATION OR OTHERWISE CONCEALS INFORMATION ABOUT A
2 MATERIAL FACT FROM THE COMMISSIONER.

3 (iii) EMBEZZLEMENT, THEFT, MISAPPROPRIATION, OR CONVERSION OF
4 MONEY, FUNDS, PREMIUMS, CREDITS, OR OTHER PROPERTY OF A LIFE
5 SETTLEMENT PROVIDER, LIFE INSURANCE PRODUCER, INSURER, INSURED,
6 SELLER, POLICYOWNER, OR ANOTHER PERSON ENGAGED IN THE BUSINESS OF
7 LIFE SETTLEMENTS OR INSURANCE.

8 (iv) RECKLESSLY ENTERING INTO, NEGOTIATING, OR OTHERWISE
9 DEALING IN A LIFE SETTLEMENT CONTRACT, THE SUBJECT OF WHICH IS A
10 POLICY THAT WAS OBTAINED BY PRESENTING FALSE INFORMATION CONCERNING
11 A FACT MATERIAL TO THE POLICY, OR BY CONCEALING, FOR THE PURPOSE OF
12 MISLEADING ANOTHER, INFORMATION CONCERNING A FACT MATERIAL TO THE
13 POLICY, WHERE THE PERSON INTENDED TO DEFRAUD THE INSURANCE COMPANY
14 THAT ISSUED THE POLICY. AS USED IN THIS SUBPARAGRAPH, "RECKLESSLY"
15 MEANS ENGAGING IN THE CONDUCT IN CONSCIOUS AND CLEARLY
16 UNJUSTIFIABLE DISREGARD OF A SUBSTANTIAL LIKELIHOOD OF THE
17 EXISTENCE OF THE RELEVANT FACTS OR RISKS, WHICH DISREGARD INVOLVES
18 A GROSS DEVIATION FROM ACCEPTABLE STANDARDS OF CONDUCT.

19 (v) ATTEMPTING TO COMMIT, ASSIST, AID, OR ABET IN THE
20 COMMISSION OF, OR CONSPIRACY TO COMMIT, THE ACTS OR OMISSIONS
21 SPECIFIED IN THIS SUBDIVISION.

22 (vi) FACILITATING, DIRECTLY OR INDIRECTLY, THE CHANGE OF
23 OWNERSHIP OF A POLICY OR THE STATE OF RESIDENCY OF A SELLER IN
24 ORDER TO AVOID THE PROVISIONS OF THIS ACT.

25 (vii) FACILITATING, DIRECTLY OR INDIRECTLY, THE ISSUANCE OF A
26 POLICY ON AN INSURED WHO IS A RESIDENT OF THIS STATE SUCH THAT THE
27 POLICY IS OWNED IN ANOTHER STATE IN ORDER TO AVOID THE PROVISIONS

1 OF THIS ACT.

2 (H) ~~-(b)-~~ "Life insurance" means that term as defined in
3 section 602 of the insurance code of 1956, ~~Act No. 218 of the~~
4 ~~Public Acts of 1956, being section 500.602 of the Michigan Compiled~~
5 ~~Laws~~ 1956 PA 218, MCL 500.602.

6 (I) "LIFE INSURANCE PRODUCER" MEANS A PERSON LICENSED AS A
7 RESIDENT OR NONRESIDENT INSURANCE PRODUCER FOR LIFE INSURANCE OR A
8 LIFE LINE OF COVERAGE UNDER THE INSURANCE CODE OF 1956, 1956 PA
9 218, MCL 500.100 TO 500.8302.

10 (J) "LIFE SETTLEMENT CONTRACT" OR "CONTRACT" MEANS A WRITTEN
11 AGREEMENT BETWEEN A SELLER AND A LIFE SETTLEMENT PROVIDER
12 ESTABLISHING THE TERMS UNDER WHICH COMPENSATION OR ANYTHING OF
13 VALUE IS PAID, WHICH COMPENSATION OR VALUE IS LESS THAN THE
14 EXPECTED DEATH BENEFIT OF THE POLICY, IN RETURN FOR THE SELLER'S
15 ASSIGNMENT, TRANSFER, SALE, DEVISE, OR BEQUEST OF THE DEATH BENEFIT
16 OR OWNERSHIP OF ANY PORTION OF THE POLICY. A LIFE SETTLEMENT
17 CONTRACT ALSO INCLUDES A CONTRACT FOR A LOAN OR OTHER FINANCING
18 TRANSACTION WITH A SELLER SECURED PRIMARILY BY AN INDIVIDUAL OR
19 GROUP LIFE INSURANCE POLICY, OTHER THAN A LOAN BY A LIFE INSURANCE
20 COMPANY PURSUANT TO THE TERMS OF THE POLICY, OR A LOAN SECURED BY
21 THE CASH VALUE OF A POLICY. A LIFE SETTLEMENT CONTRACT INCLUDES AN
22 AGREEMENT WITH A SELLER TO TRANSFER OWNERSHIP OR CHANGE THE
23 BENEFICIARY DESIGNATION AT A LATER DATE REGARDLESS OF THE DATE THAT
24 COMPENSATION IS PAID TO THE SELLER. A LIFE SETTLEMENT CONTRACT DOES
25 NOT INCLUDE A WRITTEN AGREEMENT ENTERED INTO BETWEEN A SELLER AND A
26 PERSON HAVING AN INSURABLE INTEREST IN THE INSURED'S LIFE.

27 (K) "LIFE SETTLEMENT PROVIDER" MEANS A PERSON, OTHER THAN A

1 SELLER, WHO ENTERS INTO OR NEGOTIATES A LIFE SETTLEMENT CONTRACT IN
2 THIS STATE, FROM THIS STATE, OR WITH A RESIDENT OF THIS STATE. LIFE
3 SETTLEMENT PROVIDER DOES NOT INCLUDE ANY OF THE FOLLOWING:

4 (i) A BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT
5 UNION, OR OTHER LICENSED LENDING INSTITUTION THAT TAKES AN
6 ASSIGNMENT OF A POLICY AS COLLATERAL FOR A LOAN.

7 (ii) THE ISSUER OF A POLICY PROVIDING ACCELERATED BENEFITS
8 UNDER SECTION 602 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
9 500.602.

10 (iii) AN INDIVIDUAL WHO ENTERS INTO OR NEGOTIATES NO MORE THAN 1
11 AGREEMENT IN A CALENDAR YEAR FOR THE TRANSFER OF POLICIES FOR ANY
12 VALUE LESS THAN THE EXPECTED DEATH BENEFIT.

13 (iv) AN AUTHORIZED OR ELIGIBLE INSURER THAT PROVIDES STOP LOSS
14 COVERAGE TO A LIFE SETTLEMENT PROVIDER, FINANCING ENTITY, SPECIAL
15 PURPOSE ENTITY, OR RELATED PROVIDER TRUST.

16 (v) A FINANCING ENTITY.

17 (vi) A SPECIAL PURPOSE ENTITY.

18 (vii) A RELATED PROVIDER TRUST.

19 (viii) AN ACCREDITED INVESTOR AS DEFINED IN REGULATION D, RULE
20 501 OR A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A OF
21 THE FEDERAL SECURITIES ACT OF 1933, AND WHO PURCHASES A PURCHASED
22 POLICY FROM A LIFE SETTLEMENT PROVIDER.

23 (l) "NEGOTIATE" MEANS THAT TERM AS DEFINED IN SECTION 1201 OF
24 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.1201.

25 (M) NONACCREDITED INVESTOR" MEANS A PERSON WHO IS NOT AN
26 ACCREDITED INVESTOR AS DEFINED IN 17 CFR 230.501.

27 (N) "PERSON" MEANS AN INDIVIDUAL OR A LEGAL ENTITY, INCLUDING,

BUT NOT LIMITED TO, AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR CORPORATION.

(O) ~~—(e)—~~ "Physician" means a person licensed in this or another state to practice medicine or osteopathic medicine.

(P) ~~—(d)—~~ "Policy" means an individual **OR GROUP** life insurance policy, ~~—or a certificate under a—~~ group life insurance ~~—policy~~ CERTIFICATE, OR CONTRACT ARRANGEMENT OF LIFE INSURANCE AFFECTING THE RIGHTS OF A RESIDENT OF THIS STATE OR BEARING A REASONABLE RELATION TO THIS STATE, REGARDLESS OF WHETHER DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE.

~~——(e) "Provider" means a person who enters into a viatical settlement contract with a viator. Provider does not mean any of the following:~~

~~——(i) A financial lending institution that takes a policy as collateral for a loan.~~

~~——(ii) The issuer of a policy providing accelerated benefits under section 602 of Act No. 218 of the Public Acts of 1956.~~

~~——(iii) An individual who enters into no more than 1 viatical settlement contract in a calendar year for the transfer of a policy for any value less than the expected death benefit.~~

~~——(f) "Viatical settlement contract" or "contract" means a written agreement entered into between a provider and a viator in which the provider will pay consideration that is less than the expected death benefit of the viator's policy in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the policy to the provider.~~

~~——(g) "Viator" means the owner or holder of a policy who has a~~

1 ~~terminal illness or condition and who enters into a viatical~~
2 ~~settlement contract.~~

3 (Q) "PURCHASED POLICY" MEANS A POLICY THAT HAS BEEN ACQUIRED
4 BY A LIFE SETTLEMENT PROVIDER PURSUANT TO A LIFE SETTLEMENT
5 CONTRACT.

6 (R) "RELATED PROVIDER TRUST" MEANS A TITLING TRUST OR OTHER
7 TRUST ESTABLISHED BY A LICENSED LIFE SETTLEMENT PROVIDER OR A
8 FINANCING ENTITY FOR THE SOLE PURPOSE OF HOLDING THE OWNERSHIP OR
9 BENEFICIAL INTEREST IN PURCHASED POLICIES IN CONNECTION WITH A
10 FINANCING TRANSACTION. THE TRUST SHALL HAVE A WRITTEN AGREEMENT
11 WITH THE LICENSED LIFE SETTLEMENT PROVIDER UNDER WHICH THE LICENSED
12 LIFE SETTLEMENT PROVIDER IS RESPONSIBLE FOR ENSURING COMPLIANCE
13 WITH ALL STATUTORY AND REGULATORY REQUIREMENTS AND UNDER WHICH THE
14 TRUST AGREES TO MAKE ALL RECORDS AND FILES RELATED TO LIFE
15 SETTLEMENT TRANSACTIONS AVAILABLE TO THE COMMISSIONER AS IF THOSE
16 RECORDS AND FILES WERE MAINTAINED DIRECTLY BY THE LICENSED LIFE
17 SETTLEMENT PROVIDER.

18 (S) "SELLER" MEANS THE OWNER OF A POLICY WHO ENTERS OR SEEKS
19 TO ENTER INTO A LIFE SETTLEMENT CONTRACT. FOR THE PURPOSES OF THIS
20 ACT, A SELLER IS NOT LIMITED TO AN OWNER OF A POLICY INSURING THE
21 LIFE OF AN INDIVIDUAL WITH A TERMINAL ILLNESS OR CHRONIC ILLNESS OR
22 CONDITION EXCEPT WHERE SPECIFICALLY ADDRESSED. IF THERE IS MORE
23 THAN 1 OWNER ON A SINGLE POLICY AND THE OWNERS ARE RESIDENTS OF
24 DIFFERENT STATES, THE TRANSACTION SHALL BE GOVERNED BY THE LAW OF
25 THE STATE IN WHICH THE OWNER HAVING THE LARGEST PERCENTAGE
26 OWNERSHIP RESIDES OR, IF THE OWNERS HOLD EQUAL OWNERSHIP, THE STATE
27 OF RESIDENCE OF 1 OWNER AGREED UPON IN WRITING BY ALL OWNERS.

1 SELLER DOES NOT INCLUDE ANY OF THE FOLLOWING:

2 (i) A LIFE SETTLEMENT PROVIDER OR A LIFE INSURANCE PRODUCER.

3 (ii) A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN 17 CFR
4 230.144A.

5 (iii) A FINANCING ENTITY.

6 (iv) A SPECIAL PURPOSE ENTITY.

7 (v) A RELATED PROVIDER TRUST.

8 (T) "SPECIAL PURPOSE ENTITY" MEANS A CORPORATION, PARTNERSHIP,
9 TRUST, LIMITED LIABILITY COMPANY, OR OTHER SIMILAR ENTITY FORMED
10 ONLY TO PROVIDE, DIRECTLY OR INDIRECTLY, ACCESS TO INSTITUTIONAL
11 CAPITAL MARKETS FOR EITHER A FINANCING ENTITY OR A LICENSED LIFE
12 SETTLEMENT PROVIDER.

13 (U) "TERMINALLY ILL" MEANS HAVING AN ILLNESS OR SICKNESS THAT
14 REASONABLY IS EXPECTED TO RESULT IN DEATH IN 24 MONTHS OR LESS.

15 SEC. 1A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
16 ONLY A LIFE INSURANCE PRODUCER WHO HAS BEEN LICENSED IN THIS STATE
17 OR HIS OR HER HOME STATE AS A LIFE INSURANCE PRODUCER FOR 1 OR MORE
18 YEARS MAY NEGOTIATE A LIFE SETTLEMENT CONTRACT ON BEHALF OF A
19 SELLER WITH 1 OR MORE LIFE SETTLEMENT PROVIDERS.

