

S T A T E O F N E W Y O R K

3655--A

2009-2010 Regular Sessions

I N S E N A T E

March 26, 2009

Introduced by Sen. BRESLIN -- (at request of the New York State Insurance Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the licensure of life settlement brokers; to amend the penal law, in relation to life settlement fraud; to amend the banking law, in relation to premium finance agreements; and to repeal article 78 of the insurance law relating to viatical settlements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (a) of section 308 of the insurance law, as
2 amended by chapter 11 of the laws of 2008, is amended to read as
3 follows:
4 (a) (1) The superintendent may also address to any health maintenance
5 organization, *LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT INTERMEDIARY OR*
6 *ITS OFFICERS*, OR any authorized insurer or rate service organization, or
7 officers thereof, any inquiry in relation to its transactions or condi-
8 tion or any matter connected therewith. Every corporation or person so
9 addressed shall reply in writing to such inquiry promptly and truthfully,
10 ly, and such reply shall be, if required by the superintendent,
11 subscribed by such individual, or by such officer or officers of a
12 corporation, as [he] THE SUPERINTENDENT shall designate, and affirmed by
13 them as true under the penalties of perjury.
14 (2) In the event any corporation or person does not provide a good
15 faith response to an inquiry from the superintendent pursuant to this
16 section relating to accident insurance, health insurance, accident and
17 health insurance or health maintenance organization coverage OR WITH
18 RESPECT TO LIFE SETTLEMENTS, within a time period specified by the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 superintendent of not less than fifteen business days, the superinten-
2 dent is authorized to levy a civil penalty, after notice and hearing,
3 against such corporation or person not to exceed five hundred dollars
4 per day for each day beyond the date specified by the superintendent for
5 response, but in no event shall such penalty exceed seven thousand five
6 hundred dollars.

7 S 2. Section 2101 of the insurance law is amended by adding a new
8 subsection (v) to read as follows:

9 (V) IN THIS ARTICLE, "LIFE SETTLEMENT BROKER" SHALL HAVE THE MEANING
10 CONTAINED IN SUBSECTION (J) OF SECTION SEVEN THOUSAND EIGHT HUNDRED TWO
11 OF THIS CHAPTER.

12 S 3. Paragraph 1 of subsection (a) of section 2102 of the insurance
13 law, as amended by chapter 687 of the laws of 2003, is amended to read
14 as follows:

15 (1) No person, firm, association or corporation shall act as an insur-
16 ance producer [or], insurance adjuster OR LIFE SETTLEMENT BROKER in this
17 state without having authority to do so by virtue of a license issued
18 and in force pursuant to the provisions of this chapter.

19 S 4. The section heading and subsections (a) and (b) of section 2110
20 of the insurance law, as amended by chapter 687 of the laws of 2003, are
21 amended to read as follows:

22 Revocation or suspension of license of insurance producer, insurance
23 consultant [or], adjuster OR LIFE SETTLEMENT BROKER. (a) The superinten-
24 dent may refuse to renew, revoke, or may suspend for a period the super-
25 intendent determines the license of any insurance producer, insurance
26 consultant [or], adjuster OR LIFE SETTLEMENT BROKER, if, after notice
27 and hearing, the superintendent determines that the licensee or any
28 sub-licensee has:

29 (1) violated any insurance laws, or violated any regulation, subpoena
30 or order of the superintendent [of insurance] or of another state's
31 insurance commissioner, or has violated any law in the course of his OR
32 HER dealings in such capacity;

33 (2) provided materially incorrect, materially misleading, materially
34 incomplete or materially untrue information in the license application;

35 (3) obtained or attempted to obtain a license through misrepresen-
36 tation or fraud;

37 (4)(A) used fraudulent, coercive or dishonest practices;

38 (B) demonstrated incompetence;

39 (C) demonstrated untrustworthiness; or

40 (D) demonstrated financial irresponsibility in the conduct of business
41 in this state or elsewhere;

42 (5) improperly withheld, misappropriated or converted any monies or
43 properties received in the course of business in this state or else-
44 where;

45 (6) intentionally misrepresented the terms of an actual or proposed
46 insurance contract, LIFE SETTLEMENT CONTRACT or application for insur-
47 ance;

48 (7) has been convicted of a felony;

49 (8) admitted or been found to have committed any insurance unfair
50 trade practice or fraud;

51 (9) had an insurance producer license, A LIFE SETTLEMENT BROKER
52 LICENSE, or its equivalent, denied, suspended or revoked in any other
53 state, province, district or territory;

54 (10) forged another's name to an application for insurance OR LIFE
55 SETTLEMENT CONTRACT or to any document related to an insurance OR LIFE
56 SETTLEMENT transaction;

(11) improperly used notes or any other reference material to complete an examination for an insurance license OR LIFE SETTLEMENT BROKER LICENSE;

(12) knowingly accepted insurance business from an individual who is not licensed;

(13) failed to comply with an administrative or court order imposing a child support obligation; [or]

(14) failed to pay state income tax or comply with any administrative or court order directing payment of state income tax[.];

(15) WHILE ACTING AS A LIFE SETTLEMENT BROKER, KNOWINGLY CONDUCTED THE BUSINESS OF LIFE SETTLEMENTS WITH A PERSON WHO IS NOT LICENSED OR REGISTERED UNLESS SUCH PERSON IS NOT REQUIRED TO BE LICENSED OR REGISTERED;

(16) WHILE ACTING AS A LIFE SETTLEMENT BROKER, SOLD, ASSIGNED, PLEDGED OR OTHERWISE TRANSFERRED THE OWNERSHIP OF A LIFE SETTLEMENT CONTRACT TO A PERSON OTHER THAN AS PROVIDED IN ARTICLE SEVENTY-EIGHT OF THIS CHAPTER;

(17) WHILE ACTING AS A LIFE SETTLEMENT BROKER, FAILED TO PROTECT THE PRIVACY OF THE INSURED OR OWNER OR OTHER PERSON FOR WHOM THE LIFE SETTLEMENT BROKER WAS REQUIRED TO PROVIDE PROTECTION PURSUANT TO ARTICLE SEVENTY-EIGHT OF THIS CHAPTER; OR

(18) CEASED TO MEET THE REQUIREMENTS FOR LICENSURE UNDER THIS CHAPTER.

(b) Before revoking or suspending the license of any insurance producer, LIFE SETTLEMENT BROKER or other licensee pursuant to the provisions of this article, the superintendent shall, except when proceeding pursuant to subsection (f) of this section, give notice to the licensee and to every sub-licensee and shall hold, or cause to be held, a hearing not less than ten days after the giving of such notice.

S 5. The section heading of section 2119 of the insurance law is amended and a new subsection (e) is added to read as follows:

Insurance agents, brokers, consultants, AND LIFE SETTLEMENT BROKERS; written contract for compensation; excess charges prohibited.

(E)(1) NO PERSON LICENSED AS A LIFE SETTLEMENT BROKER MAY RECEIVE ANY COMPENSATION FOR EXAMINING, APPRAISING, REVIEWING OR EVALUATING ANY LIFE SETTLEMENT CONTRACT OR FOR MAKING RECOMMENDATIONS OR GIVING ADVICE WITH REGARD TO SUCH CONTRACT; OR RECEIVE ANY COMPENSATION FROM ANY OWNER OR PROPOSED OWNER FOR OR ON ACCOUNT OF THE SOLICITATION OR NEGOTIATION OF, OR OTHER SERVICES IN CONNECTION WITH, ANY LIFE SETTLEMENT CONTRACT SUBJECT TO THIS CHAPTER OR FOR ANY OTHER SERVICES ON ACCOUNT OF SUCH CONTRACT; UNLESS SUCH COMPENSATION IS BASED UPON A WRITTEN MEMORANDUM SIGNED BY THE PARTY TO BE CHARGED AND SPECIFYING OR CLEARLY DEFINING THE AMOUNT OR EXTENT OF SUCH COMPENSATION. A COPY OF EVERY SUCH MEMORANDUM SHALL BE RETAINED BY THE LICENSEE FOR NOT LESS THAN THREE YEARS AFTER SUCH SERVICES HAVE BEEN FULLY PERFORMED.

(2) NO PERSON LICENSED AS A LIFE SETTLEMENT BROKER MAY RECEIVE ANY COMPENSATION, DIRECT OR INDIRECT, FOR OR ON ACCOUNT OF THE SOLICITATION OR NEGOTIATION OF, OR OTHER SERVICES IN CONNECTION WITH A LIFE SETTLEMENT CONTRACT SUBJECT TO THIS CHAPTER FROM ANY PERSON FOR WHOM ANY SUCH LICENSEE HAS PERFORMED ANY RELATED CONSULTING SERVICE FOR WHICH THE LICENSEE HAS RECEIVED A FEE OR CONTRACTED TO RECEIVE A FEE WITHIN THE PRECEDING TWELVE MONTHS UNLESS SUCH COMPENSATION IS PROVIDED FOR IN THE WRITTEN MEMORANDUM REQUIRED PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION.

(3) NO PERSON LICENSED AS A LIFE SETTLEMENT BROKER MAY RECEIVE ANY COMPENSATION, DIRECT OR INDIRECT, FROM A LIFE SETTLEMENT PROVIDER OR ANY OTHER PERSON WITH RESPECT TO ANY LIFE SETTLEMENT CONTRACT IF THE LIFE SETTLEMENT BROKER HAS ALREADY RECEIVED OR WILL RECEIVE COMPENSATION,

1 DIRECT OR INDIRECT FROM, OR ON BEHALF OF, THE OWNER WITH RESPECT TO THAT
2 LIFE SETTLEMENT CONTRACT.

3 S 6. Subsections (a) and (b) of section 2132 of the insurance law, as
4 added by chapter 656 of the laws of 1992, are amended to read as
5 follows:

6 (a) This section shall apply to resident and non-resident persons
7 licensed pursuant to this article with respect to [the following types
8 of insurance]:

9 (1) life insurance, annuity contracts, variable annuity contracts and
10 variable life insurance;

11 (2) sickness, accident and health insurance; [and]

12 (3) all lines of property and casualty insurance; AND

13 (4) LIFE SETTLEMENTS.