20 (2) NOTWITHSTANDING SUBSECTION (1), A LICENSED ATTORNEY,
21 CERTIFIED PUBLIC ACCOUNTANT, OR FINANCIAL PLANNER ACCREDITED BY A
22 NATIONALLY RECOGNIZED ACCREDITATION AGENCY WHO MEETS ALL OF THE
23 FOLLOWING MAY NEGOTIATE A LIFE SETTLEMENT CONTRACT ON BEHALF OF A
24 SELLER WITH 1 OR MORE LIFE SETTLEMENT PROVIDERS:

25 (A) IS RETAINED TO REPRESENT THE SELLER.

26 (B) IS NOT COMPENSATED DIRECTLY OR INDIRECTLY BY THE LIFE
27 SETTLEMENT PROVIDER.

1 (3) NOT LATER THAN 30 DAYS FROM THE FIRST DAY OF NEGOTIATING A
2 LIFE SETTLEMENT ON BEHALF OF A SELLER, THE LIFE INSURANCE PRODUCER,
3 LICENSED ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, OR ACCREDITED
4 FINANCIAL PLANNER SHALL NOTIFY THE COMMISSIONER OF THE NEGOTIATION
5 ON A FORM PRESCRIBED BY THE COMMISSIONER AND SHALL PAY ANY
6 APPLICABLE FEES PRESCRIBED BY THE COMMISSIONER. THE FORM PRESCRIBED
7 BY THE COMMISSIONER SHALL INCLUDE AN ACKNOWLEDGMENT THAT THE LIFE
8 INSURANCE PRODUCER, LICENSED ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT,
9 OR ACCREDITED FINANCIAL PLANNER IS ACTING IN ACCORDANCE WITH THIS
10 ACT.

11 (4) A LIFE INSURANCE PRODUCER, LICENSED ATTORNEY, CERTIFIED
12 PUBLIC ACCOUNTANT, OR ACCREDITED FINANCIAL PLANNER REPRESENTS ONLY
13 THE SELLER AND OWES A FIDUCIARY DUTY TO THE SELLER TO ACT ACCORDING
14 TO THE SELLER'S INSTRUCTIONS AND IN THE SELLER'S BEST INTERESTS.

15 SEC. 1B. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
16 A PERSON SHALL NOT OPERATE AS A LIFE SETTLEMENT PROVIDER WITHOUT
17 FIRST OBTAINING A LIFE SETTLEMENT PROVIDER LICENSE UNDER THIS
18 SECTION. ALL OF THE FOLLOWING APPLY TO A PERSON TRANSACTING THE
19 BUSINESS OF LIFE SETTLEMENTS IN THIS STATE ON THE EFFECTIVE DATE OF
20 THE AMENDATORY ACT THAT ADDED THIS SECTION:

21 (A) BY DECEMBER 31, 2006, THE COMMISSIONER BY ADMINISTRATIVE
22 BULLETIN, ORDER, OR RULE SHALL ESTABLISH AN APPLICATION PROCESS AND
23 AN APPLICATION TIMELINE THAT INCLUDES A DEADLINE FOR SUBMITTING A
24 COMPLETE APPLICATION FOR A LIFE SETTLEMENT PROVIDER LICENSE.

25 (B) IF THE PERSON INTENDS TO CONTINUE TO OPERATE AS A LIFE
26 SETTLEMENT PROVIDER, IT SHALL SUBMIT ITS COMPLETE APPLICATION FOR A
27 LIFE SETTLEMENT PROVIDER LICENSE WITH THE COMMISSIONER BY THE

1 APPLICATION DEADLINE ESTABLISHED UNDER SUBDIVISION (A).

2 (C) THE PERSON MAY CONTINUE TO OPERATE AS A LIFE SETTLEMENT
3 PROVIDER IN THIS STATE ON AND AFTER THE EFFECTIVE DATE OF THE
4 AMENDATORY ACT THAT ADDED THIS SECTION AND WITHOUT A LICENSE UNTIL
5 1 OF THE FOLLOWING OCCURS:

6 (i) THE PERSON FAILS TO MEET THE APPLICATION DEADLINE
7 ESTABLISHED UNDER SUBDIVISION (A).

8 (ii) THE COMMISSIONER ACTS ON THE PERSON'S COMPLETE
9 APPLICATION.

10 (2) A PERSON APPLYING FOR A LIFE SETTLEMENT PROVIDER LICENSE
11 SHALL FILE WITH THE COMMISSIONER AN APPLICATION AS REQUIRED BY THE
12 COMMISSIONER. THE APPLICATION SHALL REQUIRE THE FILING OF A
13 DETAILED PLAN OF OPERATION.

14 (3) UPON THE FILING OF AN APPLICATION AND THE PAYMENT OF THE
15 FEE UNDER SUBSECTION (7), THE COMMISSIONER SHALL ISSUE A LIFE
16 SETTLEMENT PROVIDER LICENSE IF THE COMMISSIONER FINDS ALL OF THE
17 FOLLOWING:

18 (A) THE APPLICANT IS COMPETENT AND TRUSTWORTHY AND INTENDS TO
19 ACT IN GOOD FAITH.

20 (B) THE APPLICANT HAS A GOOD BUSINESS REPUTATION AND HAS THE
21 NECESSARY EXPERIENCE, TRAINING, AND EDUCATION TO BE QUALIFIED AS A
22 LIFE SETTLEMENT PROVIDER.

23 (C) IF A LEGAL ENTITY, THE APPLICANT PROVIDES A CERTIFICATE OF
24 GOOD STANDING FROM ITS STATE OF DOMICILE.

25 (D) THE APPLICANT PROVIDES AN ANTIFRAUD PLAN THAT SATISFIES
26 THE REQUIREMENTS OF THIS ACT.

27 (4) THE COMMISSIONER MAY AT ANY TIME REQUIRE AN APPLICANT FOR

1 A LIFE SETTLEMENT PROVIDER LICENSE OR A LICENSED LIFE SETTLEMENT
2 PROVIDER TO FULLY DISCLOSE THE IDENTITY OF ALL STOCKHOLDERS WITH A
3 10% OR GREATER SHARE AND THE IDENTITY OF ALL PARTNERS, OFFICERS,
4 MEMBERS, AND EMPLOYEES. A LIFE SETTLEMENT PROVIDER SHALL PROVIDE TO
5 THE COMMISSIONER NEW OR REVISED INFORMATION ABOUT STOCKHOLDERS WITH
6 A 10% OR GREATER SHARE AND NEW OR REVISED INFORMATION ABOUT ALL
7 PARTNERS, OFFICERS, MEMBERS, AND DESIGNATED EMPLOYEES WITHIN 30
8 DAYS OF THE CHANGE.

9 (5) A LIFE SETTLEMENT PROVIDER LICENSE SHALL BE ISSUED FOR NOT
10 MORE THAN 1 YEAR. A LIFE SETTLEMENT PROVIDER MAY APPLY FOR A
11 RENEWAL OF HIS OR HER LICENSE IN THE MANNER PRESCRIBED BY THE
12 COMMISSIONER.

13 (6) THE COMMISSIONER SHALL NOT ISSUE A LIFE SETTLEMENT
14 PROVIDER LICENSE TO A NONRESIDENT APPLICANT UNLESS THE APPLICANT
15 DOES 1 OF THE FOLLOWING:

16 (A) FILES WITH THE COMMISSIONER THE NAME AND ADDRESS OF A
17 RESIDENT AGENT UPON WHICH ANY LOCAL PROCESS AFFECTING THE APPLICANT
18 MAY BE SERVED. SERVICE UPON THE RESIDENT AGENT DESIGNATED UNDER
19 THIS SUBDIVISION IS SERVICE ON THE APPLICANT. THIS DESIGNATION
20 SHALL REMAIN IN FORCE AS LONG AS ANY LIABILITY REMAINS WITHIN THIS
21 STATE.

22 (B) FILES WITH THE COMMISSIONER AN IRREVOCABLE WRITTEN
23 STIPULATION AGREEING THAT ANY LEGAL PROCESS AFFECTING THE APPLICANT
24 THAT IS SERVED ON THE COMMISSIONER OR HIS OR HER DESIGNEE HAS THE
25 SAME EFFECT AS IF PERSONALLY SERVED ON THE APPLICANT. SERVICE UPON
26 THE COMMISSIONER IS SERVICE ON THE APPLICANT. THIS APPOINTMENT
27 REMAINS IN FORCE AS LONG AS ANY LIABILITY REMAINS WITHIN THIS

1 STATE.

2 (7) THE COMMISSIONER SHALL ANNUALLY ESTABLISH A SCHEDULE OF
3 LIFE SETTLEMENT PROVIDER LICENSE FEES BASED UPON EACH LICENSEE'S
4 BUSINESS VOLUME, NUMBER OF LOCATIONS, AND ANY OTHER BUSINESS
5 FACTORS CONSIDERED REASONABLE BY THE COMMISSIONER IN ORDER TO
6 GENERATE FUNDS SUFFICIENT TO PAY, BUT NOT TO EXCEED, THE REASONABLY
7 ANTICIPATED COSTS OF ADMINISTERING THIS ACT. A LIFE SETTLEMENT
8 PROVIDER LICENSEE SHALL PAY THE ACTUAL TRAVEL, LODGING, AND MEAL
9 EXPENSES INCURRED BY OFFICE OF FINANCIAL AND INSURANCE SERVICES
10 EMPLOYEES WHO TRAVEL OUT OF STATE TO EXAMINE THE RECORDS OF OR
11 INVESTIGATE THE LIFE SETTLEMENT PROVIDER LICENSEE.

12 SEC. 1C. EACH LIFE SETTLEMENT PROVIDER SHALL FILE BY MARCH 1
13 OF EACH YEAR WITH THE COMMISSIONER AN ANNUAL STATEMENT, AS
14 PRESCRIBED BY THE COMMISSIONER, WHICH SHALL CONTAIN INFORMATION IN
15 THE AGGREGATE ONLY AND SHALL NOT INCLUDE INDIVIDUAL TRANSACTION
16 DATA CONCERNING THE BUSINESS OF LIFE SETTLEMENTS OR INFORMATION
17 THAT IDENTIFIES PERSONAL, FINANCIAL, OR MEDICAL INFORMATION OF THE
18 SELLER OR INSURED.

19 SEC. 1D. EXCEPT AS OTHERWISE REQUIRED BY LAW, A LIFE
20 SETTLEMENT PROVIDER, LIFE INSURANCE PRODUCER, INFORMATION BUREAU,
21 RATING AGENCY OR COMPANY, OR ANY OTHER PERSON WITH ACTUAL KNOWLEDGE
22 OF A SELLER'S OR INSURED'S IDENTITY SHALL NOT DISCLOSE THE SELLER'S
23 OR INSURED'S IDENTITY OR HIS OR HER PERSONAL, FINANCIAL, OR MEDICAL
24 INFORMATION TO ANOTHER PERSON UNLESS THE DISCLOSURE MEETS 1 OF THE
25 FOLLOWING:

26 (A) IS NECESSARY TO AFFECT A LIFE SETTLEMENT CONTRACT BETWEEN
27 THE SELLER AND A LIFE SETTLEMENT PROVIDER AND THE SELLER OR INSURED

1 HAS PROVIDED PRIOR WRITTEN CONSENT TO THE DISCLOSURE.

2 (B) IS PROVIDED IN RESPONSE TO AN EXAMINATION OR INVESTIGATION
3 BY THE COMMISSIONER OR ANOTHER GOVERNMENTAL OFFICER OR AGENCY.

4 (C) IS A TERM OF OR CONDITION TO THE TRANSFER OF A POLICY BY 1
5 LIFE SETTLEMENT PROVIDER TO ANOTHER LIFE SETTLEMENT PROVIDER.

6 (D) IS NECESSARY TO PERMIT A FINANCING ENTITY, RELATED
7 PROVIDER TRUST, OR SPECIAL PURPOSE ENTITY TO FINANCE THE PURCHASE
8 OF POLICIES BY A LIFE SETTLEMENT PROVIDER AND THE SELLER OR INSURED
9 HAS PROVIDED PRIOR WRITTEN CONSENT TO THE DISCLOSURE.

10 (E) IS NECESSARY TO ALLOW THE LIFE SETTLEMENT PROVIDER OR HIS
11 OR HER AUTHORIZED REPRESENTATIVE TO MAKE CONTACTS TO DETERMINE
12 HEALTH STATUS.

13 (F) IS REQUIRED TO PURCHASE STOP LOSS COVERAGE.

14 SEC. 1E. (1) THE COMMISSIONER MAY EXAMINE, OR MAY CAUSE TO BE
15 EXAMINED, AT ANY TIME, THE AFFAIRS OF AND ANY OR ALL OF THE BOOKS,
16 RECORDS, DOCUMENTS, AND PAPERS OF ANY LIFE SETTLEMENT PROVIDER. THE
17 COMMISSIONER MAY ACCEPT AN EXAMINATION REPORT ON THE LIFE
18 SETTLEMENT PROVIDER AS PREPARED BY THE LIFE SETTLEMENT PROVIDER'S
19 STATE INSURANCE REGULATOR FOR THE LIFE SETTLEMENT PROVIDER'S STATE
20 OF DOMICILE OR POINT-OF-ENTRY STATE. IN CONDUCTING AN EXAMINATION
21 UNDER THIS SECTION, THE COMMISSIONER SHALL PROCEED IN THE SAME
22 MANNER AND WITH THE SAME AUTHORITY AS PROVIDED IN SECTION 222 OF
23 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.222, AS IF THE
24 LIFE SETTLEMENT PROVIDER IS AN INSURER AS THAT TERM IS USED IN THAT
25 SECTION.

26 (2) A LIFE SETTLEMENT PROVIDER SHALL MAINTAIN FOR 5 YEARS
27 COPIES OF ALL OF THE FOLLOWING:

1 (A) PROPOSED, OFFERED, OR EXECUTED CONTRACTS, UNDERWRITING
2 DOCUMENTS, POLICY FORMS, AND APPLICATIONS.

3 (B) CHECKS, DRAFTS, OR OTHER EVIDENCE AND DOCUMENTATION
4 RELATED TO THE PAYMENT, TRANSFER, DEPOSIT, OR RELEASE OF FUNDS.

5 (C) ALL OTHER RECORDS AND DOCUMENTS RELATED TO THE
6 REQUIREMENTS OF THIS ACT.

7 (3) THIS SECTION DOES NOT RELIEVE A LIFE SETTLEMENT PROVIDER
8 OF THE OBLIGATION TO PRODUCE DOCUMENTS TO THE COMMISSIONER AFTER
9 THE RETENTION PERIOD UNDER SUBSECTION (2) HAS EXPIRED IF THE LIFE
10 SETTLEMENT PROVIDER HAS RETAINED THOSE DOCUMENTS.

11 (4) EVERY LIFE SETTLEMENT PROVIDER OR PERSON FROM WHOM
12 INFORMATION IS SOUGHT, ITS OFFICERS, DIRECTORS, AND AGENTS SHALL
13 PROVIDE TO EXAMINERS UNDER THIS SECTION TIMELY, CONVENIENT, AND
14 FREE ACCESS DURING REASONABLE BUSINESS HOURS AT ITS OFFICES TO ALL
15 BOOKS, RECORDS, ACCOUNTS, PAPERS, DOCUMENTS, ASSETS, AND COMPUTER
16 OR OTHER RECORDINGS RELATING TO THE PROPERTY, ASSETS, BUSINESS, AND
17 AFFAIRS OF THE LIFE SETTLEMENT PROVIDER. THE OFFICERS, DIRECTORS,
18 EMPLOYEES, AND AGENTS OF THE LIFE SETTLEMENT PROVIDER OR PERSON
19 SHALL FACILITATE THE EXAMINATION AND AID IN THE EXAMINATION SO FAR
20 AS POSSIBLE. THE REFUSAL OF A LIFE SETTLEMENT PROVIDER, OR ITS
21 OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, TO SUBMIT TO EXAMINATION
22 OR TO COMPLY WITH ANY REASONABLE WRITTEN REQUEST OF THE
23 COMMISSIONER IS GROUNDS FOR SUSPENSION OR REFUSAL OF, OR NONRENEWAL
24 OF, ANY LICENSE OR AUTHORITY HELD BY THE LIFE SETTLEMENT PROVIDER
25 TO ENGAGE IN THE BUSINESS OF LIFE SETTLEMENTS OR OTHER BUSINESS
26 SUBJECT TO THE COMMISSIONER'S JURISDICTION. ANY PROCEEDINGS FOR
27 SUSPENSION, REVOCATION, OR REFUSAL OF ANY LICENSE OR AUTHORITY

1 SHALL BE CONDUCTED PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE
2 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287.

3 Sec. 2. (1) The commissioner may order a provider to produce
4 records, books, files, or other information that is necessary to
5 determine the qualifications of the provider or whether the
6 provider is or has acted in violation of this act.

7 (2) The provider shall maintain records of all transactions of
8 contracts and make the records available to the commissioner for
9 inspection during reasonable business hours.

10 (3) The **LIFE SETTLEMENT** provider shall pay the expenses
11 incurred in conducting an examination under this ~~section~~ ACT.

12 **SEC. 2A. (1) NO CAUSE OF ACTION SHALL ARISE NOR SHALL ANY**
13 **LIABILITY BE IMPOSED AGAINST THE COMMISSIONER, THE COMMISSIONER'S**
14 **AUTHORIZED REPRESENTATIVES, OR ANY EXAMINER APPOINTED BY THE**
15 **COMMISSIONER FOR ANY STATEMENTS MADE OR CONDUCT PERFORMED IN GOOD**
16 **FAITH WHILE CARRYING OUT THE PROVISIONS OF THIS ACT.**

17 (2) NO CAUSE OF ACTION SHALL ARISE NOR SHALL ANY LIABILITY BE
18 IMPOSED AGAINST ANY PERSON FOR THE ACT OF COMMUNICATING OR
19 DELIVERING INFORMATION OR DATA TO THE COMMISSIONER, THE
20 COMMISSIONER'S AUTHORIZED REPRESENTATIVE, OR ANY EXAMINER APPOINTED
21 BY THE COMMISSIONER PURSUANT TO AN EXAMINATION MADE UNDER THIS ACT,
22 IF THE ACT OF COMMUNICATION OR DELIVERY WAS PERFORMED IN GOOD FAITH
23 AND WITHOUT FRAUDULENT INTENT OR THE INTENT TO DECEIVE. THIS
24 SUBSECTION DOES NOT ABROGATE OR MODIFY IN ANY WAY ANY COMMON LAW OR
25 STATUTORY PRIVILEGE OR IMMUNITY PREVIOUSLY ENJOYED BY ANY PERSON
26 IDENTIFIED IN SUBSECTION (1).

27 (3) A PERSON IDENTIFIED IN SUBSECTIONS (1) AND (2) IS ENTITLED

1 TO AN AWARD OF ATTORNEY FEES AND COSTS IF HE OR SHE IS THE
2 PREVAILING PARTY IN A CIVIL CAUSE OF ACTION FOR LIBEL, SLANDER, OR
3 ANY OTHER RELEVANT TORT ARISING OUT OF ACTIVITIES IN CARRYING OUT
4 THE PROVISIONS OF THIS ACT AND THE PARTY BRINGING THE ACTION WAS
5 NOT SUBSTANTIALLY JUSTIFIED IN DOING SO. FOR PURPOSES OF THIS
6 SECTION, A PROCEEDING IS "SUBSTANTIALLY JUSTIFIED" IF IT HAD A
7 REASONABLE BASIS IN LAW OR FACT AT THE TIME THAT IT WAS INITIATED.

8 (4) THE COMMISSIONER MAY INVESTIGATE SUSPECTED FRAUDULENT LIFE
9 SETTLEMENT ACTS AND PERSON ENGAGED IN THE BUSINESS OF LIFE
10 SETTLEMENTS.

11 Sec. 3. ~~A provider shall disclose all of the following~~
12 ~~information to the viator no later than the date the contract is~~
13 ~~signed by the viator:~~

14 (1) ~~(a) Options other than the contract for a person with a~~
15 ~~terminal illness or condition,~~ A DISCLOSURE STATEMENT FORM
16 REQUIRED BY THIS SECTION AND A LIFE SETTLEMENT CONTRACT FORM SHALL
17 BE FILED WITH AND APPROVED BY THE COMMISSIONER. A DISCLOSURE
18 STATEMENT FORM AND A LIFE SETTLEMENT CONTRACT FORM FILED WITH THE
19 COMMISSIONER SHALL BE CONSIDERED APPROVED IF NOT DISAPPROVED WITHIN
20 60 DAYS AFTER THE FILING. THE COMMISSIONER SHALL DISAPPROVE A
21 DISCLOSURE STATEMENT FORM AND A LIFE SETTLEMENT CONTRACT FORM IF
22 THE COMMISSIONER FINDS THAT ANY PROVISIONS ARE UNREASONABLE,
23 CONTRARY TO PUBLIC INTEREST, OR OTHERWISE UNFAIR OR MISLEADING TO
24 THE SELLER.

25 (2) A LIFE SETTLEMENT PROVIDER OR LIFE INSURANCE PRODUCER
26 SHALL PROVIDE A DISCLOSURE STATEMENT TO AN APPLICANT FOR A LIFE
27 SETTLEMENT CONTRACT BY NO LATER THAN THE TIME THE APPLICATION FOR A

1 LIFE SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES. THE DISCLOSURE
2 STATEMENT SHALL BE A SEPARATE DOCUMENT SIGNED BY THE SELLER AND THE
3 LIFE SETTLEMENT PROVIDER OR LIFE INSURANCE PRODUCER AND SHALL
4 CONTAIN ALL OF THE FOLLOWING:

5 (A) THAT THERE EXIST POSSIBLE ALTERNATIVES TO A LIFE
6 SETTLEMENT CONTRACT, including ANY accelerated DEATH benefits OR
7 POLICY LOANS offered ~~by the issuer of the~~ UNDER THE SELLER'S LIFE
8 INSURANCE policy.

9 (B) THAT THE LIFE INSURANCE PRODUCER NEGOTIATING A LIFE
10 SETTLEMENT CONTRACT REPRESENTS ONLY THE SELLER AND OWES A FIDUCIARY
11 DUTY TO THE SELLER TO ACT ACCORDING TO THE SELLER'S INSTRUCTIONS
12 AND IN THE SELLER'S BEST INTERESTS.

13 (C) ~~-(b)-~~ That some or all of the PROCEEDS OF THE LIFE
14 SETTLEMENT contract ~~-consideration-~~ may be taxable UNDER FEDERAL
15 AND STATE LAW, and that assistance ~~-should-~~ MAY be sought from a
16 ~~personal~~ PROFESSIONAL tax advisor.

17 (D) ~~-(e)-~~ That PROCEEDS OF the LIFE SETTLEMENT contract
18 ~~consideration could-~~ MAY be subject to the claims of creditors.

19 (E) ~~-(d)-~~ That receipt of the PROCEEDS OF THE LIFE SETTLEMENT
20 contract ~~-consideration-~~ may adversely affect the ~~viator's~~
21 SELLER'S eligibility for MEDICAID OR OTHER government benefits or
22 entitlements AND ADVICE MAY BE OBTAINED FROM THE APPROPRIATE
23 GOVERNMENT AGENCIES.

24 (F) ~~-(e)-The viator's-~~ THAT THE SELLER HAS THE right to
25 rescind ~~the~~ A LIFE SETTLEMENT contract ~~-within-~~ BEFORE THE
26 EARLIER OF 30 CALENDAR days after the date the LIFE SETTLEMENT
27 contract is executed BY ALL PARTIES or ~~-within-~~ FOR 15 CALENDAR

1 days after the receipt of the ~~contract consideration~~ LIFE
2 SETTLEMENT PROCEEDS by the ~~viator, whichever is less~~ SELLER.
3 RESCISSION, IF EXERCISED BY THE SELLER, IS EFFECTIVE ONLY IF BOTH
4 NOTICE OF THE RESCISSION IS GIVEN AND REPAYMENT OF ALL PROCEEDS AND
5 ANY PREMIUMS, LOANS, AND LOAN INTEREST TO THE LIFE SETTLEMENT
6 PROVIDER IS MADE WITHIN THE RESCISSION PERIOD. IF THE INSURED DIES
7 DURING THE RESCISSION PERIOD, THE LIFE SETTLEMENT CONTRACT IS
8 DEEMED TO HAVE BEEN RESCINDED, SUBJECT TO REPAYMENT BEING MADE TO
9 THE LIFE SETTLEMENT PROVIDER WITHIN THE RESCISSION PERIOD OF ALL
10 LIFE SETTLEMENT PROCEEDS AND ANY PREMIUMS, LOANS, AND LOAN
11 INTEREST.

12 (G) ~~-(f) The date by which the contract consideration will be~~
13 ~~available to the viator and the source of the consideration.~~ THAT
14 FUNDS SHALL BE SENT TO THE SELLER WITHIN 3 BUSINESS DAYS AFTER THE
15 LIFE SETTLEMENT PROVIDER HAS RECEIVED THE INSURER OR GROUP
16 ADMINISTRATOR'S ACKNOWLEDGMENT THAT OWNERSHIP OF THE PURCHASED
17 POLICY HAS BEEN TRANSFERRED AND THE BENEFICIARY HAS BEEN
18 DESIGNATED.

19 (H) THAT ENTERING INTO A LIFE SETTLEMENT CONTRACT MAY CAUSE
20 OTHER RIGHTS OR BENEFITS, INCLUDING CONVERSION RIGHTS AND WAIVER OF
21 PREMIUM BENEFITS THAT MAY EXIST UNDER THE POLICY, TO BE FORFEITED
22 BY THE SELLER AND THAT ASSISTANCE MAY BE SOUGHT FROM A FINANCIAL
23 ADVISOR.

24 (I) THE FOLLOWING LANGUAGE: "ALL MEDICAL, FINANCIAL, OR
25 PERSONAL INFORMATION SOLICITED OR OBTAINED BY A LIFE SETTLEMENT
26 PROVIDER OR A LIFE INSURANCE PRODUCER ABOUT AN INSURED, INCLUDING
27 THE INSURED'S IDENTITY OR THE IDENTITY OF FAMILY MEMBERS, A SPOUSE,

1 OR A SIGNIFICANT OTHER MAY BE DISCLOSED AS NECESSARY TO EFFECT THE
2 LIFE SETTLEMENT CONTRACT BETWEEN THE SELLER AND THE LIFE SETTLEMENT
3 PROVIDER. IF YOU ARE ASKED TO PROVIDE THIS INFORMATION, YOU WILL BE
4 ASKED TO CONSENT TO THE DISCLOSURE. THE INFORMATION MAY BE PROVIDED
5 TO SOMEONE WHO BUYS THE POLICY OR PROVIDES FUNDS FOR THE PURCHASE.
6 YOU MAY BE ASKED TO RENEW YOUR PERMISSION TO SHARE INFORMATION
7 EVERY 2 YEARS."