14 (b) This section shall not apply to:

15 (1) those persons holding licenses for which an examination is not
16 required by the laws of this state; [or]

17 (2) any limited licensees or any other licensees as the superintendent
18 may exempt subject to any continuing education requirements deemed
19 appropriate by the superintendent[.]; OR

20 (3) FOR PURPOSES OF THE CONTINUING EDUCATION REQUIREMENTS FOR LIFE
21 SETTLEMENTS, AN INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY WHO IS
22 ACTING AS A LIFE SETTLEMENT BROKER PURSUANT TO SECTION TWO THOUSAND ONE
23 HUNDRED THIRTY-SEVEN OF THIS ARTICLE.

24 S 7. The insurance law is amended by adding a new section 2137 to
25 read as follows:

26 S 2137. LIFE SETTLEMENT BROKERS; LICENSING. (A) THE SUPERINTENDENT
27 MAY ISSUE A LICENSE TO ANY INDIVIDUAL, FIRM, ASSOCIATION OR CORPORATION
28 WHO OR THAT HAS COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER, AUTHOR-
29 IZING THE LICENSEE TO ACT AS A LIFE SETTLEMENT BROKER.

30 (B) ANY SUCH LICENSE ISSUED TO A FIRM OR ASSOCIATION SHALL AUTHORIZE
31 ONLY THE MEMBERS THEREOF, NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT
32 INDIVIDUALLY AS LIFE SETTLEMENT BROKERS THEREUNDER, AND ANY SUCH LICENSE
33 ISSUED TO A CORPORATION SHALL AUTHORIZE ONLY THE OFFICERS AND DIRECTORS
34 THEREOF, WHO ARE NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT INDIVID-
35 UALLY AS LIFE SETTLEMENT BROKERS THEREUNDER. EVERY SUB-LICENSEE, ACTING
36 AS A LIFE SETTLEMENT BROKER PURSUANT TO SUCH A LICENSE SHALL BE AUTHOR-
37 IZED SO TO ACT ONLY IN THE NAME OF THE LICENSEE.

38 (C) EVERY INDIVIDUAL APPLICANT FOR A LICENSE UNDER THIS SECTION AND
39 EVERY PROPOSED SUB-LICENSEE SHALL BE EIGHTEEN YEARS OF AGE OR OVER AT
40 THE TIME OF THE ISSUANCE OF SUCH LICENSE.

41 (D)(1) BEFORE ANY ORIGINAL LIFE SETTLEMENT BROKER'S LICENSE IS ISSUED,
42 THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICA-
43 TION BY THE PROPOSED LICENSEE IN SUCH FORM OR FORMS, AND SUPPLEMENTS
44 THERETO, AND CONTAINING INFORMATION THE SUPERINTENDENT PRESCRIBES. FOR
45 EACH BUSINESS ENTITY, THE SUB-LICENSEE OR SUB-LICENSEES NAMED IN THE
46 APPLICATION SHALL BE DESIGNATED RESPONSIBLE FOR THE BUSINESS ENTITY'S
47 COMPLIANCE WITH THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER. THE
48 APPLICANT SHALL FULLY DISCLOSE THE IDENTITY OF ALL STOCKHOLDERS (EXCEPT
49 STOCKHOLDERS OWNING FEWER THAN TEN PERCENT OF THE VOTING SHARES OF A
50 LIFE SETTLEMENT BROKER WHOSE SHARES ARE PUBLICLY TRADED), PARTNERS,
51 OFFICERS, MEMBERS, DIRECTORS AND PERSONS WITH A CONTROLLING INTEREST AND
52 THE SUPERINTENDENT MAY, IN THE EXERCISE OF THE SUPERINTENDENT'S
53 DISCRETION, REFUSE TO ISSUE A LICENSE IN THE NAME OF A LEGAL ENTITY IF
54 NOT SATISFIED THAT ANY EMPLOYEE, STOCKHOLDER, PARTNER, OFFICER, MEMBER,
55 DIRECTOR OR PERSON WITH A CONTROLLING INTEREST THEREOF WHO MAY MATE-
56 Rially INFLUENCE THE APPLICANT'S CONDUCT MEETS THE STANDARDS OF THIS

1 ARTICLE AND ARTICLE SEVENTY-EIGHT OF THIS CHAPTER. THEREAFTER, THE
2 APPLICANT AND, IF A LICENSE HAS BEEN ISSUED, THE LICENSEE, SHALL PROVIDE
3 TO THE SUPERINTENDENT NEW OR REVISED INFORMATION ABOUT STOCKHOLDERS
4 (EXCEPT STOCKHOLDERS OWNING FEWER THAN TEN PERCENT OF THE VOTING SHARES
5 OF A LIFE SETTLEMENT BROKER WHOSE SHARES ARE PUBLICLY TRADED), PARTNERS,
6 OFFICERS, MEMBERS, DIRECTORS AND PERSONS WITH A CONTROLLING INTEREST
7 WITHIN THIRTY DAYS OF THE CHANGE. FOR PURPOSES OF THIS SECTION,
8 "CONTROLLING INTEREST" MEANS A PERSON WHO DIRECTLY OR INDIRECTLY, HAS
9 THE POWER TO CAUSE TO BE DIRECTED THE MANAGEMENT, CONTROL OR ACTIVITIES
10 OF SUCH LICENSEE.

11 (2) THE SUPERINTENDENT MAY REQUIRE ANY INDIVIDUAL NAMED IN THE APPLI-
12 CATION FOR SUCH LICENSE TO SUBMIT A SET OF FINGERPRINTS, UNLESS SUCH
13 APPLICANT IS LICENSED AS AN INSURANCE PRODUCER WITH A LIFE LINE OF
14 AUTHORITY. SUCH FINGERPRINTS SHALL BE SUBMITTED TO THE DIVISION OF CRIM-
15 INAL JUSTICE SERVICES FOR A STATE CRIMINAL HISTORY RECORD CHECK, AS
16 DEFINED IN SUBDIVISION ONE OF SECTION THREE THOUSAND THIRTY-FIVE OF THE
17 EDUCATION LAW, AND MAY BE SUBMITTED TO THE FEDERAL BUREAU OF INVESTI-
18 GATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. ALL SUCH CRIMINAL
19 HISTORY RECORDS SENT TO THE SUPERINTENDENT PURSUANT TO THIS PARAGRAPH
20 SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL AND STATE LAWS,
21 RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN ANY WAY
22 DISCLOSED TO PERSONS OTHER THAN THE SUPERINTENDENT, UNLESS OTHERWISE
23 AUTHORIZED BY LAW. THE SUPERINTENDENT SHALL PROVIDE SUCH APPLICANT WITH
24 A COPY OF HIS OR HER CRIMINAL HISTORY RECORD, IF ANY, TOGETHER WITH A
25 COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, AND INFORM SUCH
26 APPLICANT OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY INCORRECT INFOR-
27 MATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS AND PROCEDURES
28 ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. ALL DETERMI-
29 NATIONS TO GRANT OR DENY CLEARANCE FOR LICENSURE PURSUANT TO THIS
30 SECTION SHALL BE IN ACCORDANCE WITH SUBDIVISION SIXTEEN OF SECTION TWO
31 HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-THREE-A OF
32 THE CORRECTION LAW. WHEN THE SUPERINTENDENT DENIES AN APPLICATION,
33 WRITTEN NOTICE OF SUCH DETERMINATION SHALL BE GIVEN TO THE PROSPECTIVE
34 APPLICANT WHO SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND
35 OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION.

36 (E) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF
37 EVERY INDIVIDUAL APPLICANT AND OF EVERY PROPOSED SUB-LICENSEE FOR THE
38 LIFE SETTLEMENT BROKER LICENSE, REQUIRE SUCH INDIVIDUAL TO SUBMIT TO A
39 PERSONAL WRITTEN EXAMINATION AND TO PASS THE SAME TO THE SATISFACTION OF
40 THE SUPERINTENDENT. THE EXAMINATION SHALL BE HELD AT SUCH TIMES AND
41 PLACES AS THE SUPERINTENDENT SHALL FROM TIME TO TIME DETERMINE. EVERY
42 INDIVIDUAL APPLYING TO TAKE ANY WRITTEN EXAMINATION SHALL, AT THE TIME
43 OF APPLYING THEREFOR, PAY TO THE SUPERINTENDENT OR, AT THE DISCRETION OF
44 THE SUPERINTENDENT, DIRECTLY TO ANY ORGANIZATION THAT IS UNDER CONTRACT
45 TO PROVIDE EXAMINATION SERVICES, AN EXAMINATION FEE OF AN AMOUNT THAT IS
46 THE ACTUAL DOCUMENTED ADMINISTRATIVE COST OF CONDUCTING SAID QUALIFYING
47 EXAMINATION AS CERTIFIED BY THE SUPERINTENDENT FROM TIME TO TIME. AN
48 EXAMINATION FEE REPRESENTS AN ADMINISTRATIVE EXPENSE AND IS NOT REFUNDA-
49 BLE. THE SUPERINTENDENT MAY ACCEPT, IN LIEU OF ANY SUCH EXAMINATION, THE
50 RESULT OF ANY PREVIOUS WRITTEN EXAMINATION, GIVEN BY THE SUPERINTENDENT,
51 WHICH IN THE SUPERINTENDENT'S JUDGMENT, IS EQUIVALENT TO THE EXAMINATION
52 FOR WHICH IT IS SUBSTITUTED. NO INDIVIDUAL SHALL BE DEEMED QUALIFIED TO
53 TAKE THE EXAMINATION UNLESS HE OR SHE SHALL HAVE SUCCESSFULLY COMPLETED
54 A COURSE OR COURSES, APPROVED BY THE SUPERINTENDENT.