8 (J) THAT THE INSURED MAY BE CONTACTED BY EITHER THE LIFE
9 SETTLEMENT PROVIDER OR ITS AUTHORIZED REPRESENTATIVE FOR THE
10 PURPOSE OF DETERMINING THE INSURED'S HEALTH STATUS. THIS CONTACT IS
11 LIMITED TO ONCE EVERY 3 MONTHS IF THE INSURED HAS A LIFE EXPECTANCY
12 OF MORE THAN 1 YEAR, AND NO MORE THAN ONCE EACH MONTH IF THE
13 INSURED HAS A LIFE EXPECTANCY OF 1 YEAR OR LESS.

14 (3) A DISCLOSURE PROVIDED UNDER SUBSECTION (2) SHALL BE
15 ACCOMPANIED BY A BROCHURE, APPROVED BY THE COMMISSIONER, DESCRIBING
16 THE PROCESS OF LIFE SETTLEMENTS.

17 (4) A LIFE SETTLEMENT PROVIDER SHALL PROVIDE THE SELLER WITH
18 ALL OF THE FOLLOWING DISCLOSURES BY NO LATER THAN THE DATE THE LIFE
19 SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES, WHICH DISCLOSURES
20 SHALL BE DISPLAYED CONSPICUOUSLY IN THE LIFE SETTLEMENT CONTRACT OR
21 IN A SEPARATE DOCUMENT SIGNED BY THE SELLER AND THE LIFE SETTLEMENT
22 PROVIDER:

23 (A) THE AFFILIATION, IF ANY, BETWEEN THE LIFE SETTLEMENT
24 PROVIDER AND THE ISSUER OF THE INSURANCE POLICY TO BE ACQUIRED
25 PURSUANT TO A LIFE SETTLEMENT CONTRACT.

26 (B) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE LIFE
27 SETTLEMENT PROVIDER.

1 (C) IF A POLICY TO BE ACQUIRED PURSUANT TO A LIFE SETTLEMENT
2 CONTRACT HAS BEEN ISSUED AS A JOINT POLICY OR INVOLVES FAMILY
3 RIDERS OR ANY COVERAGE OF A LIFE OTHER THAN THE INSURED, THE
4 POSSIBLE LOSS OF COVERAGE ON THE OTHER LIVES UNDER THE POLICY AND
5 THAT CONSULTATION WITH HIS OR HER INSURANCE PRODUCER OR THE INSURER
6 ISSUING THE POLICY SHOULD BE MADE FOR ADVICE ON THE PROPOSED LIFE
7 SETTLEMENT CONTRACT.

8 (D) THE DOLLAR AMOUNT OF THE CURRENT DEATH BENEFIT PAYABLE TO
9 THE LIFE SETTLEMENT PROVIDER UNDER THE POLICY. IF KNOWN, THE LIFE
10 SETTLEMENT PROVIDER ALSO SHALL DISCLOSE THE AVAILABILITY OF
11 ADDITIONAL GUARANTEED INSURANCE BENEFITS, THE DOLLAR AMOUNT OF
12 ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS UNDER THE POLICY OR
13 CERTIFICATE, AND THE LIFE SETTLEMENT PROVIDER'S INTEREST IN THOSE
14 BENEFITS.

15 (E) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE
16 ESCROW AGENT, AND THE FACT THAT THE SELLER MAY INSPECT OR RECEIVE
17 COPIES OF THE RELEVANT ESCROW OR TRUST AGREEMENTS OR DOCUMENTS.

18 SEC. 3A. (1) IF THE LIFE SETTLEMENT PROVIDER TRANSFERS
19 OWNERSHIP OR CHANGES THE BENEFICIARY OF THE POLICY, THE LIFE
20 SETTLEMENT PROVIDER SHALL COMMUNICATE THE CHANGE IN OWNERSHIP OR
21 BENEFICIARY TO THE INSURED WITHIN 20 DAYS AFTER THE CHANGE.

22 (2) FOR A POLICY ISSUED BY AN INSURANCE COMPANY, THE INSURANCE
23 COMPANY SHALL SEND WRITTEN NOTICE TO THE OWNER OF A POLICY, WHERE
24 THE INSURED PERSON UNDER SUCH POLICY IS AGE 60 OR OLDER OR IS KNOWN
25 TO BE TERMINALLY ILL OR CHRONICALLY ILL, THAT A LIFE SETTLEMENT
26 CONTRACT IS AN AVAILABLE ALTERNATIVE TRANSACTION AT THE TIME OF
27 EACH OF THE FOLLOWING:

1 (A) WHEN AN INSURANCE COMPANY RECEIVES A REQUEST TO SURRENDER,
2 IN WHOLE OR IN PART, A POLICY.

3 (B) WHEN AN INSURANCE COMPANY RECEIVES A REQUEST TO RECEIVE AN
4 ACCELERATED DEATH BENEFIT UNDER A POLICY.

5 (C) WHEN AN INSURANCE COMPANY RECEIVES A REQUEST COLLATERALLY
6 TO ASSIGN A POLICY AS SECURITY FOR A LOAN.

7 (D) WHEN AN INSURANCE COMPANY SENDS A NOTICE OF LAPSE OF A
8 POLICY.

9 (E) AT ANY OTHER TIME THAT THE COMMISSIONER MAY REQUIRE BY
10 RULE OR REGULATION.

11 Sec. 4. ~~-(1) A provider entering into a contract with a viator~~
12 ~~shall obtain both of the following:~~

13 ~~—— (a) A written statement from a physician that the viator is of~~
14 ~~sound mind and under no constraint or undue influence.~~

15 ~~—— (b) A signed document by the viator stating:~~

16 ~~—— (i) Consent to the contract.~~

17 ~~—— (ii) Acknowledgment of the terminal illness or condition.~~

18 ~~—— (iii) Representation that the viator has a full and complete~~
19 ~~understanding of the contract.~~

20 ~~—— (iv) Representation that the viator has a full and complete~~
21 ~~understanding of the benefits of the policy.~~

22 ~~—— (v) A release of the medical records and acknowledgment that~~
23 ~~the contract has been entered into freely and voluntarily. The~~
24 ~~provider shall keep all medical records received under this~~
25 ~~subparagraph confidential.~~

26 ~~—— (2) A viatical settlement contract entered into in this state~~
27 ~~shall contain a provision giving the viator the right to void the~~

~~contract for at least 30 days after the date the contract is signed, or 15 days after the receipt of the viatical settlement contract consideration, whichever is less. The provider shall notify the insurer of the policy of a rescission within 30 days of the date that a contract is rescinded under this subsection.~~

(1) BEFORE A LIFE SETTLEMENT PROVIDER ENTERS INTO A LIFE SETTLEMENT CONTRACT, THE PROVIDER SHALL OBTAIN BOTH OF THE FOLLOWING:

(A) A WRITTEN STATEMENT FROM AN ATTENDING PHYSICIAN, IF THE SELLER IS THE INSURED, THAT THE SELLER IS OF SOUND MIND AND UNDER NO CONSTRAINT OR UNDUE INFLUENCE TO ENTER INTO A LIFE SETTLEMENT CONTRACT.

(B) A DOCUMENT IN WHICH THE INSURED CONSENTS TO THE RELEASE OF HIS OR HER MEDICAL RECORDS TO A LIFE SETTLEMENT PROVIDER OR LIFE INSURANCE PRODUCER AND, IF THE POLICY WAS ISSUED LESS THAN 2 YEARS FROM THE DATE OF APPLICATION FOR A LIFE SETTLEMENT CONTRACT, TO THE INSURANCE COMPANY THAT ISSUED THE POLICY.

(2) THE INSURER SHALL RESPOND TO A REQUEST FOR VERIFICATION OF COVERAGE SUBMITTED BY A LIFE SETTLEMENT PROVIDER OR LIFE INSURANCE PRODUCER BY NOT LATER THAN 10 BUSINESS DAYS AFTER THE DATE THE REQUEST IS RECEIVED. THE REQUEST FOR VERIFICATION OF COVERAGE SHALL BE MADE ON A FORM PRESCRIBED BY THE COMMISSIONER OR A FORM APPROVED FOR USE BY A LIFE SETTLEMENT PROVIDER OR LIFE INSURANCE PRODUCER BY THE COMMISSIONER. THE INSURER SHALL ACCEPT AN ORIGINAL OR COPY OF A REQUEST AND ANY ACCOMPANYING AUTHORIZATION. THE INSURER SHALL COMPLETE AND ISSUE THE VERIFICATION OF COVERAGE OR INDICATE IN WHICH RESPECTS IT IS UNABLE TO RESPOND. IN ITS RESPONSE, THE

1 INSURER SHALL INDICATE WHETHER, BASED ON THE MEDICAL EVIDENCE AND
2 DOCUMENTS PROVIDED, THE INSURER INTENDS TO PURSUE AN INVESTIGATION
3 AT THIS TIME CONCERNING THE VALIDITY OF THE INSURANCE CONTRACT OR
4 CONCERNING POSSIBLE FRAUD AND SHALL PROVIDE SUFFICIENT DETAIL OF
5 ALL REASONS FOR THE INVESTIGATION TO THE LIFE SETTLEMENT PROVIDER
6 OR LIFE INSURANCE PRODUCER.

7 (3) BEFORE OR AT THE TIME OF EXECUTION OF THE LIFE SETTLEMENT
8 CONTRACT, THE LIFE SETTLEMENT PROVIDER SHALL OBTAIN A WITNESSED
9 DOCUMENT IN WHICH THE SELLER CONSENTS TO THE LIFE SETTLEMENT
10 CONTRACT; FOR PERSONS WITH A TERMINAL ILLNESS OR WHO ARE
11 CHRONICALLY ILL, ACKNOWLEDGES THAT THE INSURED HAS A TERMINAL
12 ILLNESS OR IS CHRONICALLY ILL AND THAT THE TERMINAL ILLNESS OR
13 CHRONIC ILLNESS WAS DIAGNOSED AFTER THE POLICY WAS ISSUED;
14 REPRESENTS THAT THE SELLER HAS A FULL AND COMPLETE UNDERSTANDING OF
15 THE LIFE SETTLEMENT CONTRACT; REPRESENTS THAT THE SELLER HAS A FULL
16 AND COMPLETE UNDERSTANDING OF THE BENEFITS OF THE POLICY; AND
17 ACKNOWLEDGES THAT THE SELLER IS ENTERING INTO THE LIFE SETTLEMENT
18 CONTRACT FREELY AND VOLUNTARILY.

19 (4) IF A LIFE INSURANCE PRODUCER PERFORMS ANY ACTIVITIES
20 REQUIRED IN THIS SECTION OF THE LIFE SETTLEMENT PROVIDER, THE LIFE
21 SETTLEMENT PROVIDER SHALL BE CONSIDERED TO HAVE FULFILLED THE
22 REQUIREMENTS OF THIS SECTION.

23 (5) MEDICAL INFORMATION SOLICITED OR OBTAINED BY A LIFE
24 SETTLEMENT PROVIDER IS SUBJECT TO THE APPLICABLE PROVISIONS OF
25 STATE LAW RELATING TO CONFIDENTIALITY OF MEDICAL OR PROTECTED
26 HEALTH INFORMATION.

27 (6) A LIFE SETTLEMENT CONTRACT ENTERED INTO IN THIS STATE

1 SHALL PROVIDE THE SELLER WITH AN UNCONDITIONAL RIGHT TO RESCIND THE
2 CONTRACT BEFORE THE EARLIER OF 30 CALENDAR DAYS AFTER THE DATE UPON
3 WHICH THE LIFE SETTLEMENT CONTRACT IS EXECUTED BY ALL PARTIES, OR
4 15 CALENDAR DAYS AFTER THE RECEIPT OF THE LIFE SETTLEMENT PROCEEDS
5 BY THE SELLER. RESCISSION, IF EXERCISED BY THE SELLER, IS EFFECTIVE
6 ONLY IF BOTH NOTICE OF THE RESCISSION IS GIVEN AND REPAYMENT OF ALL
7 PROCEEDS AND ANY PREMIUMS, LOANS, AND LOAN INTEREST TO THE LIFE
8 SETTLEMENT PROVIDER IS MADE WITHIN THE RESCISSION PERIOD. IF THE
9 INSURED DIES DURING THE RESCISSION PERIOD, THE LIFE SETTLEMENT
10 CONTRACT SHALL BE CONSIDERED RESCINDED, SUBJECT TO REPAYMENT OF ALL
11 LIFE SETTLEMENT PROCEEDS AND PROVIDED ANY PREMIUMS, LOANS, AND LOAN
12 INTEREST TO THE LIFE SETTLEMENT PROVIDER IS MADE WITHIN THE
13 RESCISSION PERIOD.

14 Sec. 5. ~~-(1) Upon receipt from the viator of the documents to~~
15 ~~effect the transfer of the policy, the provider shall deposit the~~
16 ~~contract consideration in an escrow or trust account managed by a~~
17 ~~state or federal chartered financial institution, pending~~
18 ~~acknowledgment of the transfer by the issuer of the policy. The~~
19 ~~financial institution shall transfer the contract consideration to~~
20 ~~the viator immediately upon receipt of acknowledgment of the~~
21 ~~transfer from the insurer.~~

22 ~~——-(2) Failure by the provider to tender the contract~~
23 ~~consideration as required by this act renders the contract void.~~

24 (1) THE LIFE SETTLEMENT PROVIDER SHALL INSTRUCT THE SELLER TO
25 SEND THE DOCUMENTS EXECUTED TO EFFECT THE CHANGE IN OWNERSHIP OR
26 ASSIGNMENT OR THE CHANGE IN BENEFICIARY DIRECTLY TO THE INDEPENDENT
27 ESCROW AGENT. WITHIN 3 BUSINESS DAYS AFTER THE DATE THE ESCROW

1 AGENT RECEIVES THE DOCUMENTS, OR FROM THE DATE THE LIFE SETTLEMENT
2 PROVIDER RECEIVES THE DOCUMENTS, IF THE SELLER ERRONEOUSLY PROVIDES
3 THE DOCUMENTS DIRECTLY TO THE LIFE SETTLEMENT PROVIDER, THE LIFE
4 SETTLEMENT PROVIDER SHALL PAY OR TRANSFER THE PROCEEDS OF THE LIFE
5 SETTLEMENT CONTRACT INTO AN ESCROW OR TRUST ACCOUNT MAINTAINED IN A
6 STATE OR FEDERALLY CHARTERED FINANCIAL INSTITUTION WHOSE DEPOSITS
7 ARE INSURED BY A FEDERAL DEPOSIT INSURANCE PROGRAM. UPON PAYMENT OF
8 THE LIFE SETTLEMENT PROCEEDS INTO THE ESCROW ACCOUNT, THE ESCROW
9 AGENT SHALL DELIVER THE ORIGINAL CHANGE IN OWNERSHIP OR ASSIGNMENT
10 OR THE CHANGE IN BENEFICIARY FORMS TO THE LIFE SETTLEMENT PROVIDER
11 OR RELATED PROVIDER TRUST. UPON THE ESCROW AGENT'S RECEIPT OF THE
12 ACKNOWLEDGMENT OF THE PROPERLY COMPLETED TRANSFER OF OWNERSHIP,
13 ASSIGNMENT, OR DESIGNATION OF BENEFICIARY FROM THE INSURANCE
14 COMPANY, THE ESCROW AGENT SHALL PAY THE LIFE SETTLEMENT PROCEEDS TO
15 THE SELLER.

16 (2) FAILURE TO TENDER CONSIDERATION TO THE SELLER FOR THE LIFE
17 SETTLEMENT CONTRACT WITHIN THE TIME DISCLOSED RENDERS THE LIFE
18 SETTLEMENT CONTRACT VOIDABLE BY THE SELLER FOR LACK OF
19 CONSIDERATION UNTIL THE TIME CONSIDERATION IS TENDERED TO OR
20 ACCEPTED BY THE SELLER.

21 (3) A CONTACT WITH THE INSURED, FOR THE PURPOSE OF DETERMINING
22 THE HEALTH STATUS OF THE INSURED BY THE LIFE SETTLEMENT PROVIDER
23 AFTER THE LIFE SETTLEMENT CONTRACT HAS BEEN EXECUTED, ONLY MAY BE
24 MADE BY THE LICENSED LIFE SETTLEMENT PROVIDER OR ITS AUTHORIZED
25 REPRESENTATIVES AND IS LIMITED TO ONCE EVERY 3 MONTHS FOR INSUREDS
26 WITH A LIFE EXPECTANCY OF MORE THAN 1 YEAR, AND NOT MORE THAN ONCE
27 EACH MONTH FOR INSUREDS WITH A LIFE EXPECTANCY OF 1 YEAR OR LESS.

1 THE LIFE SETTLEMENT PROVIDER SHALL EXPLAIN THE PROCEDURE FOR THESE
2 CONTACTS AT THE TIME THE LIFE SETTLEMENT CONTRACT IS ENTERED INTO.
3 THE LIMITATIONS PROVIDED FOR IN THIS SUBSECTION DO NOT APPLY TO A
4 CONTACT WITH AN INSURED FOR REASONS OTHER THAN DETERMINING THE
5 INSURED'S HEALTH STATUS. A LIFE SETTLEMENT PROVIDER IS RESPONSIBLE
6 FOR THE ACTIONS OF HIS OR HER AUTHORIZED REPRESENTATIVES IN
7 CONTACTING THE INSURED.

8 Sec. 6. (1) ~~If a policy provides for double or additional~~
9 ~~indemnity in case of accidental death and accidental death occurs,~~
10 ~~the provider shall be entitled only to the face amount of the~~
11 ~~policy. Any amounts payable under the policy that exceed the face~~
12 ~~amount shall be paid to the beneficiary designated by the viator~~
13 ~~or, if no beneficiary has been designated, to the viator's estate.~~

14 A PERSON SHALL NOT ENTER INTO A LIFE SETTLEMENT CONTRACT AT ANY
15 TIME PRIOR TO THE ISSUANCE OF THE POLICY THAT IS THE SUBJECT OF THE
16 LIFE SETTLEMENT CONTRACT. A PERSON SHALL NOT ENTER INTO A LIFE
17 SETTLEMENT CONTRACT FOR 2 YEARS AFTER THE DATE OF ISSUANCE OF THE
18 POLICY UNLESS THE SELLER CERTIFIES TO THE LIFE SETTLEMENT PROVIDER
19 THAT 1 OR MORE OF THE FOLLOWING CONDITIONS HAVE BEEN MET WITHIN THE
20 2-YEAR PERIOD:

21 (A) THE POLICY WAS ISSUED UPON THE SELLER'S EXERCISE OF
22 CONVERSION RIGHTS ARISING OUT OF A GROUP OR INDIVIDUAL POLICY,
23 PROVIDED THE TOTAL OF THE TIME COVERED UNDER THE CONVERSION POLICY
24 PLUS THE TIME COVERED UNDER THE PRIOR POLICY IS AT LEAST 24 MONTHS.
25 THE TIME COVERED UNDER A GROUP POLICY SHALL BE CALCULATED WITHOUT
26 REGARD TO A CHANGE IN INSURANCE CARRIERS, PROVIDED THE COVERAGE HAS
27 BEEN CONTINUOUS AND UNDER THE SAME GROUP SPONSORSHIP.

1 (B) THE SELLER SUBMITS INDEPENDENT EVIDENCE TO THE LIFE
2 SETTLEMENT PROVIDER THAT 1 OR MORE OF THE FOLLOWING CONDITIONS HAVE
3 BEEN MET WITHIN THE 2-YEAR PERIOD:

4 (i) THE SELLER OR INSURED IS TERMINALLY ILL OR CHRONICALLY ILL.

5 (ii) THE SELLER OR INSURED DISPOSES OF HIS OR HER OWNERSHIP
6 INTERESTS IN A CLOSELY HELD CORPORATION, PURSUANT TO THE TERMS OF A
7 BUYOUT OR OTHER SIMILAR AGREEMENT IN EFFECT AT THE TIME THE
8 INSURANCE POLICY WAS INITIALLY ISSUED.

9 (iii) A FINAL ORDER, JUDGMENT, OR DECREE IS ENTERED BY A COURT
10 OF COMPETENT JURISDICTION OF A CREDITOR OF THE SELLER ADJUDICATING
11 THE SELLER BANKRUPT OR INSOLVENT, APPROVING A PETITION SEEKING
12 REORGANIZATION OF THE SELLER, OR APPOINTING A RECEIVER, TRUSTEE, OR
13 LIQUIDATOR TO ALL OR A SUBSTANTIAL PORTION OF THE SELLER'S ASSETS.

14 (2) COPIES OF THE INDEPENDENT EVIDENCE DESCRIBED IN SUBSECTION
15 (1)(B) AND DOCUMENTS REQUIRED SHALL BE SUBMITTED TO THE INSURER
16 WHEN THE LIFE SETTLEMENT PROVIDER SUBMITS A REQUEST TO THE INSURER
17 FOR VERIFICATION OF COVERAGE. THE COPIES SHALL BE ACCOMPANIED BY A
18 LETTER OF ATTESTATION FROM THE LIFE SETTLEMENT PROVIDER THAT THE
19 COPIES ARE TRUE AND CORRECT COPIES OF THE DOCUMENTS RECEIVED BY THE
20 LIFE SETTLEMENT PROVIDER. IF THE LIFE SETTLEMENT PROVIDER SUBMITS
21 TO THE INSURER A COPY OF INDEPENDENT EVIDENCE DESCRIBED IN
22 SUBSECTION (1)(B) WHEN THE LIFE SETTLEMENT PROVIDER SUBMITS A
23 REQUEST TO THE INSURER TO AFFECT THE TRANSFER OF THE POLICY TO THE
24 LIFE SETTLEMENT PROVIDER, THIS SECTION IS SATISFIED AND THE INSURER
25 SHALL RESPOND TIMELY TO THE REQUEST.

26 Sec. 7. ~~An offer to purchase a life insurance policy or~~
27 ~~certificate from the viator shall be transmitted to the insurer~~

~~providing the life insurance policy, who may advise the viator of
other alternatives which may be available under the policy. The
notice required by this section shall be transmitted by the
provider of the viatical settlement contract.~~

(1) THIS SECTION APPLIES TO AN ADVERTISING OF A LIFE
SETTLEMENT CONTRACT OR A RELATED PRODUCT OR SERVICE INTENDED FOR
DISSEMINATION IN THIS STATE, INCLUDING INTERNET ADVERTISING VIEWED
BY A PERSON LOCATED IN THIS STATE. IF DISCLOSURE REQUIREMENTS ARE
ESTABLISHED PURSUANT TO FEDERAL LAW, RULE, OR REGULATION, THIS
SECTION SHALL BE INTERPRETED SO AS TO MINIMIZE OR ELIMINATE
CONFLICT WITH FEDERAL LAW, RULE, OR REGULATION WHEREVER POSSIBLE.

(2) EACH LIFE SETTLEMENT PROVIDER SHALL ESTABLISH AND AT ALL
TIMES MAINTAIN A SYSTEM OF CONTROL OVER THE CONTENT, FORM, AND
METHOD OF DISSEMINATION OF AN ADVERTISEMENT OF ITS CONTRACTS,
PRODUCTS, AND SERVICES. AN ADVERTISEMENT, REGARDLESS OF BY WHOM
WRITTEN, CREATED, DESIGNED, OR PRESENTED, IS THE RESPONSIBILITY OF
THE LIFE SETTLEMENT PROVIDER, AS WELL AS THE INDIVIDUAL WHO CREATED
OR PRESENTED THE ADVERTISEMENT. A SYSTEM OF CONTROL BY THE LIFE
SETTLEMENT PROVIDER SHALL INCLUDE REGULAR ROUTINE NOTIFICATION, AT
LEAST ONCE A YEAR, TO AGENTS AND OTHERS AUTHORIZED TO DISSEMINATE
ADVERTISEMENTS, OF THE REQUIREMENTS AND PROCEDURES FOR APPROVAL
BEFORE THE USE OF AN ADVERTISEMENT NOT FURNISHED BY THE LIFE
SETTLEMENT PROVIDER.

(3) AN ADVERTISEMENT SHALL BE TRUTHFUL AND NOT MISLEADING IN
FACT OR BY IMPLICATION. THE FORM AND CONTENT OF AN ADVERTISEMENT OF
A LIFE SETTLEMENT CONTRACT SHALL BE SUFFICIENTLY COMPLETE AND CLEAR
SO AS TO AVOID DECEPTION AND SHALL NOT HAVE THE CAPACITY OR

1 TENDENCY TO MISLEAD OR DECEIVE. WHETHER AN ADVERTISEMENT HAS THE
2 CAPACITY OR TENDENCY TO MISLEAD OR DECEIVE SHALL BE DETERMINED BY
3 THE COMMISSIONER FROM THE OVERALL IMPRESSION THAT THE ADVERTISEMENT
4 MAY BE REASONABLY EXPECTED TO CREATE UPON A PERSON OF AVERAGE
5 EDUCATION OR INTELLIGENCE WITHIN THE SEGMENT OF THE PUBLIC TO WHICH
6 IT IS DIRECTED.

7 (4) THE INFORMATION REQUIRED TO BE DISCLOSED PURSUANT TO THIS
8 SECTION SHALL NOT BE MINIMIZED, RENDERED OBSCURE, OR PRESENTED IN
9 AN AMBIGUOUS FASHION OR INTERMINGLED WITH THE TEXT OF THE
10 ADVERTISEMENT SO AS TO BE CONFUSING OR MISLEADING.