55 (F)(1) NO SUCH WRITTEN EXAMINATION OR PRELICENSING EDUCATION SHALL BE
56 REQUIRED:

1 (A) OF ANY INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY LICENSED
2 IN THIS STATE FOR AT LEAST ONE YEAR;
3 (B) IN THE DISCRETION OF THE SUPERINTENDENT, OF ANY INDIVIDUAL WHOSE
4 LICENSE HAS BEEN REVOKED OR SUSPENDED;
5 (C) OF ANY APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY
6 THE SUPERINTENDENT FOR A LIFE SETTLEMENT BROKER'S LICENSE AND WAS
7 LICENSED AS SUCH, OR OF AN APPLICANT WHO WAS LICENSED AS A LIFE SETTLE-
8 MENT BROKER BUT DID NOT PASS SUCH AN EXAMINATION; PROVIDED THE APPLICANT
9 APPLIES WITHIN TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE APPLI-
10 CANT'S LICENSE;
11 (D) IN THE DISCRETION OF THE SUPERINTENDENT, AS TO ALL OR ANY PART OF
12 THE WRITTEN EXAMINATION OR THE PREREQUISITE COURSE SPECIFIED IN
13 SUBSECTION (E) OF THIS SECTION, OF ANY INDIVIDUAL SEEKING TO BE NAMED A
14 LICENSEE OR SUB-LICENSEE, UPON WHOM HAS BEEN CONFERRED THE CHARTERED
15 LIFE UNDERWRITER (C.L.U.) OR CHARTERED LIFE UNDERWRITER ASSOCIATE DESIG-
16 NATION BY THE AMERICAN COLLEGE; OR
17 (E) ANY INDIVIDUAL SEEKING TO BE NAMED A LICENSEE OR SUB-LICENSEE, WHO
18 IS A NONRESIDENT AND A LIFE SETTLEMENT BROKER OR WHO IS LICENSED AS AN
19 INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY IN THE INDIVIDUAL'S
20 HOME STATE FOR AT LEAST ONE YEAR; PROVIDED, HOWEVER, THAT THE INDIVID-
21 UAL'S HOME STATE GRANTS NONRESIDENT LICENSES TO RESIDENTS OF THIS STATE
22 ON THE SAME BASIS.
23 (2) NO PRELICENSING EDUCATION SHALL BE REQUIRED OF ANY INDIVIDUAL
24 REGULARLY EMPLOYED BY A LIFE SETTLEMENT PROVIDER, LIFE INSURANCE COMPA-
25 NY, LIFE SETTLEMENT BROKER, OR AN INSURANCE PRODUCER WITH A LIFE LINE OF
26 AUTHORITY, FOR A PERIOD OR PERIODS AGGREGATING NOT LESS THAN ONE YEAR,
27 DURING THE THREE YEARS NEXT PRECEDING THE DATE OF ENTRANCE INTO THE
28 SERVICE OF THE ARMED FORCES OF THE UNITED STATES OR IMMEDIATELY FOLLOW-
29 ING HIS OR HER DISCHARGE THEREFROM, IN RESPONSIBLE DUTIES RELATING TO
30 THE USE OF LIFE INSURANCE AND ANNUITY CONTRACTS IN THE DESIGN AND ADMIN-
31 ISTRATION OF PLANS FOR ESTATE CONSERVATION AND DISTRIBUTION, EMPLOYEE
32 BENEFITS AND BUSINESS CONTINUATION, AND SETTLEMENTS OF LIFE INSURANCE
33 AND ANNUITY CONTRACTS; PROVIDED THE APPLICATION FOR SUCH LICENSE IS
34 FILED WITHIN ONE YEAR FOLLOWING THE DATE OF DISCHARGE, AND THE APPLICANT
35 SUBMITS WITH THE APPLICATION A STATEMENT SUBSCRIBED AND AFFIRMED AS TRUE
36 UNDER THE PENALTIES OF PERJURY BY SUCH EMPLOYER OR EMPLOYERS STATING
37 FACTS WHICH SHOW COMPLIANCE WITH THIS REQUIREMENT.
38 (G) THE SUPERINTENDENT MAY REFUSE TO ISSUE ANY LIFE SETTLEMENT
39 BROKER'S LICENSE IF, IN THE SUPERINTENDENT'S JUDGMENT, THE PROPOSED
40 LICENSEE OR ANY SUB-LICENSEE: IS NOT TRUSTWORTHY AND COMPETENT TO ACT
41 AS A LIFE SETTLEMENT BROKER; HAS GIVEN CAUSE FOR LICENSE REVOCATION OR
42 SUSPENSION; OR HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSU-
43 ANCE OF SUCH LICENSE.
44 (H)(1) EVERY LICENSE ISSUED TO A BUSINESS ENTITY PURSUANT TO
45 SUBSECTION (A) OF THIS SECTION SHALL EXPIRE ON JUNE THIRTIETH OF
46 ODD-NUMBERED YEARS.
47 (2) EVERY LICENSE ISSUED PURSUANT TO THIS SECTION TO AN INDIVIDUAL WHO
48 WAS BORN IN AN ODD-NUMBERED YEAR SHALL EXPIRE ON THE INDIVIDUAL'S BIRTH-
49 DAY IN EACH ODD-NUMBERED YEAR. EVERY LICENSE ISSUED PURSUANT TO THIS
50 SECTION TO AN INDIVIDUAL WHO WAS BORN IN AN EVEN-NUMBERED YEAR SHALL
51 EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR. EVERY
52 SUCH LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS
53 UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SUBSECTION.
54 (3) THE LICENSE MAY BE ISSUED FOR ALL OF SUCH TWO-YEAR TERMS, OR UPON
55 APPLICATION MADE DURING ANY SUCH TERM, FOR THE BALANCE THEREOF.

(4) ANY LICENSE SHALL BE CONSIDERED IN GOOD STANDING WITHIN THE LICENSE TERM UNLESS:

(A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE; OR

(B) IF AT THE EXPIRATION DATE OF THE LICENSE TERM, THE LICENSEE FAILS TO FILE A RENEWAL APPLICATION, PROVIDED THE LICENSE WAS IN GOOD STANDING DURING THE TERM.

(5) BEFORE THE RENEWAL OF ANY LIFE SETTLEMENT BROKER'S LICENSE SHALL BE ISSUED, THE LICENSEE SHALL HAVE:

(A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT MAY PRESCRIBE; AND

(B) PAID SUCH FEES AS ARE PRESCRIBED BY THE SUPERINTENDENT; PROVIDED, HOWEVER, THAT SUCH FEE SHALL NOT EXCEED THAT WHICH IS REQUIRED FOR THE LICENSING OR RENEWAL FOR AN INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY.

(6) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF SUCH REFUSAL TO THE APPLICANT AND TO EACH PROPOSED SUB-LICENSEE. BEFORE REFUSING TO RENEW ANY SUCH LICENSE, EXCEPT ON THE GROUND OF FAILURE TO PASS A WRITTEN EXAMINATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE THE APPLICANT A HEARING.

(7)(A) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION FOR THE RENEWAL LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF SUCH INDIVIDUAL, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY A PERSON WHO, IN THE PERSON'S JUDGMENT, HAS KNOWLEDGE OF THE FACTS AND WHO MAKES AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE INABILITY OF THE LIFE SETTLEMENT BROKER TO MAKE PERSONAL APPLICATION.

(B) AN INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO IS UNABLE TO COMPLY WITH LICENSE RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES, SUCH AS A LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH PROCEDURES, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE LICENSEE OR SUB-LICENSEE MAY ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH RENEWAL PROCEDURES.

(8) IN ADDITION TO ANY EXAMINATION FEE REQUIRED BY SUBSECTION (E) OF THIS SECTION, THERE SHALL BE PAID TO THE SUPERINTENDENT FOR EACH INDIVIDUAL LICENSE APPLICANT AND EACH PROPOSED SUB-LICENSEE A LICENSING OR RENEWAL FEE TO BE DETERMINED BY THE SUPERINTENDENT; PROVIDED, HOWEVER THAT SUCH FEE SHALL NOT EXCEED THAT WHICH IS REQUIRED FOR THE LICENSING OR RENEWAL FOR AN INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY.

(9) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF TEN DOLLARS FOR LATE FILING.

(10) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME AND WHO SHALL HAVE BEEN DISCHARGED THEREFROM, UNDER CONDITIONS OTHER THAN

1 DISHONORABLE, IN A CURRENT LICENSING PERIOD, FOR THE DURATION OF SUCH
2 PERIOD.

3 (11) EXCEPT WHERE A CORPORATION, ASSOCIATION OR FIRM LICENSED AS A
4 LIFE SETTLEMENT BROKER IS APPLYING TO ADD A SUB-LICENSEE, THERE SHALL BE
5 NO FEE REQUIRED FOR THE ISSUANCE OF AN AMENDED LICENSE.

6 (12) THE LICENSE SHALL CONTAIN THE LICENSEE'S NAME, ADDRESS, PERSONAL
7 IDENTIFICATION NUMBER, THE DATE OF ISSUANCE, AND ANY OTHER INFORMATION
8 THE SUPERINTENDENT DEEMS NECESSARY. THE SUPERINTENDENT MAY ISSUE THE
9 LIFE SETTLEMENT BROKER'S LICENSE IN CONJUNCTION WITH ANY OTHER LICENSE,
10 OR ITS RENEWAL, HELD BY THE APPLICANT.

11 (I) IF THE SUPERINTENDENT DEEMS IT NECESSARY, THEN THE SUPERINTENDENT
12 MAY REQUIRE ANY LICENSED LIFE SETTLEMENT BROKER TO SUBMIT A NEW APPLICA-
13 TION AT ANY TIME.