11 (5) AN ADVERTISEMENT SHALL NOT OMIT MATERIAL INFORMATION OR
12 USE WORDS, PHRASES, STATEMENTS, REFERENCES, OR ILLUSTRATIONS IF THE
13 OMISSION OR USE HAS THE CAPACITY, TENDENCY, OR EFFECT OF MISLEADING
14 OR DECEIVING THE PUBLIC AS TO THE NATURE OR EXTENT OF ANY BENEFIT,
15 LOSS COVERED, OR STATE OR FEDERAL TAX CONSEQUENCE. THE FACT THAT
16 THE LIFE SETTLEMENT CONTRACT OFFERED IS MADE AVAILABLE FOR
17 INSPECTION BEFORE CONSUMMATION OF THE SALE, OR AN OFFER IS MADE TO
18 REFUND THE PAYMENT IF THE SELLER IS NOT SATISFIED, OR THAT THE LIFE
19 SETTLEMENT CONTRACT INCLUDES A "FREE LOOK" PERIOD THAT SATISFIES OR
20 EXCEEDS LEGAL REQUIREMENTS, DOES NOT REMEDY MISLEADING STATEMENTS.

21 (6) AN ADVERTISEMENT SHALL NOT USE THE NAME OR TITLE OF A LIFE
22 INSURANCE COMPANY OR A LIFE INSURANCE POLICY UNLESS THE
23 ADVERTISEMENT HAS BEEN APPROVED BY THE INSURER.

24 (7) AN ADVERTISEMENT SHALL NOT STATE OR IMPLY THAT INTEREST
25 CHARGED ON AN ACCELERATED DEATH BENEFIT OR A POLICY LOAN IS UNFAIR,
26 INEQUITABLE, OR IN ANY MANNER AN INCORRECT OR IMPROPER PRACTICE.

27 (8) THE WORDS "FREE", "NO COST", "WITHOUT COST", "NO

1 ADDITIONAL COST", "AT NO EXTRA COST", OR WORDS OF SIMILAR IMPORT
2 SHALL NOT BE USED WITH RESPECT TO A BENEFIT OR SERVICE UNLESS TRUE.
3 AN ADVERTISEMENT MAY SPECIFY THE CHARGE FOR A BENEFIT OR SERVICE OR
4 MAY STATE THAT A CHARGE IS INCLUDED IN THE PAYMENT OR USE OTHER
5 APPROPRIATE LANGUAGE.

6 (9) ANY TESTIMONIAL, APPRAISAL, OR ANALYSIS USED IN AN
7 ADVERTISEMENT SHALL BE GENUINE, REPRESENT THE CURRENT OPINION OF
8 THE AUTHOR, BE APPLICABLE TO THE LIFE SETTLEMENT CONTRACT, PRODUCT,
9 OR SERVICE ADVERTISED, IF ANY, AND BE ACCURATELY REPRODUCED WITH
10 SUFFICIENT COMPLETENESS TO AVOID MISLEADING OR DECEIVING
11 PROSPECTIVE SELLERS AS TO THE NATURE OR SCOPE OF ANY TESTIMONIAL,
12 APPRAISAL, ANALYSIS, OR ENDORSEMENT.

13 (10) IN USING ANY TESTIMONIAL, APPRAISAL, OR ANALYSIS, THE
14 LIFE SETTLEMENT PROVIDER MAKES AS ITS OWN ALL THE STATEMENTS
15 CONTAINED IN THEM, AND THE STATEMENTS ARE SUBJECT TO ALL THE
16 PROVISIONS OF THIS SECTION. IF THE INDIVIDUAL MAKING A TESTIMONIAL,
17 APPRAISAL, ANALYSIS, OR AN ENDORSEMENT HAS A FINANCIAL INTEREST IN
18 THE LIFE SETTLEMENT PROVIDER OR RELATED ENTITY AS A STOCKHOLDER,
19 DIRECTOR, OFFICER, EMPLOYEE, OR OTHERWISE, OR RECEIVES A BENEFIT,
20 DIRECTLY OR INDIRECTLY, OTHER THAN REQUIRED UNION SCALE WAGES, THAT
21 FACT SHALL BE DISCLOSED PROMINENTLY IN THE ADVERTISEMENT.

22 (11) AN ADVERTISEMENT MAY NOT STATE OR IMPLY THAT A LIFE
23 SETTLEMENT CONTRACT, BENEFIT, OR SERVICE HAS BEEN APPROVED OR
24 ENDORSED BY A GROUP OF INDIVIDUALS, SOCIETY, ASSOCIATION, OR OTHER
25 ORGANIZATION, UNLESS THAT IS THE FACT AND UNLESS ANY RELATIONSHIP
26 BETWEEN AN ORGANIZATION AND THE LIFE SETTLEMENT PROVIDER IS
27 DISCLOSED. IF THE ENTITY MAKING THE ENDORSEMENT OR TESTIMONIAL IS

1 OWNED, CONTROLLED, OR MANAGED BY THE LIFE SETTLEMENT PROVIDER OR
2 RECEIVES PAYMENT OR OTHER CONSIDERATION FROM THE LIFE SETTLEMENT
3 PROVIDER FOR MAKING AN ENDORSEMENT OR TESTIMONIAL, THAT FACT SHALL
4 BE DISCLOSED IN THE ADVERTISEMENT.

5 (12) IF AN ENDORSEMENT REFERS TO BENEFITS RECEIVED UNDER A
6 LIFE SETTLEMENT CONTRACT, ALL PERTINENT INFORMATION SHALL BE
7 RETAINED FOR A PERIOD OF 5 YEARS AFTER ITS USE.

8 (13) AN ADVERTISEMENT SHALL NOT CONTAIN STATISTICAL
9 INFORMATION UNLESS IT ACCURATELY REFLECTS RECENT AND RELEVANT
10 FACTS. THE SOURCE OF ALL STATISTICS USED IN AN ADVERTISEMENT SHALL
11 BE IDENTIFIED.

12 (14) AN ADVERTISEMENT SHALL NOT DISPARAGE INSURERS, LIFE
13 SETTLEMENT PROVIDERS, INSURANCE PRODUCERS, POLICIES, SERVICES, OR
14 METHODS OF MARKETING.

15 (15) THE NAME OF THE LIFE SETTLEMENT PROVIDER SHALL BE
16 IDENTIFIED CLEARLY IN ALL ADVERTISEMENTS ABOUT THE LIFE SETTLEMENT
17 PROVIDER OR ITS LIFE SETTLEMENT CONTRACT, PRODUCTS, OR SERVICES,
18 AND IF ANY SPECIFIC LIFE SETTLEMENT CONTRACT IS ADVERTISED, THE
19 LIFE SETTLEMENT CONTRACT SHALL BE IDENTIFIED EITHER BY FORM NUMBER
20 OR SOME OTHER APPROPRIATE DESCRIPTION. IF AN APPLICATION IS PART OF
21 THE ADVERTISEMENT, THE NAME OF THE LIFE SETTLEMENT PROVIDER SHALL
22 BE SHOWN ON THE APPLICATION.

23 (16) AN ADVERTISEMENT SHALL NOT USE A TRADE NAME, GROUP
24 DESIGNATION, NAME OF THE PARENT COMPANY OF A LIFE SETTLEMENT
25 PROVIDER, NAME OF A PARTICULAR DIVISION OF THE LIFE SETTLEMENT
26 PROVIDER, SERVICE MARK, SLOGAN, SYMBOL, OR OTHER DEVICE OR
27 REFERENCE WITHOUT DISCLOSING THE NAME OF THE LIFE SETTLEMENT

1 PROVIDER, IF THE ADVERTISEMENT HAS THE CAPACITY OR TENDENCY TO
2 MISLEAD OR DECEIVE AS TO THE TRUE IDENTITY OF THE LIFE SETTLEMENT
3 PROVIDER, OR TO CREATE THE IMPRESSION THAT A COMPANY OTHER THAN THE
4 LIFE SETTLEMENT PROVIDER HAS ANY RESPONSIBILITY FOR THE FINANCIAL
5 OBLIGATION UNDER A LIFE SETTLEMENT CONTRACT.

6 (17) AN ADVERTISEMENT SHALL NOT USE ANY COMBINATION OF WORDS,
7 SYMBOLS, OR PHYSICAL MATERIALS THAT BY THEIR CONTENT, PHRASEOLOGY,
8 SHAPE, COLOR, OR OTHER CHARACTERISTICS ARE SO SIMILAR TO A
9 COMBINATION OF WORDS, SYMBOLS, OR PHYSICAL MATERIALS USED BY A
10 GOVERNMENT PROGRAM OR AGENCY OR OTHERWISE APPEAR TO BE OF SUCH A
11 NATURE THAT THEY TEND TO MISLEAD PROSPECTIVE SELLERS INTO BELIEVING
12 THAT THE SOLICITATION IS IN SOME MANNER CONNECTED WITH A GOVERNMENT
13 PROGRAM OR AGENCY.

14 (18) AN ADVERTISEMENT MAY STATE THAT A LIFE SETTLEMENT
15 PROVIDER IS LICENSED IN THE STATE WHERE THE ADVERTISEMENT APPEARS,
16 PROVIDED IT DOES NOT EXAGGERATE THAT FACT OR SUGGEST OR IMPLY THAT
17 A COMPETING LIFE SETTLEMENT PROVIDER MAY NOT BE SO LICENSED. THE
18 ADVERTISEMENT MAY ASK THE AUDIENCE TO CONSULT THE LIFE SETTLEMENT
19 PROVIDER'S WEBSITE OR CONTACT THAT STATE'S OFFICE OF FINANCIAL AND
20 INSURANCE SERVICES OR DEPARTMENT OF INSURANCE TO FIND OUT IF THAT
21 STATE REQUIRES LICENSING AND, IF SO, WHETHER THE LIFE SETTLEMENT
22 PROVIDER OR ANY OTHER COMPANY IS LICENSED.

23 (19) AN ADVERTISEMENT MAY NOT CREATE THE IMPRESSION THAT THE
24 LIFE SETTLEMENT PROVIDER, ITS FINANCIAL CONDITION OR STATUS, THE
25 PAYMENT OF ITS CLAIMS, OR THE MERITS, DESIRABILITY, OR ADVISABILITY
26 OF ITS LIFE SETTLEMENT CONTRACTS ARE RECOMMENDED OR ENDORSED BY ANY
27 GOVERNMENT ENTITY.

1 (20) THE NAME OF THE ACTUAL LIFE SETTLEMENT PROVIDER SHALL BE
2 STATED IN ALL OF ITS ADVERTISEMENTS. AN ADVERTISEMENT SHALL NOT USE
3 A TRADE NAME, ANY GROUP DESIGNATION, NAME OF ANY AFFILIATE OR
4 CONTROLLING ENTITY OF THE LIFE SETTLEMENT PROVIDER, SERVICE MARK,
5 SLOGAN, SYMBOL, OR OTHER DEVICE IN A MANNER THAT HAS THE CAPACITY
6 OR TENDENCY TO MISLEAD OR DECEIVE AS TO THE TRUE IDENTITY OF THE
7 ACTUAL LIFE SETTLEMENT PROVIDER OR CREATE THE FALSE IMPRESSION THAT
8 AN AFFILIATE OR CONTROLLING ENTITY HAS ANY RESPONSIBILITY FOR THE
9 FINANCIAL OBLIGATION OF THE LIFE SETTLEMENT PROVIDER.

10 (21) AN ADVERTISEMENT SHALL NOT, DIRECTLY OR INDIRECTLY,
11 CREATE THE IMPRESSION THAT ANY DIVISION OR AGENCY OF THE STATE OR
12 OF THE UNITED STATES GOVERNMENT ENDORSES, APPROVES, OR FAVORS A
13 LIFE SETTLEMENT PROVIDER OR ITS BUSINESS PRACTICES OR METHODS OF
14 OPERATION, ANY LIFE SETTLEMENT CONTRACT, OR ANY POLICY OR LIFE
15 INSURANCE COMPANY OR PROMOTES THE MERITS, DESIRABILITY, OR
16 ADVISABILITY OF A LIFE SETTLEMENT CONTRACT.

17 (22) IF THE ADVERTISER EMPHASIZES THE SPEED WITH WHICH THE
18 LIFE SETTLEMENT CONTRACT OCCURS, THE ADVERTISING SHALL DISCLOSE THE
19 AVERAGE TIME FRAME FROM COMPLETED APPLICATION TO THE DATE OF OFFER
20 AND FROM ACCEPTANCE OF THE OFFER TO RECEIPT OF THE FUNDS BY THE
21 SELLER.

22 (23) IF THE ADVERTISING EMPHASIZES THE DOLLAR AMOUNTS
23 AVAILABLE TO SELLERS, THE ADVERTISING SHALL DISCLOSE THE AVERAGE
24 PURCHASE PRICE AS A PERCENT OF FACE VALUE OBTAINED BY SELLERS
25 CONTRACTING WITH THE LIFE SETTLEMENT PROVIDER DURING THE PAST 6
26 MONTHS.

27 Sec. 8. ~~-(1) The commissioner may issue an order prohibiting~~

~~the provider from entering into a viatical settlement contract in this state if the commissioner finds any of the following:~~

~~—— (a) The provider has been fraudulent or engaged in dishonest practices.~~

~~—— (b) The provider demonstrates a pattern of unreasonable payments to policy owners.~~

~~—— (c) The provider has been convicted of a felony or any misdemeanor that involved criminal fraud.~~

~~—— (d) The provider has violated a provision of this act.~~

(1) THE COMMISSIONER MAY REFUSE TO ISSUE OR RENEW OR MAY SUSPEND OR REVOKE THE LICENSE OF A LIFE SETTLEMENT PROVIDER IF THE COMMISSIONER FINDS ANY OF THE FOLLOWING:

(A) THE LIFE SETTLEMENT PROVIDER OR ANY OFFICER, PARTNER, MEMBER, OR KEY MANAGEMENT EMPLOYEE HAS BEEN CONVICTED OF FRAUDULENT OR DISHONEST PRACTICES, IS SUBJECT TO A FINAL ADMINISTRATIVE ACTION, OR IS OTHERWISE SHOWN TO BE UNTRUSTWORTHY OR INCOMPETENT.

(B) THE LIFE SETTLEMENT PROVIDER DEMONSTRATES A PATTERN OF UNREASONABLE PAYMENTS TO SELLERS.

(C) THE LIFE SETTLEMENT PROVIDER OR ANY OFFICER, PARTNER, MEMBER, OR KEY MANAGEMENT EMPLOYEE HAS BEEN FOUND GUILTY OF, OR HAS PLEADED GUILTY OR NOLO CONTENDERE TO, ANY FELONY OR TO A MISDEMEANOR INVOLVING FRAUD OR MORAL TURPITUDE, REGARDLESS OF WHETHER A JUDGMENT OR CONVICTION HAS BEEN ENTERED BY THE COURT.

(D) THE LIFE SETTLEMENT PROVIDER OR ANY OFFICER, PARTNER, MEMBER, OR KEY MANAGEMENT EMPLOYEE OR ANY LIFE INSURANCE PRODUCER HAS VIOLATED A PROVISION OF THIS ACT.

(E) THERE WAS ANY MATERIAL MISREPRESENTATION IN THE

1 APPLICATION FOR THE LICENSE.

2 (F) THE LIFE SETTLEMENT PROVIDER HAS USED A LIFE SETTLEMENT
3 CONTRACT FORM THAT HAS NOT BEEN APPROVED PURSUANT TO THIS ACT.

4 (G) THE LIFE SETTLEMENT PROVIDER HAS FAILED TO HONOR
5 CONTRACTUAL OBLIGATIONS SET OUT IN A LIFE SETTLEMENT CONTRACT.

6 (H) THE LIFE SETTLEMENT PROVIDER NO LONGER MEETS THE
7 REQUIREMENTS FOR INITIAL LICENSURE.

8 (I) THE LIFE SETTLEMENT PROVIDER HAS ASSIGNED, TRANSFERRED, OR
9 PLEDGED A PURCHASED POLICY TO A PERSON OTHER THAN A LIFE SETTLEMENT
10 PROVIDER LICENSED IN THIS STATE, AN ACCREDITED INVESTOR AS DEFINED
11 IN 17 CFR 230.501, OR A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN
12 17 CFR 230.144A, A FINANCING ENTITY, A SPECIAL PURPOSE ENTITY, OR A
13 RELATED PROVIDER TRUST.

14 (2) IF THE COMMISSIONER DENIES A LICENSE APPLICATION OR
15 SUSPENDS, REVOKES, OR REFUSES TO RENEW THE LICENSE OF A LIFE
16 SETTLEMENT PROVIDER, THE COMMISSIONER SHALL CONDUCT A HEARING IN
17 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
18 306, MCL 24.201 TO 24.328.

19 (3) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE TO RENEW
20 THE LICENSE OF A LIFE INSURANCE PRODUCER IF THE COMMISSIONER FINDS
21 THAT THE LIFE INSURANCE PRODUCER HAS DONE ANY OF THE FOLLOWING:

22 (A) VIOLATED THE PROVISIONS OF THIS ACT.

23 (B) HAS DEALT IN BAD FAITH WITH SELLERS.

24 (C) RECEIVED A FEE, COMMISSION, OR OTHER VALUABLE
25 CONSIDERATION FOR HIS OR HER SERVICES WITH RESPECT TO A LIFE
26 SETTLEMENT TRANSACTION THAT INVOLVES UNLICENSED LIFE SETTLEMENT
27 PROVIDERS OR LIFE INSURANCE PRODUCERS NEGOTIATING LIFE SETTLEMENT

1 **CONTRACTS THAT HAVE NOT COMPLIED WITH SECTION 1A.**

2 **(4)** ~~-(2)-~~ In addition to ~~the order under subsection (1)~~
3 **SUBSECTIONS (1) AND (3)**, the commissioner may order any of the
4 following:

5 (a) Payment of a civil fine of not more than \$500.00 for each
6 violation.

7 (b) If the **LIFE SETTLEMENT** provider knew or reasonably should
8 have known that the **LIFE SETTLEMENT** provider was in violation of
9 this act, the repayment of all consideration paid by or on behalf
10 of a ~~viator~~ **SELLER** for a ~~viatical~~ **LIFE** settlement contract
11 affected by the violation and a civil fine of not more than
12 \$2,500.00 for each violation.

13 (c) A cease and desist order.

14 **SEC. 9. (1) A PERSON SHALL NOT COMMIT A FRAUDULENT LIFE**
15 **SETTLEMENT ACT.**

16 (2) A PERSON SHALL NOT KNOWINGLY OR INTENTIONALLY INTERFERE
17 WITH THE ENFORCEMENT OF THE PROVISIONS OF THIS ACT OR
18 INVESTIGATIONS OF SUSPECTED OR ACTUAL VIOLATIONS OF THIS ACT.

19 (3) A PERSON IN THE BUSINESS OF LIFE SETTLEMENTS SHALL NOT
20 KNOWINGLY OR INTENTIONALLY PERMIT A PERSON CONVICTED OF A FELONY
21 INVOLVING DISHONESTY OR BREACH OF TRUST TO PARTICIPATE IN THE
22 BUSINESS OF LIFE SETTLEMENTS.

23 (4) A LIFE SETTLEMENT CONTRACT AND AN APPLICATION FOR A LIFE
24 SETTLEMENT CONTRACT, REGARDLESS OF THE FORM OF TRANSMISSION, SHALL
25 CONTAIN THE FOLLOWING STATEMENT OR A SUBSTANTIALLY SIMILAR
26 STATEMENT: "ANY PERSON WHO KNOWINGLY PRESENTS FALSE INFORMATION IN
27 AN APPLICATION FOR INSURANCE OR LIFE SETTLEMENT CONTRACT IS GUILTY

1 OF A CRIME AND, UPON CONVICTION, MAY BE SUBJECT TO FINES OR
2 CONFINEMENT IN PRISON, OR BOTH.".

3 (5) THE LACK OF A STATEMENT AS REQUIRED UNDER SUBSECTION (4)
4 IS NOT A DEFENSE IN ANY PROSECUTION FOR A FRAUDULENT LIFE
5 SETTLEMENT ACT.

6 (6) A PERSON ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS
7 HAVING KNOWLEDGE OR A REASONABLE BELIEF THAT A FRAUDULENT LIFE
8 SETTLEMENT ACT IS BEING, HAS BEEN, OR MAY BE COMMITTED SHALL
9 PROVIDE TO THE COMMISSIONER, IN A MANNER PRESCRIBED BY THE
10 COMMISSIONER, THAT INFORMATION.

11 (7) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8), A CIVIL
12 LIABILITY IS NOT IMPOSED AND A CAUSE OF ACTION DOES NOT ARISE FROM
13 A PERSON'S FURNISHING INFORMATION CONCERNING SUSPECTED,
14 ANTICIPATED, OR COMPLETED FRAUDULENT LIFE SETTLEMENT ACTS, OR
15 SUSPECTED OR COMPLETED FRAUDULENT INSURANCE ACTS, IF THE
16 INFORMATION IS PROVIDED TO OR RECEIVED FROM ANY OF THE FOLLOWING:

17 (A) THE COMMISSIONER OR THE COMMISSIONER'S EMPLOYEES, AGENTS,
18 OR REPRESENTATIVES.

19 (B) FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OR REGULATORY
20 OFFICIALS OR THEIR EMPLOYEES, AGENTS, OR REPRESENTATIVES.

21 (C) A PERSON INVOLVED IN THE PREVENTION AND DETECTION OF
22 FRAUDULENT LIFE SETTLEMENT ACTS OR THAT PERSON'S AGENTS, EMPLOYEES,
23 OR REPRESENTATIVES.

24 (D) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
25 NATIONAL ASSOCIATION OF SECURITIES DEALERS, THE NORTH AMERICAN
26 SECURITIES ADMINISTRATORS ASSOCIATION, OR THEIR EMPLOYEES, AGENTS,
27 OR REPRESENTATIVES, OR OTHER REGULATORY BODY OVERSEEING LIFE

1 INSURANCE OR LIFE SETTLEMENT CONTRACTS.

2 (E) THE INSURER THAT ISSUED THE POLICY COVERING THE LIFE OF
3 THE INSURED.

4 (8) THE PROTECTIONS AFFORDED IN SUBSECTION (7) DO NOT APPLY TO
5 A STATEMENT MADE WITH ACTUAL MALICE. IN AN ACTION BROUGHT AGAINST A
6 PERSON FOR FILING A REPORT OR FURNISHING OTHER INFORMATION
7 CONCERNING A FRAUDULENT LIFE SETTLEMENT ACT OR A FRAUDULENT
8 INSURANCE ACT, THE PARTY BRINGING THE ACTION SHALL PLEAD
9 SPECIFICALLY ANY ALLEGATION THAT THE PROTECTIONS AFFORDED IN
10 SUBSECTION (7) DO NOT APPLY BECAUSE THE PERSON FILING THE REPORT OR
11 FURNISHING THE INFORMATION DID SO WITH ACTUAL MALICE.

12 (9) A PERSON IS ENTITLED TO AN AWARD OF ATTORNEY FEES AND
13 COSTS IF HE OR SHE IS THE PREVAILING PARTY AS DEFINED IN SECTION
14 2421B OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
15 600.2421B, IN A CIVIL CAUSE OF ACTION FOR LIBEL, SLANDER, OR
16 ANOTHER RELEVANT TORT ARISING OUT OF ACTIVITIES IN CARRYING OUT THE
17 PROVISIONS OF THIS ACT AND THE PARTY BRINGING THE ACTION WAS NOT
18 SUBSTANTIALLY JUSTIFIED IN DOING SO. FOR PURPOSES OF THIS SECTION,
19 A PROCEEDING IS "SUBSTANTIALLY JUSTIFIED" IF IT HAD A REASONABLE
20 BASIS IN LAW OR FACT AT THE TIME THAT IT WAS INITIATED.

21 (10) THIS SECTION DOES NOT ABROGATE OR MODIFY COMMON LAW OR
22 STATUTORY PRIVILEGES OR IMMUNITIES.

23 (11) THE PROTECTIONS AFFORDED IN SUBSECTION (7) DO NOT APPLY
24 TO A PERSON'S FURNISHING OF INFORMATION CONCERNING HIS OR HER OWN
25 SUSPECTED, ANTICIPATED, OR COMPLETED FRAUDULENT LIFE SETTLEMENT
26 ACTS OR SUSPECTED, ANTICIPATED, OR COMPLETED FRAUDULENT INSURANCE
27 ACTS.

1 (12) THE DOCUMENTS AND EVIDENCE PROVIDED PURSUANT TO
2 SUBSECTION (7) OR OBTAINED BY THE COMMISSIONER IN AN INVESTIGATION
3 OF SUSPECTED OR ACTUAL FRAUDULENT LIFE SETTLEMENT ACTS ARE
4 PRIVILEGED AND CONFIDENTIAL, ARE NOT A PUBLIC RECORD, AND ARE NOT
5 SUBJECT TO DISCOVERY OR SUBPOENA IN A CIVIL OR CRIMINAL ACTION.
6 THIS SUBSECTION DOES NOT PROHIBIT RELEASE BY THE COMMISSIONER OF
7 DOCUMENTS AND EVIDENCE OBTAINED IN AN INVESTIGATION OF SUSPECTED OR
8 ACTUAL FRAUDULENT LIFE SETTLEMENT ACTS AS FOLLOWS:

9 (A) IN ADMINISTRATIVE OR JUDICIAL PROCEEDINGS TO ENFORCE LAWS
10 ADMINISTERED BY THE COMMISSIONER.

11 (B) TO FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OR REGULATORY
12 AGENCIES, TO AN ORGANIZATION ESTABLISHED FOR THE PURPOSE OF
13 DETECTING AND PREVENTING FRAUDULENT LIFE SETTLEMENT ACTS, OR TO THE
14 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

15 (C) AT THE DISCRETION OF THE COMMISSIONER, TO A PERSON IN THE
16 BUSINESS OF LIFE SETTLEMENTS THAT IS AGGRIEVED BY A FRAUDULENT LIFE
17 SETTLEMENT ACT.

18 (13) RELEASE OF DOCUMENTS AND EVIDENCE PROVIDED BY SUBSECTION
19 (12) DOES NOT ABROGATE OR MODIFY THE PRIVILEGE GRANTED IN
20 SUBSECTION (7).

21 (14) THIS ACT DOES NOT DO ANY OF THE FOLLOWING:

22 (A) PREEMPT THE AUTHORITY OR PREVENT OTHER LAW ENFORCEMENT OR
23 REGULATORY AGENCIES FROM INVESTIGATING, EXAMINING, AND PROSECUTING
24 SUSPECTED VIOLATIONS OF LAW.