14 (J) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT FOR A CURRENTLY
15 IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH REPLACE-
16 MENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE OFFICE OF
17 THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT LICENSE,
18 AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE HAS BEEN
19 LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

20 S 8. Section 2401 of the insurance law is amended to read as follows:

21 S 2401. Purpose. The purpose of this article is to regulate trade
22 practices in the business of insurance, INCLUDING THE BUSINESS OF LIFE
23 SETTLEMENTS, in accordance with the intent of congress as expressed in
24 Public Law 15, 79th Congress, by defining, or providing for the determi-
25 nation of, all such practices in this state [which] THAT constitute
26 unfair methods of competition or unfair or deceptive acts or practices
27 and by prohibiting the trade practices so defined or determined.

28 S 9. Subsections (a) and (b) of section 2402 of the insurance law,
29 subsection (b) as amended by chapter 631 of the laws of 2007, are
30 amended to read as follows:

31 (a) "Person" means any individual and any legal entity subject to any
32 provision of this chapter, engaged in the business of insurance in this
33 state, including any reciprocal exchange or Lloyds insurer, OR IN THE
34 BUSINESS OF LIFE SETTLEMENTS.

35 (b) "Defined violation" means the commission by a person of an act
36 prohibited by: section one thousand two hundred fourteen, one thousand
37 two hundred seventeen, one thousand two hundred twenty, one thousand
38 three hundred thirteen, subparagraph (B) of paragraph two of subsection
39 (i) of section one thousand three hundred twenty-two, subparagraph (B)
40 of paragraph two of subsection (i) of section one thousand three hundred
41 twenty-four, two thousand one hundred twenty-two, two thousand one
42 hundred twenty-three, subsection (p) of section two thousand three
43 hundred thirteen, section two thousand three hundred twenty-four, two
44 thousand five hundred two, two thousand five hundred three, two thousand
45 five hundred four, two thousand six hundred one, two thousand six
46 hundred two, two thousand six hundred three, two thousand six hundred
47 four, two thousand six hundred six, two thousand seven hundred three,
48 three thousand one hundred nine, three thousand two hundred
49 twenty-four-a, three thousand four hundred twenty-nine, three thousand
50 four hundred thirty-three, paragraph seven of subsection (e) of section
51 three thousand four hundred twenty-six, four thousand two hundred twen-
52 ty-four, four thousand two hundred twenty-five [or], four thousand two
53 hundred twenty-six, SEVEN THOUSAND EIGHT HUNDRED NINE, SEVEN THOUSAND
54 EIGHT HUNDRED TEN, SEVEN THOUSAND EIGHT HUNDRED ELEVEN, SEVEN THOUSAND
55 EIGHT HUNDRED THIRTEEN, SEVEN THOUSAND EIGHT HUNDRED FOURTEEN AND SEVEN
56 THOUSAND EIGHT HUNDRED FIFTEEN of this chapter; or section 135.60,

1 135.65, 175.05, 175.45, or 190.20, or article one hundred five of the
2 penal law.

3 S 10. Subsection (c) of section 3220 of the insurance law is amended
4 to read as follows:

5 (c) (1) Notwithstanding any provision of law, a person whose life is
6 insured under any policy of group life insurance, whether or not such
7 policy is otherwise subject to this section, is permitted to make an
8 assignment of all or any part of his incidents of ownership in such
9 insurance, including, without limitation, any right to designate a bene-
10 ficiary or beneficiaries thereunder and any right to have an individual
11 policy issued upon termination either of employment or of said policy of
12 group life insurance, provided that the insurer and the group policy-
13 holder may prohibit or restrict such assignment by appropriate policy
14 provisions EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH THREE OF THIS
15 SUBSECTION.

16 (2) [This] PARAGRAPH ONE OF THIS subsection shall be construed as
17 declaring the law as it existed prior to its enactment and not as modi-
18 fying it.

19 (3) A GROUP POLICY THAT PERMITS ASSIGNMENT OF AN INSURED PERSON'S
20 RIGHTS BY GIFT SHALL ALSO ALLOW ASSIGNMENT FOR VALUE TO THE SAME EXTENT
21 THAT IT ALLOWS ASSIGNMENT BY GIFT.

22 S 11. Article 78 of the insurance law is REPEALED and a new article 78
23 is added to read as follows:

24 ARTICLE 78
25 LIFE SETTLEMENTS

26 SECTION 7801. SHORT TITLE.
27 7802. DEFINITIONS.
28 7803. LICENSE REQUIREMENTS FOR LIFE SETTLEMENT PROVIDERS.
29 7804. REGISTRATION REQUIREMENTS FOR LIFE SETTLEMENT INTERME-
30 DIARIES.
31 7805. LICENSE AND REGISTRATION REVOCATION.
32 7806. LIFE SETTLEMENT CONTRACT FORMS.
33 7807. REPORTING REQUIREMENTS.
34 7808. EXAMINATIONS OR INVESTIGATIONS.
35 7809. ADVERTISING.
36 7810. PRIVACY.
37 7811. DISCLOSURES TO OWNERS AND INSURED.
38 7812. LIFE INSURANCE APPLICATIONS.
39 7813. GENERAL RULES.
40 7814. PROHIBITED PRACTICES.
41 7815. STRANGER-ORIGINATED LIFE INSURANCE.
42 7816. PENALTIES AND CIVIL REMEDIES.
43 7817. AUTHORITY TO PROMULGATE REGULATIONS.
44 7818. NONCONFORMING CONTRACTS.
45 7819. APPLICABILITY AND CHOICE OF LAW.
46 7820. SEVERABILITY.

47 S 7801. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
48 THE "LIFE SETTLEMENTS ACT".

49 S 7802. DEFINITIONS. IN THIS ARTICLE:

50 (A) "ACCREDITED INVESTORS" SHALL BE AS DEFINED IN REGULATION D, RULE
51 501 OF THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED.

52 (B) "ADVERTISEMENT" MEANS ANY WRITTEN, ELECTRONIC OR PRINTED COMMUNI-
53 CATION OR ANY COMMUNICATION BY MEANS OF RECORDED TELEPHONE MESSAGES OR
54 TRANSMITTED ON RADIO, TELEVISION, THE INTERNET OR SIMILAR COMMUNICATIONS
55 MEDIA, INCLUDING FILM STRIPS, MOTION PICTURES AND VIDEOS, PUBLISHED,
56 DISSEMINATED, CIRCULATED OR PLACED BEFORE THE PUBLIC, DIRECTLY OR INDI-

RECTLY, FOR THE PURPOSE OF CREATING AN INTEREST IN OR INDUCING A PERSON TO PURCHASE, SELL, ASSIGN, DEVISE, BEQUEST OR TRANSFER THE DEATH BENEFIT OR OWNERSHIP OF, A LIFE INSURANCE POLICY OR AN INTEREST IN A LIFE INSURANCE POLICY PURSUANT TO A LIFE SETTLEMENT CONTRACT.

(C)(1) "BUSINESS OF LIFE SETTLEMENTS" MEANS AN ACTIVITY INVOLVING, BUT NOT LIMITED TO, OFFERING TO ENTER INTO, SOLICITING, NEGOTIATING, PROCURING, EFFECTUATING, MONITORING, OR TRACKING LIFE SETTLEMENT CONTRACTS.

(2) FOR PURPOSES OF THIS ARTICLE, "BUSINESS OF LIFE SETTLEMENTS" SHALL ALSO INCLUDE:

(A) SUCH ACTS OR TRANSACTIONS EFFECTUATED IN THIS STATE BY MAIL OR OTHERWISE FROM OUTSIDE THIS STATE; AND

(B) DOING OR PROPOSING TO DO ANY BUSINESS IN SUBSTANCE EQUIVALENT TO THE BUSINESS OF LIFE SETTLEMENTS IN A MANNER DESIGNED TO EVADE THE PROVISIONS OF THIS CHAPTER.

(D) "COMPENSATION" MEANS ANYTHING OF VALUE, INCLUDING MONEY, CREDITS, LOANS, INTEREST ON PREMIUM, FORGIVENESS OF PRINCIPAL OR INTEREST, VACATIONS, PRIZES, GIFTS OR THE PAYMENT OF EMPLOYEE SALARIES OR EXPENSES, WHETHER PAID AS COMMISSION OR OTHERWISE.

(E) "FINANCING ENTITY" MEANS AN ACCREDITED INVESTOR:

(1) WHOSE PRINCIPAL ACTIVITY IN CONNECTION WITH THE TRANSACTION IS PROVIDING FUNDS TO EFFECT THE LIFE SETTLEMENT CONTRACT OR TO PURCHASE ONE OR MORE POLICIES; AND

(2) WHO HAS AN AGREEMENT IN WRITING WITH A LIFE SETTLEMENT PROVIDER TO FINANCE THE ACQUISITION OF A LIFE SETTLEMENT CONTRACT.

(F) "FINANCING TRANSACTION" MEANS A TRANSACTION IN WHICH A LICENSED LIFE SETTLEMENT PROVIDER OBTAINS FINANCING FROM A FINANCING ENTITY, INCLUDING ANY SECURED OR UNSECURED FINANCING, ANY SECURITIZATION TRANSACTION, OR ANY SECURITIES OFFERING WHICH IS REGISTERED OR EXEMPT FROM REGISTRATION UNDER FEDERAL AND STATE SECURITIES LAWS.

(G) "INSURED" MEANS A PERSON COVERED UNDER A POLICY THAT IS OR MAY BE THE SUBJECT OF A LIFE SETTLEMENT CONTRACT.

(H) "INSURER" MEANS A LIFE INSURANCE COMPANY OR A FRATERNAL BENEFIT SOCIETY.

(I) "LIFE EXPECTANCY" MEANS THE ARITHMETIC MEAN OF THE NUMBER OF MONTHS THE INSURED CAN BE EXPECTED TO LIVE TAKING INTO CONSIDERATION MEDICAL RECORDS AND APPROPRIATE EXPERIENTIAL DATA.

(J) "LIFE SETTLEMENT BROKER" MEANS A PERSON WHO, FOR COMPENSATION, SOLICITS, NEGOTIATES OR OFFERS TO NEGOTIATE A LIFE SETTLEMENT CONTRACT; EXCEPT THAT SUCH TERM SHALL NOT INCLUDE A LICENSED LIFE SETTLEMENT PROVIDER, OR REPRESENTATIVE THEREOF, LICENSED ATTORNEY AT LAW, CERTIFIED PUBLIC ACCOUNTANT, OR FINANCIAL PLANNER THAT IS ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITATION AGENCY ACCEPTABLE TO THE SUPERINTENDENT, WHO IS RETAINED IN HIS OR HER PROFESSIONAL CAPACITY, DOES NOT ADVERTISE AS BEING IN THE BUSINESS OF LIFE SETTLEMENTS AND IS COMPENSATED WITHOUT REGARD TO WHETHER A LIFE SETTLEMENT CONTRACT IS EFFECTUATED.

(K)(1) "LIFE SETTLEMENT CONTRACT" MEANS AN AGREEMENT ESTABLISHING THE TERMS UNDER WHICH COMPENSATION IS PROVIDED, WHICH COMPENSATION IS LESS THAN THE EXPECTED DEATH BENEFIT OF THE POLICY, IN RETURN FOR THE ASSIGNMENT, TRANSFER, SALE, RELEASE, DEVISE OR BEQUEST OF ANY PORTION OF:

(A) THE DEATH BENEFIT;

(B) THE OWNERSHIP OF THE POLICY; OR

(C) ANY BENEFICIAL INTEREST IN THE POLICY, OR IN A TRUST OR ANY OTHER ENTITY THAT OWNS THE POLICY, WHERE A PRIMARY PURPOSE OF THE TRANSACTION IS TO ACQUIRE THE POLICY.

(2) "LIFE SETTLEMENT CONTRACT" SHALL INCLUDE AN AGREEMENT, ENTERED INTO AFTER THE EFFECTIVE DATE OF THIS ARTICLE, DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION REGARDLESS OF THE DATE THE COMPENSATION IS PROVIDED AND REGARDLESS OF THE DATE THE ASSIGNMENT, TRANSFER, SALE, DEVISE OR BEQUEST IS EFFECTUATED.

(3) "LIFE SETTLEMENT CONTRACT" SHALL NOT INCLUDE:

(A) AN ASSIGNMENT OF A POLICY AS COLLATERAL FOR A LOAN BY ANY DEPOSITORY INSTITUTION INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR THE NATIONAL CREDIT UNION ADMINISTRATION;

(B) AN ASSIGNMENT OF A POLICY AS COLLATERAL FOR A LOAN MADE BY A LICENSED FINANCIAL INSTITUTION UNDER WHICH THE LENDER TAKES AN INTEREST IN A LIFE INSURANCE POLICY SOLELY TO SECURE REPAYMENT OF A LOAN OR, IF THERE IS A DEFAULT ON THE LOAN AND THE POLICY IS TRANSFERRED, THE TRANSFER OF THE POLICY BY THE LENDER, PROVIDED THAT THE DEFAULT ITSELF IS NOT PURSUANT TO AN AGREEMENT OR UNDERSTANDING WITH ANY OTHER PERSON FOR THE PURPOSE OF EVADING REGULATION UNDER THIS ARTICLE;

(C) AN ASSIGNMENT OF A POLICY AS COLLATERAL FOR A LOAN MADE BY A LENDER THAT DOES NOT VIOLATE ARTICLE TWELVE-B OF THE BANKING LAW;

(D) THE MAKING OF A POLICY LOAN, OR THE PAYING OF SURRENDER BENEFITS OR OTHER BENEFITS, BY THE ISSUER OF A POLICY WITH RESPECT TO THAT POLICY;

(E) AN EXCHANGE OF LIFE INSURANCE POLICIES IN A TRANSACTION DESCRIBED BY SECTION 1035 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED;

(F) AN AGREEMENT MADE BY AN INDIVIDUAL TO TAKE AN ASSIGNMENT, PURCHASE, OR OTHERWISE RECEIVE THE DEATH BENEFIT OR OWNERSHIP OF ANY PORTION OF A POLICY OR POLICIES ON THE LIFE OF A SINGLE INSURED OR LIVES OF JOINT INSURED; PROVIDED THAT, IN A CALENDAR YEAR, THE INDIVIDUAL ENTERS INTO NO OTHER AGREEMENT TO TAKE AN ASSIGNMENT, PURCHASE, OR OTHERWISE RECEIVE THE DEATH BENEFIT OR OWNERSHIP OF ANY PORTION OF A POLICY OR POLICIES ON THE LIFE OF ANY OTHER INSURED OR LIVES OF ANY OTHER JOINT INSURED;

(G) AN AGREEMENT TO ASSIGN, TRANSFER OR PLEDGE A SETTLED POLICY, OR ANY INTEREST THEREIN, TO A LICENSED LIFE SETTLEMENT PROVIDER, AN ACCREDITED INVESTOR OR QUALIFIED INSTITUTIONAL BUYER, FINANCING ENTITY, SPECIAL PURPOSE ENTITY, OR RELATED PROVIDER TRUST;

(H) AN AGREEMENT WHERE ALL THE PARTIES ARE CLOSELY RELATED TO THE INSURED BY BLOOD OR LAW OR HAVE A LAWFUL SUBSTANTIAL ECONOMIC INTEREST IN THE CONTINUED LIFE, HEALTH AND BODILY SAFETY OF THE PERSON INSURED, OR ARE TRUSTS ESTABLISHED PRIMARILY FOR THE BENEFIT OF SUCH PARTIES;

(I) ANY DESIGNATION, CONSENT OR AGREEMENT BY AN INSURED WHO IS AN EMPLOYEE OF AN EMPLOYER IN CONNECTION WITH THE PURCHASE BY THE EMPLOYER, OR TRUST ESTABLISHED BY THE EMPLOYER, OF LIFE INSURANCE ON THE LIFE OF THE EMPLOYEE;

(J) A BONA FIDE BUSINESS SUCCESSION PLANNING ARRANGEMENT BETWEEN:

(I) ONE OR MORE SHAREHOLDERS IN A CORPORATION OR BETWEEN A CORPORATION AND ONE OR MORE OF ITS SHAREHOLDERS OR ONE OR MORE TRUSTS ESTABLISHED BY ITS SHAREHOLDERS;

(II) ONE OR MORE PARTNERS IN A PARTNERSHIP OR BETWEEN A PARTNERSHIP AND ONE OR MORE OF ITS PARTNERS OR ONE OR MORE TRUSTS ESTABLISHED BY ITS PARTNERS; OR

(III) ONE OR MORE MEMBERS IN A LIMITED LIABILITY COMPANY OR BETWEEN A LIMITED LIABILITY COMPANY AND ONE OR MORE OF ITS MEMBERS OR ONE OR MORE TRUSTS ESTABLISHED BY ITS MEMBERS;

(K) LEGITIMATE CORPORATE OR PENSION BENEFIT PLANS, AS DETERMINED BY THE SUPERINTENDENT; OR

(L) ANY OTHER AGREEMENT THAT THE SUPERINTENDENT DETERMINES IS SUBSTANTIALLY SIMILAR TO ANY OF THE FOREGOING.

(L) "LIFE SETTLEMENT INTERMEDIARY" MEANS A PERSON WHO MAINTAINS AN ELECTRONIC OR OTHER FACILITY OR SYSTEM FOR THE DISCLOSURE, THROUGH A FORUM OF OFFERS AND COUNTEROFFERS TO SELL OR PURCHASE A POLICY OR A SETTLED POLICY; AND DELIVERS TO:

(1) A LIFE SETTLEMENT PROVIDER AN OFFER FROM A LIFE SETTLEMENT BROKER OR OWNER TO SELL A POLICY;

(2) AN OWNER OR LIFE SETTLEMENT BROKER AN OFFER FROM A LIFE SETTLEMENT PROVIDER TO PURCHASE A POLICY; OR

(3) A LIFE SETTLEMENT PROVIDER AN OFFER TO SELL OR PURCHASE A SETTLED POLICY.

(M) "LIFE SETTLEMENT PROVIDER" MEANS A PERSON WHO ENTERS INTO A LIFE SETTLEMENT CONTRACT WITH THE OWNER.

(N) "OWNER" MEANS THE OWNER OF A POLICY WHO ENTERS OR SEEKS TO ENTER INTO A LIFE SETTLEMENT CONTRACT.

(O) "PERSON" MEANS ANY NATURAL PERSON OR LEGAL ENTITY, INCLUDING A PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST OR CORPORATION.

(P) "POLICY" MEANS AN INDIVIDUAL OR GROUP LIFE INSURANCE POLICY OR CERTIFICATE.

(Q) "PREMIUM FINANCE LOAN" MEANS A LOAN MADE FOR THE PURPOSES OF MAKING PREMIUM PAYMENTS ON A LIFE INSURANCE POLICY, WHICH LOAN IS SECURED BY AN INTEREST IN SUCH LIFE INSURANCE POLICY.

(R) "QUALIFIED INSTITUTIONAL BUYER" SHALL BE AS DEFINED IN RULE 144A OF THE FEDERAL SECURITIES ACT OF 1933, AS AMENDED.