25 (B) PREVENT OR PROHIBIT A PERSON FROM DISCLOSING VOLUNTARILY
26 INFORMATION CONCERNING FRAUDULENT LIFE SETTLEMENT ACTS TO A LAW
27 ENFORCEMENT OR REGULATORY AGENCY OTHER THAN THE OFFICE OF FINANCIAL

1 AND INSURANCE SERVICES.

2 (C) LIMIT THE POWERS GRANTED ELSEWHERE BY THE LAWS OF THIS
3 STATE TO THE COMMISSIONER TO INVESTIGATE POSSIBLE VIOLATIONS OF
4 LAW.

5 (15) A LIFE SETTLEMENT PROVIDER SHALL ADOPT INITIATIVES
6 REASONABLY CALCULATED TO DETECT, ASSIST IN THE PROSECUTION OF, AND
7 PREVENT FRAUDULENT LIFE SETTLEMENT ACTS. INITIATIVES MAY INCLUDE
8 ALL OF THE FOLLOWING:

9 (A) FRAUD INVESTIGATORS, WHO MAY BE A LIFE SETTLEMENT PROVIDER
10 OR EMPLOYEES OR INDEPENDENT CONTRACTORS OF A LIFE SETTLEMENT
11 PROVIDER.

12 (B) AN ANTIFRAUD PLAN THAT IS SUBMITTED TO THE COMMISSIONER.
13 THE ANTIFRAUD PLAN SHALL INCLUDE, BUT IS NOT LIMITED TO, A
14 DESCRIPTION OF ALL OF THE FOLLOWING:

15 (i) PROCEDURES FOR DETECTING AND INVESTIGATING POSSIBLE
16 FRAUDULENT LIFE SETTLEMENT ACTS.

17 (ii) PROCEDURES FOR RESOLVING MATERIAL INCONSISTENCIES BETWEEN
18 MEDICAL RECORDS AND INSURANCE APPLICATIONS.

19 (iii) PROCEDURES FOR REPORTING POSSIBLE FRAUDULENT LIFE
20 SETTLEMENT ACTS TO THE COMMISSIONER.

21 (iv) A PLAN FOR ANTIFRAUD EDUCATION AND TRAINING OF
22 UNDERWRITERS AND OTHER PERSONNEL.

23 (v) A CHART OR DESCRIPTION OUTLINING THE ORGANIZATIONAL
24 ARRANGEMENT OF THE ANTIFRAUD PERSONNEL WHO ARE RESPONSIBLE FOR THE
25 INVESTIGATION AND REPORTING OF POSSIBLE FRAUDULENT LIFE SETTLEMENT
26 ACTS AND INVESTIGATING UNRESOLVED MATERIAL INCONSISTENCIES BETWEEN
27 MEDICAL RECORDS AND INSURANCE APPLICATIONS.

1 (16) AN ANTIFRAUD PLAN SUBMITTED TO THE COMMISSIONER IS
2 PRIVILEGED AND CONFIDENTIAL, IS NOT SUBJECT TO DISCOVERY OR
3 SUBPOENA IN A CIVIL OR CRIMINAL ACTION, AND IS EXEMPT FROM
4 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
5 15.231 TO 15.246.

6 SEC. 10. (1) IN ADDITION TO THE PENALTIES AND OTHER
7 ENFORCEMENT PROVISIONS OF THIS ACT, IF A PERSON VIOLATES THIS ACT
8 OR ANY RULE OR REGULATION ADOPTED UNDER THIS ACT, THE COMMISSIONER
9 MAY SEEK INJUNCTIVE RELIEF FROM A COURT OF COMPETENT JURISDICTION.

10 (2) A PERSON DAMAGED BY THE ACTS OF A PERSON IN VIOLATION OF
11 THIS ACT MAY BRING A CIVIL ACTION AGAINST THE PERSON COMMITTING THE
12 VIOLATION IN A COURT OF COMPETENT JURISDICTION.

13 (3) THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER UPON A
14 PERSON THAT VIOLATES ANY PROVISION OF THIS ACT, OR ANY RULE OR
15 REGULATION ADOPTED BY OR ORDER ISSUED BY THE COMMISSIONER UNDER
16 THIS ACT, OR ANY WRITTEN AGREEMENT ENTERED INTO WITH THE
17 COMMISSIONER.

18 (4) IF THE COMMISSIONER FINDS THAT AN ACTIVITY IN VIOLATION OF
19 THIS ACT PRESENTS AN IMMEDIATE DANGER TO THE PUBLIC, THE
20 COMMISSIONER MAY ISSUE AN EMERGENCY CEASE AND DESIST ORDER RECITING
21 WITH PARTICULARITY THE FACTS UNDERLYING THE FINDINGS. THE EMERGENCY
22 CEASE AND DESIST ORDER IS EFFECTIVE IMMEDIATELY UPON SERVICE OF A
23 COPY OF THE ORDER ON THE RESPONDENT AND REMAINS EFFECTIVE FOR 90
24 DAYS. IF THE COMMISSIONER BEGINS NONEMERGENCY CEASE AND DESIST
25 PROCEEDINGS, THE EMERGENCY CEASE AND DESIST ORDER REMAINS
26 EFFECTIVE, ABSENT AN ORDER BY A COURT OF COMPETENT JURISDICTION
27 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,

1 MCL 24.201 TO 24.328.

2 (5) IN ADDITION TO THE PENALTIES AND OTHER ENFORCEMENT
3 PROVISIONS OF THIS ACT, A PERSON WHO VIOLATES THIS ACT IS SUBJECT
4 TO CIVIL PENALTIES OF UP TO \$10,000.00 FOR EACH VIOLATION.
5 IMPOSITION OF CIVIL PENALTIES IS PURSUANT TO AN ORDER OF THE
6 COMMISSIONER. THE COMMISSIONER'S ORDER MAY REQUIRE A PERSON FOUND
7 TO BE IN VIOLATION OF THIS ACT TO MAKE RESTITUTION TO A PERSON
8 AGGRIEVED BY VIOLATIONS OF THIS ACT.

9 (6) A PERSON WHO IS FOUND TO HAVE VIOLATED A PROVISION OF THIS
10 ACT SHALL BE ORDERED TO PAY RESTITUTION TO A PERSON AGGRIEVED BY
11 THE VIOLATION OF THIS ACT. RESTITUTION SHALL BE ORDERED IN ADDITION
12 TO A FINE OR IMPRISONMENT AND NOT IN LIEU OF A FINE OR
13 IMPRISONMENT. A PERSON WHO VIOLATES A PROVISION OF THIS ACT, UPON
14 CONVICTION, SHALL BE SENTENCED BASED ON THE GREATER OF THE VALUE OF
15 PROPERTY, SERVICES, OR OTHER BENEFITS WRONGFULLY OBTAINED OR
16 ATTEMPTED TO BE OBTAINED, OR THE AGGREGATE ECONOMIC LOSS SUFFERED
17 BY ANY PERSON AS A RESULT OF THE VIOLATION AND SUBJECT TO ALL OF
18 THE FOLLOWING:

19 (A) IF THE VALUE OF THE LIFE SETTLEMENT CONTRACT IS MORE THAN
20 \$35,000.00, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
21 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN
22 \$100,000.00, OR BOTH.

23 (B) IF THE VALUE OF THE LIFE SETTLEMENT CONTRACT IS MORE THAN
24 \$2,500.00 BUT NOT MORE THAN \$35,000.00, THE PERSON IS GUILTY OF A
25 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A
26 FINE OF NOT MORE THAN \$20,000.00, OR BOTH.

27 (C) IF THE VALUE OF THE LIFE SETTLEMENT CONTRACT IS MORE THAN

1 \$500.00 BUT NOT MORE THAN \$2,500.00, THE PERSON IS GUILTY OF A
2 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
3 FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

4 (D) IF THE VALUE OF THE LIFE SETTLEMENT CONTRACT IS \$500.00 OR
5 LESS, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
6 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
7 \$3,000.00, OR BOTH.

8 (7) THE VALUE OF A LIFE SETTLEMENT CONTRACT WITHIN A 6-MONTH
9 PERIOD MAY BE AGGREGATED AND THE DEFENDANT CHARGED ACCORDINGLY IN
10 APPLYING THE PENALTY PROVISIONS OF THIS SECTION. IF 2 OR MORE
11 OFFENSES ARE COMMITTED BY THE SAME PERSON IN 2 OR MORE COUNTIES,
12 THE ACCUSED MAY BE PROSECUTED IN A COUNTY IN WHICH 1 OF THE
13 OFFENSES WAS COMMITTED FOR ALL OF THE OFFENSES AGGREGATED AS
14 PROVIDED BY THIS SECTION. THE STATUTE OF LIMITATIONS DOES NOT BEGIN
15 TO RUN UNTIL THE INSURANCE COMPANY OR LAW ENFORCEMENT AGENCY IS
16 AWARE OF THE FRAUD, BUT THE PROSECUTION MAY NOT BE COMMENCED LATER
17 THAN 7 YEARS AFTER THE ACT HAS OCCURRED.

18 SEC. 11. (1) A LIFE SETTLEMENT PROVIDER OR OTHER PERSON
19 SUBJECT TO THIS ACT OR ANY PERSON LICENSED UNDER OR SUBJECT TO THE
20 INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.100 TO 500.8302, SHALL
21 NOT PROHIBIT, RESTRICT, LIMIT, OR IMPAIR A LICENSED LIFE INSURANCE
22 PRODUCER FROM AIDING AND ASSISTING THE OWNER OF A POLICY WITH A
23 SETTLEMENT, OR FROM OTHERWISE PARTICIPATING IN A SETTLEMENT
24 TRANSACTION, OR FROM ENGAGING IN ANY TRANSACTION, ACT, PRACTICE, OR
25 COURSE OF BUSINESS OR DEALING RESTRICTING, LIMITING, OR IMPAIRING
26 IN ANY WAY THE LAWFUL TRANSFER OF OWNERSHIP, CHANGE OF BENEFICIARY,
27 OR ASSIGNMENT OF A POLICY TO EFFECTUATE A SETTLEMENT CONTRACT.

1 (2) A VIOLATION OF THIS ACT IS CONSIDERED AN UNFAIR TRADE
2 PRACTICE PURSUANT TO CHAPTER 20 OF THE INSURANCE CODE OF 1956, 1956
3 PA 218, MCL 500.2001 TO 500.2093, AND SUBJECT TO THE PENALTIES
4 CONTAINED IN THAT CHAPTER.

5 SEC. 12. THE COMMISSIONER MAY DO ANY OF THE FOLLOWING:

6 (A) PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES
7 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, AND REGULATIONS
8 IMPLEMENTING THIS ACT.

9 (B) ESTABLISH STANDARDS FOR EVALUATING REASONABLENESS OF
10 PAYMENTS UNDER A LIFE SETTLEMENT CONTRACT WHERE THE INSURED UNDER
11 THE POLICY THAT IS THE SUBJECT OF A LIFE SETTLEMENT CONTRACT IS
12 TERMINALLY ILL OR CHRONICALLY ILL. THIS INCLUDES, BUT IS NOT
13 LIMITED TO, REGULATION OF DISCOUNT RATES USED TO DETERMINE THE
14 AMOUNT PAID IN EXCHANGE FOR ASSIGNMENT, TRANSFER, SALE, DEVISE, OR
15 BEQUEST OF A BENEFIT UNDER A POLICY. A LIFE SETTLEMENT PROVIDER,
16 WHERE THE SELLER OR INSURED IS NOT TERMINALLY ILL OR CHRONICALLY
17 ILL, SHALL PAY AN AMOUNT GREATER THAN THE CASH SURRENDER VALUE OR
18 ACCELERATED DEATH BENEFIT THEN AVAILABLE.

19 (C) ESTABLISH APPROPRIATE LICENSING REQUIREMENTS, FEES, AND
20 STANDARDS FOR CONTINUED LICENSURE FOR A LIFE SETTLEMENT PROVIDER
21 AND A FEE FOR LIFE INSURANCE PRODUCERS.

22 (D) REQUIRE A BOND OR OTHER MECHANISM FOR FINANCIAL
23 ACCOUNTABILITY FOR A LIFE SETTLEMENT PROVIDER.

24 (E) PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES
25 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, GOVERNING THE
26 RELATIONSHIP AND RESPONSIBILITIES OF AN INSURER AND A LIFE
27 SETTLEMENT PROVIDER, LIFE INSURANCE PRODUCER, AND OTHERS IN THE

1 BUSINESS OF LIFE SETTLEMENTS DURING THE PERIOD OF CONSIDERATION OR
2 EFFECTUATION OF A LIFE SETTLEMENT CONTRACT.

3 SEC. 13. THIS ACT DOES NOT PREEMPT OR OTHERWISE LIMIT THE
4 PROVISIONS OF THE UNIFORM SECURITIES ACT, 1964 PA 265, MCL 451.501
5 TO 451.818, OR ANY REGULATIONS, ORDERS, POLICY STATEMENTS, NOTICES,
6 BULLETINS, OR OTHER INTERPRETATIONS ISSUED BY OR THROUGH THE
7 COMMISSIONER OR HIS OR HER DESIGNEE ACTING PURSUANT TO THAT ACT.
8 COMPLIANCE WITH THIS ACT DOES NOT CONSTITUTE COMPLIANCE WITH ANY
9 APPLICABLE PROVISION OF THE UNIFORM SECURITIES ACT, 1964 PA 265,
10 MCL 451.501 TO 451.818.