(S) "RELATED PROVIDER TRUST" MEANS A TRUST ESTABLISHED BY A LICENSED LIFE SETTLEMENT PROVIDER OR A FINANCING ENTITY FOR THE SOLE PURPOSE OF HOLDING THE OWNERSHIP OR BENEFICIAL INTEREST IN SETTLED POLICIES IN CONNECTION WITH A FINANCING TRANSACTION; PROVIDED THAT THE TRUST HAS A WRITTEN AGREEMENT WITH THE LICENSED LIFE SETTLEMENT PROVIDER UNDER WHICH:

(1) THE LICENSED LIFE SETTLEMENT PROVIDER IS RESPONSIBLE FOR ENSURING COMPLIANCE WITH ALL STATUTORY AND REGULATORY REQUIREMENTS; AND

(2) THE TRUST AGREES TO MAKE ALL RECORDS AND FILES RELATING TO LIFE SETTLEMENT TRANSACTIONS AVAILABLE TO THE SUPERINTENDENT AS IF THOSE RECORDS AND FILES WERE MAINTAINED DIRECTLY BY THE LICENSED LIFE SETTLEMENT PROVIDER.

(T) "SETTLED POLICY" MEANS A POLICY THAT AT ANY TIME HAS BEEN ACQUIRED BY A LIFE SETTLEMENT PROVIDER PURSUANT TO A LIFE SETTLEMENT CONTRACT.

(U) "SPECIAL PURPOSE ENTITY" MEANS A CORPORATION, PARTNERSHIP, TRUST, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY FORMED SOLELY TO PROVIDE, EITHER DIRECTLY OR INDIRECTLY, ACCESS TO INSTITUTIONAL CAPITAL MARKETS FOR A FINANCING ENTITY OR LICENSED LIFE SETTLEMENT PROVIDER.

S 7803. LICENSE REQUIREMENTS FOR LIFE SETTLEMENT PROVIDERS. (A) NO PERSON SHALL ENGAGE IN THE BUSINESS OF LIFE SETTLEMENTS AS A LIFE SETTLEMENT PROVIDER IN THIS STATE WITHOUT HAVING AUTHORITY TO DO SO BY VIRTUE OF A LIFE SETTLEMENT PROVIDER LICENSE ISSUED AND IN FORCE PURSUANT TO THIS ARTICLE.

(B)(1) THE SUPERINTENDENT MAY ISSUE A LIFE SETTLEMENT PROVIDER LICENSE TO ANY PERSON WHO IS DEEMED BY THE SUPERINTENDENT TO BE TRUSTWORTHY AND COMPETENT TO ACT AS A LIFE SETTLEMENT PROVIDER AND WHO IS OTHERWISE QUALIFIED AS REQUIRED IN THIS ARTICLE AND WHO HAS COMPLIED WITH THE PREREQUISITES PRESCRIBED IN THIS ARTICLE.

(2) EVERY LICENSE ISSUED PURSUANT TO THIS SECTION SHALL EXPIRE ON JUNE THIRTIETH OF ODD-NUMBERED YEARS.

1 (C)(1) APPLICATION FOR A LIFE SETTLEMENT PROVIDER LICENSE SHALL BE
2 MADE TO THE SUPERINTENDENT BY THE APPLICANT ON A FORM PRESCRIBED BY THE
3 SUPERINTENDENT, AND THE APPLICATION SHALL BE ACCOMPANIED BY A FEE IN AN
4 AMOUNT TO BE ESTABLISHED BY THE SUPERINTENDENT.

5 (2) THE APPLICANT FOR A LIFE SETTLEMENT PROVIDER LICENSE SHALL:

6 (A) FULLY DISCLOSE THE IDENTITY OF ALL STOCKHOLDERS (EXCEPT STOCKHOLD-
7 ERS OWNING FEWER THAN TEN PERCENT OF THE VOTING SHARES OF A LIFE SETTLE-
8 MENT PROVIDER WHOSE SHARES ARE PUBLICLY TRADED), PARTNERS, OFFICERS,
9 MEMBERS, DIRECTORS AND PERSONS WITH A CONTROLLING INTEREST. FOR PURPOSES
10 OF THIS SECTION, "CONTROLLING INTEREST" MEANS A PERSON WHO DIRECTLY OR
11 INDIRECTLY, HAS THE POWER TO CAUSE TO BE DIRECTED THE MANAGEMENT,
12 CONTROL OR ACTIVITIES OF SUCH LICENSEE;

13 (B) PROVIDE A DETAILED PLAN OF OPERATION;

14 (C) PROVIDE, IF A LEGAL ENTITY, A CERTIFICATE OF GOOD STANDING FROM
15 THE STATE OF ITS DOMICILE;

16 (D) PROVIDE AN ANTI-FRAUD PLAN THAT MEETS THE REQUIREMENTS OF ARTICLE
17 FOUR OF THIS CHAPTER;

18 (E) DEMONSTRATE FINANCIAL ACCOUNTABILITY AS EVIDENCED BY A BOND OR
19 OTHER METHOD FOR FINANCIAL ACCOUNTABILITY AS DETERMINED BY THE SUPER-
20 INTENDENT PURSUANT TO REGULATION; AND

21 (F) PROVIDE ANY OTHER INFORMATION REQUIRED BY THE SUPERINTENDENT.

22 (D) THE SUPERINTENDENT MAY REQUIRE AN APPLICANT FOR SUCH LICENSE TO
23 SUBMIT A SET OF FINGERPRINTS. SUCH FINGERPRINTS SHALL BE SUBMITTED TO
24 THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR A STATE CRIMINAL HISTORY
25 RECORD CHECK, AS DEFINED IN SUBDIVISION ONE OF SECTION THREE THOUSAND
26 THIRTY-FIVE OF THE EDUCATION LAW, AND MAY BE SUBMITTED TO THE FEDERAL
27 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK.
28 ALL SUCH CRIMINAL HISTORY RECORDS SENT TO THE SUPERINTENDENT PURSUANT TO
29 THIS PARAGRAPH SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL
30 AND STATE LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN
31 ANY WAY DISCLOSED TO PERSONS OTHER THAN THE SUPERINTENDENT, UNLESS
32 OTHERWISE AUTHORIZED BY LAW. THE SUPERINTENDENT SHALL PROVIDE SUCH
33 APPLICANT WITH A COPY OF HIS OR HER CRIMINAL HISTORY RECORD, IF ANY,
34 TOGETHER WITH A COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW,
35 AND INFORM SUCH APPLICANT OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY
36 INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS
37 AND PROCEDURES ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES.
38 ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR LICENSURE PURSUANT TO
39 THIS SECTION SHALL BE IN ACCORDANCE WITH SUBDIVISION SIXTEEN OF SECTION
40 TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-THREE-A
41 OF THE CORRECTION LAW. WHEN THE SUPERINTENDENT DENIES AN APPLICATION,
42 WRITTEN NOTICE OF SUCH DETERMINATION SHALL BE GIVEN TO THE PROSPECTIVE
43 APPLICANT WHO SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND
44 OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION.

45 (E)(1) AS PART OF THE APPLICATION, THE APPLICANT SHALL SUBMIT A POWER
46 OF ATTORNEY DESIGNATING THE SUPERINTENDENT AS AGENT FOR THE PURPOSE OF
47 RECEIVING SERVICE OF LEGAL DOCUMENTS OR PROCESS.

48 (2) THE POWER OF ATTORNEY SHALL INCLUDE THE NAME AND ADDRESS OF THE
49 OFFICER, AGENT, OR OTHER PERSON TO WHOM SUCH LEGAL DOCUMENTS OR PROCESS
50 SHALL BE FORWARDED BY THE SUPERINTENDENT OR HIS OR HER DEPUTY ON BEHALF
51 OF SUCH LIFE SETTLEMENT PROVIDER.

52 (3) SERVICE OF LEGAL DOCUMENTS OR PROCESS UPON A LIFE SETTLEMENT
53 PROVIDER PURSUANT TO THIS SUBSECTION SHALL BE MADE BY SERVING THE SUPER-
54 INTENDENT, ANY DEPUTY SUPERINTENDENT OR ANY SALARIED EMPLOYEE OF THE
55 DEPARTMENT WHOM THE SUPERINTENDENT DESIGNATES FOR SUCH PURPOSE WITH TWO
56 COPIES THEREOF AND THE PAYMENT OF A FEE OF FORTY DOLLARS. THE SUPER-

1 INTENDENT SHALL FORWARD A COPY OF SUCH LEGAL DOCUMENTS OR PROCESS BY
2 REGISTERED OR CERTIFIED MAIL TO THE LIFE SETTLEMENT PROVIDER AT THE
3 ADDRESS GIVEN IN ITS WRITTEN CERTIFICATE OF REGISTRATION, AND SHALL KEEP
4 A RECORD OF ALL LEGAL DOCUMENTS OR PROCESS SO SERVED. SERVICE OF LEGAL
5 DOCUMENTS OR PROCESS SO MADE SHALL BE DEEMED MADE WITHIN THE TERRITORIAL
6 JURISDICTION OF ANY COURT IN THIS STATE.

7 (F) THE SUPERINTENDENT, IN THE EXERCISE OF THE SUPERINTENDENT'S
8 DISCRETION, MAY REFUSE TO ISSUE A LIFE SETTLEMENT PROVIDER LICENSE IN
9 THE NAME OF ANY PERSON IF NOT SATISFIED THAT ANY OFFICER, EMPLOYEE,
10 STOCKHOLDER, PARTNER, DIRECTOR, MEMBER, AGENT, OR RESPONSIBLE PERSON
11 THEREOF, WHO MAY MATERIALLY INFLUENCE THE APPLICANT'S CONDUCT, MEETS THE
12 STANDARDS OF THIS ARTICLE.

13 (G) EVERY LICENSE ISSUED PURSUANT TO THIS SECTION MAY BE RENEWED FOR
14 THE ENSUING PERIOD OF TWENTY-FOUR MONTHS UPON THE FILING OF AN APPLICA-
15 TION IN CONFORMITY WITH THIS SECTION.

16 (H)(1) BEFORE THE RENEWAL OF ANY LIFE SETTLEMENT PROVIDER LICENSE
17 SHALL BE ISSUED, AN APPLICATION FOR RENEWAL OF THE LICENSE SHALL BE MADE
18 TO THE SUPERINTENDENT BY THE APPLICANT ON A FORM PRESCRIBED BY THE
19 SUPERINTENDENT AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT MAY
20 PRESCRIBE. THE APPLICATION SHALL BE ACCOMPANIED BY A FEE IN AN AMOUNT TO
21 BE ESTABLISHED BY THE SUPERINTENDENT.

22 (2) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH
23 THE SUPERINTENDENT BEFORE THE EXPIRATION OF THE LICENSE, THEN THE
24 LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT
25 EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE
26 APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE
27 REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF
28 SUCH REFUSAL TO THE APPLICANT. BEFORE REFUSING TO RENEW ANY SUCH
29 LICENSE, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPER-
30 INTENDENT'S INTENTION TO DO SO AND SHALL GIVE SUCH APPLICANT A HEARING.

31 (3) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
32 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
33 LICENSE EXPIRES OR THE APPLICANT MAY BE SUBJECT TO A FURTHER FEE FOR
34 LATE FILING, AS PRESCRIBED BY THE SUPERINTENDENT.

35 (I) A LIFE SETTLEMENT PROVIDER LICENSEE SHALL PROVIDE TO THE SUPER-
36 INTENDENT NEW OR REVISED INFORMATION ABOUT STOCKHOLDERS (EXCEPT STOCK-
37 HOLDERS OWNING FEWER THAN TEN PERCENT OF THE VOTING SHARES OF A LIFE
38 SETTLEMENT PROVIDER WHOSE SHARES ARE PUBLICLY TRADED), PARTNERS, OFFI-
39 CERS, MEMBERS, DIRECTORS, DESIGNATED EMPLOYEES OR PERSONS WITH A
40 CONTROLLING INTEREST WITHIN THIRTY DAYS OF THE CHANGE.

41 (J) EVERY INDIVIDUAL APPLICANT FOR A LICENSE UNDER THIS SECTION SHALL
42 BE EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE ISSUANCE OF SUCH
43 LICENSE.

44 S 7804. REGISTRATION REQUIREMENTS FOR LIFE SETTLEMENT INTERMEDIARIES.

45 (A) NO PERSON SHALL ACT AS A LIFE SETTLEMENT INTERMEDIARY IN THIS STATE
46 WITHOUT HAVING AUTHORITY TO DO SO BY VIRTUE OF A REGISTRATION ISSUED AND
47 IN FORCE PURSUANT TO THIS ARTICLE.

48 (B)(1) THE SUPERINTENDENT MAY ISSUE A LIFE SETTLEMENT INTERMEDIARY
49 REGISTRATION TO ANY PERSON WHO:

50 (A) IS DEEMED BY THE SUPERINTENDENT TO BE TRUSTWORTHY AND COMPETENT TO
51 ACT AS A LIFE SETTLEMENT INTERMEDIARY;

52 (B) IS OTHERWISE QUALIFIED AS REQUIRED IN THIS ARTICLE; AND

53 (C) HAS COMPLIED WITH THE PREREQUISITES PRESCRIBED IN THIS ARTICLE.

54 (2) EVERY REGISTRATION ISSUED PURSUANT TO THIS SECTION SHALL EXPIRE ON
55 JUNE THIRTIETH OF ODD-NUMBERED YEARS.

1 (C)(1) APPLICATION FOR A LIFE SETTLEMENT INTERMEDIARY REGISTRATION
2 SHALL BE MADE TO THE SUPERINTENDENT BY THE APPLICANT ON A FORM
3 PRESCRIBED BY THE SUPERINTENDENT, AND THE APPLICATION SHALL BE ACCOMPA-
4 NIED BY A FEE IN AN AMOUNT ESTABLISHED BY THE SUPERINTENDENT.
5 (2) THE APPLICANT FOR A LIFE SETTLEMENT INTERMEDIARY REGISTRATION
6 SHALL PROVIDE:
7 (A) THE STATE IN WHICH THE LIFE SETTLEMENT INTERMEDIARY IS DOMICILED
8 OR RESIDENT;
9 (B) THE PRINCIPAL PLACE OF BUSINESS OF THE LIFE SETTLEMENT INTERME-
10 DIARY;
11 (C) ALL OTHER STATES IN WHICH THE LIFE SETTLEMENT INTERMEDIARY IS
12 DOING OR INTENDS TO DO BUSINESS;
13 (D) A DETAILED PLAN OF OPERATION; AND
14 (E) THE IDENTITIES OF THE LIFE SETTLEMENT INTERMEDIARY EXECUTIVE OFFI-
15 CER OR OFFICERS DIRECTLY RESPONSIBLE FOR SUCH BUSINESS, AND ALL STOCK-
16 HOLDERS (EXCEPT STOCKHOLDERS OWNING FEWER THAN TEN PERCENT OF THE VOTING
17 SHARES OF A LIFE SETTLEMENT INTERMEDIARY WHOSE SHARES ARE PUBLICLY TRAD-
18 ED), PARTNERS, OFFICERS, MEMBERS, DIRECTORS AND PERSONS WITH A CONTROL-
19 LING INTEREST. FOR PURPOSES OF THIS SECTION, "CONTROLLING INTEREST"
20 MEANS A PERSON WHO DIRECTLY OR INDIRECTLY, HAS THE POWER TO CAUSE TO BE
21 DIRECTED THE MANAGEMENT, CONTROL OR ACTIVITIES OF SUCH REGISTRANT.
22 (D) EACH LIFE SETTLEMENT INTERMEDIARY THAT IS REQUIRED TO REGISTER
23 PURSUANT TO THIS SECTION SHALL ALSO FURNISH SUCH INFORMATION AS MAY BE
24 REQUIRED BY THE SUPERINTENDENT TO:
25 (1) VERIFY THAT THE PERSON OR PERSONS QUALIFY AS A LIFE SETTLEMENT
26 INTERMEDIARY; AND
27 (2) DETERMINE COMPLIANCE WITH ANY APPLICABLE STATE LAW.
28 (E)(1) AS PART OF THE APPLICATION, THE APPLICANT SHALL SUBMIT A POWER
29 OF ATTORNEY DESIGNATING THE SUPERINTENDENT AS AGENT FOR THE PURPOSE OF
30 RECEIVING SERVICE OF LEGAL DOCUMENTS OR PROCESS.
31 (2) THE POWER OF ATTORNEY SHALL INCLUDE THE NAME AND ADDRESS OF THE
32 OFFICER, AGENT, OR OTHER PERSON TO WHOM SUCH LEGAL DOCUMENTS OR PROCESS
33 SHALL BE FORWARDED BY THE SUPERINTENDENT OR HIS OR HER DEPUTY ON BEHALF
34 OF SUCH LIFE SETTLEMENT PROVIDER.
35 (3) SERVICE OF LEGAL DOCUMENTS OR PROCESS UPON A LIFE SETTLEMENT
36 PROVIDER PURSUANT TO THIS SUBSECTION SHALL BE MADE BY SERVING THE SUPER-
37 INTENDENT, ANY DEPUTY SUPERINTENDENT OR ANY SALARIED EMPLOYEE OF THE
38 DEPARTMENT WHOM THE SUPERINTENDENT DESIGNATES FOR SUCH PURPOSE WITH TWO
39 COPIES THEREOF AND THE PAYMENT OF A FEE OF FORTY DOLLARS. THE SUPER-
40 INTENDENT SHALL FORWARD A COPY OF SUCH LEGAL DOCUMENTS OR PROCESS BY
41 REGISTERED OR CERTIFIED MAIL TO THE LIFE SETTLEMENT PROVIDER AT THE
42 ADDRESS GIVEN IN ITS WRITTEN CERTIFICATE OF REGISTRATION, AND SHALL KEEP
43 A RECORD OF ALL LEGAL DOCUMENTS OR PROCESS SO SERVED. SERVICE OF LEGAL
44 DOCUMENTS OR PROCESS SO MADE SHALL BE DEEMED MADE WITHIN THE TERRITORIAL
45 JURISDICTION OF ANY COURT IN THIS STATE.
46 (F) THE SUPERINTENDENT MAY REQUIRE AN APPLICANT FOR SUCH REGISTRATION
47 TO SUBMIT A SET OF FINGERPRINTS. SUCH FINGERPRINTS SHALL BE SUBMITTED
48 TO THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR A STATE CRIMINAL HISTO-
49 RY RECORD CHECK, AS DEFINED IN SUBDIVISION ONE OF SECTION THREE THOUSAND
50 THIRTY-FIVE OF THE EDUCATION LAW, AND MAY BE SUBMITTED TO THE FEDERAL
51 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK.
52 ALL SUCH CRIMINAL HISTORY RECORDS SENT TO THE SUPERINTENDENT PURSUANT TO
53 THIS PARAGRAPH SHALL BE CONFIDENTIAL PURSUANT TO THE APPLICABLE FEDERAL
54 AND STATE LAWS, RULES AND REGULATIONS, AND SHALL NOT BE PUBLISHED OR IN
55 ANY WAY DISCLOSED TO PERSONS OTHER THAN THE SUPERINTENDENT, UNLESS
56 OTHERWISE AUTHORIZED BY LAW. THE SUPERINTENDENT SHALL PROVIDE SUCH

1 APPLICANT WITH A COPY OF HIS OR HER CRIMINAL HISTORY RECORD, IF ANY,
2 TOGETHER WITH A COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW,
3 AND INFORM SUCH APPLICANT OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY
4 INCORRECT INFORMATION CONTAINED IN SUCH RECORD PURSUANT TO REGULATIONS
5 AND PROCEDURES ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES.
6 ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR REGISTRATION PURSUANT
7 TO THIS SECTION SHALL BE IN ACCORDANCE WITH SUBDIVISION SIXTEEN OF
8 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-
9 THREE-A OF THE CORRECTION LAW. WHEN THE SUPERINTENDENT DENIES AN APPLI-
10 CATION, WRITTEN NOTICE OF SUCH DETERMINATION SHALL BE GIVEN TO THE
11 PROSPECTIVE APPLICANT WHO SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE
12 HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION.

13 (G) THE SUPERINTENDENT, IN THE EXERCISE OF THE SUPERINTENDENT'S
14 DISCRETION, MAY REFUSE TO ISSUE A LIFE SETTLEMENT INTERMEDIARY REGISTRA-
15 TION IN THE NAME OF ANY PERSON IF NOT SATISFIED THAT ANY OFFICER,
16 EMPLOYEE, STOCKHOLDER, PARTNER, DIRECTOR, MEMBER, AGENT, OR RESPONSIBLE
17 PERSON THEREOF WHO MAY MATERIALLY INFLUENCE THE APPLICANT'S CONDUCT
18 MEETS THE STANDARDS OF THIS ARTICLE.

19 (H) EVERY REGISTRATION ISSUED PURSUANT TO THIS SECTION MAY BE RENEWED
20 FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS UPON THE FILING OF AN
21 APPLICATION IN CONFORMITY WITH THIS SECTION.

22 (I)(1) BEFORE THE RENEWAL OF ANY LIFE SETTLEMENT INTERMEDIARY REGIS-
23 TRATION SHALL BE ISSUED, AN APPLICATION FOR RENEWAL OF THE REGISTRATION
24 SHALL BE MADE TO THE SUPERINTENDENT BY THE APPLICANT ON A FORM
25 PRESCRIBED BY THE SUPERINTENDENT AND CONTAINING SUCH INFORMATION AS THE
26 SUPERINTENDENT MAY PRESCRIBE, AND THE APPLICATION SHALL BE ACCOMPANIED
27 BY A FEE IN AN AMOUNT TO BE ESTABLISHED BY THE SUPERINTENDENT.

28 (2) IF AN APPLICATION FOR RENEWAL REGISTRATION SHALL HAVE BEEN FILED
29 WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF THE REGISTRATION, THE
30 REGISTRATION SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND
31 EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL
32 REGISTRATION APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT
33 SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL REGISTRATION AND SHALL HAVE
34 GIVEN NOTICE OF SUCH REFUSAL TO THE APPLICANT. BEFORE REFUSING TO RENEW
35 ANY SUCH REGISTRATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF
36 THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE SUCH APPLICANT A
37 HEARING.

38 (3) AN APPLICATION FOR THE RENEWAL OF A REGISTRATION SHALL BE FILED
39 WITH THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
40 REGISTRATION EXPIRES OR THE APPLICANT MAY BE SUBJECT TO A FURTHER FEE
41 FOR LATE FILING, AS PRESCRIBED BY THE SUPERINTENDENT.

42 (J) A LIFE SETTLEMENT INTERMEDIARY SHALL, AS TO ANY SUBSEQUENT CHANGES
43 IN ANY OF THE ITEMS SET FORTH IN PARAGRAPH TWO OF SUBSECTION (C) AND
44 PARAGRAPH ONE OF SUBSECTION (D) OF THIS SECTION, NOTIFY THE SUPERINTEN-
45 DENT IN WRITING WITHIN THIRTY DAYS OF ANY SUCH CHANGE.

46 (K) EVERY INDIVIDUAL APPLICANT FOR REGISTRATION UNDER THIS SECTION
47 SHALL BE EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE ISSUANCE OF
48 SUCH REGISTRATION.

49 S 7805. LICENSE AND REGISTRATION REVOCATION. (A) THE SUPERINTENDENT
50 MAY SUSPEND, REVOKE OR REFUSE TO RENEW THE LICENSE OF ANY LIFE SETTLE-
51 MENT PROVIDER OR THE REGISTRATION OF ANY LIFE SETTLEMENT INTERMEDIARY,
52 IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT THE
53 LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT INTERMEDIARY, OR ANY OFFI-
54 CER, PARTNER, MEMBER, OR KEY MANAGEMENT PERSONNEL THEREOF, HAS:

55 (1) VIOLATED ANY INSURANCE LAWS OR ANY REGULATION PROMULGATED THERE-
56 UNDER, ANY SUBPOENA OR ORDER OF THE SUPERINTENDENT OR OF ANOTHER STATE'S

1 INSURANCE COMMISSIONER, OR ANY OTHER LAW IN THE COURSE OF THE LICENSEE'S
2 DEALINGS IN SUCH CAPACITY;
3 (2) PROVIDED MATERIALLY INCORRECT, MATERIALLY MISLEADING, MATERIALLY
4 INCOMPLETE OR MATERIALLY UNTRUE INFORMATION IN THE LICENSE OR REGISTRA-
5 TION APPLICATION;
6 (3) OBTAINED OR ATTEMPTED TO OBTAIN A LICENSE OR REGISTRATION THROUGH
7 MISREPRESENTATION OR FRAUD;
8 (4)(A) USED FRAUDULENT, COERCIVE OR DISHONEST PRACTICES;
9 (B) DEMONSTRATED INCOMPETENCE;
10 (C) DEMONSTRATED UNTRUSTWORTHINESS; OR
11 (D) DEMONSTRATED FINANCIAL IRRESPONSIBILITY IN THE CONDUCT OF BUSINESS
12 IN THIS STATE OR ELSEWHERE;
13 (5) IMPROPERLY WITHHELD, MISAPPROPRIATED OR CONVERTED ANY MONIES OR
14 PROPERTIES RECEIVED IN THE COURSE OF BUSINESS IN THIS STATE OR ELSE-
15 WHERE;
16 (6) INTENTIONALLY MISREPRESENTED THE TERMS OF ANY INSURANCE CONTRACT
17 OR LIFE SETTLEMENT CONTRACT OR ANY APPLICATION THEREFOR;
18 (7) BEEN CONVICTED OF A FELONY, OR HAS BEEN GUILTY OF FRAUDULENT OR
19 DISHONEST PRACTICES OR OTHER MISCONDUCT OR MALFEASANCE;
20 (8) ADMITTED OR BEEN FOUND TO HAVE COMMITTED ANY INSURANCE UNFAIR
21 TRADE PRACTICE OR FRAUD;
22 (9) HAD A LIFE SETTLEMENT PROVIDER LICENSE OR LIFE SETTLEMENT INTERME-
23 DIARY REGISTRATION, OR AN EQUIVALENT DENIED, SUSPENDED OR REVOKED IN ANY
24 OTHER STATE, PROVINCE, DISTRICT OR TERRITORY;
25 (10) FORGED ANOTHER PERSON'S NAME TO AN APPLICATION FOR INSURANCE OR
26 LIFE SETTLEMENT CONTRACT OR TO ANY DOCUMENT RELATED TO AN INSURANCE OR
27 LIFE SETTLEMENT TRANSACTION;
28 (11) KNOWINGLY CONDUCTED THE BUSINESS OF LIFE SETTLEMENTS WITH A
29 PERSON WHO IS NOT LICENSED OR REGISTERED UNLESS SUCH PERSON IS NOT
30 REQUIRED TO BE LICENSED OR REGISTERED;
31 (12) DEMONSTRATED A PATTERN OF UNREASONABLE PAYMENTS TO OWNERS OR
32 INSURED;S;
33 (13) FAILED TO HONOR CONTRACTUAL OBLIGATIONS SET OUT IN A LIFE SETTLE-
34 MENT CONTRACT;
35 (14) SOLD, ASSIGNED, PLEDGED OR OTHERWISE TRANSFERRED THE OWNERSHIP OF
36 A SETTLED POLICY TO A PERSON OTHER THAN AS PROVIDED IN THIS ARTICLE; OR
37 (15) FAILED TO PROTECT THE PRIVACY OF THE INSURED OR OWNER OR OTHER
38 PERSON FOR WHOM THE LICENSEE OR REGISTRANT WAS REQUIRED TO PROVIDE
39 PROTECTION PURSUANT TO THIS ARTICLE.
40 (B)(1) BEFORE THE SUPERINTENDENT SUSPENDS, REVOKES OR REFUSES TO RENEW
41 THE LICENSE OF A LIFE SETTLEMENT PROVIDER OR THE REGISTRATION OF A LIFE
42 SETTLEMENT INTERMEDIARY, THE SUPERINTENDENT SHALL GIVE NOTICE TO THE
43 LICENSEE OR REGISTRANT AND SHALL HOLD, OR CAUSE TO BE HELD, A HEARING
44 NOT LESS THAN TEN DAYS AFTER THE GIVING OF SUCH NOTICE, EXCEPT THAT
45 WHERE, IN THE JUDGMENT OF THE SUPERINTENDENT, THE PUBLIC HEALTH, SAFETY
46 OR WELFARE SO REQUIRES, A LICENSE OR REGISTRATION MAY BE SUSPENDED FOR
47 UP TO TEN DAYS PRIOR TO A HEARING.
48 (2) IN LIEU OF REVOKING OR SUSPENDING THE LICENSE OR REGISTRATION FOR
49 ANY OF THE CAUSES ENUMERATED IN SUBSECTION (A) OF THIS SECTION, THE
50 SUPERINTENDENT MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND
51 DOLLARS FOR EACH VIOLATION.
52 (3) UPON THE FAILURE OF SUCH LICENSEE OR REGISTRANT TO PAY SUCH PENAL-
53 TY ORDERED PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION WITHIN TWENTY
54 DAYS AFTER THE MAILING OF SUCH ORDER, POSTAGE PREPAID, REGISTERED, AND
55 ADDRESSED TO THE LAST KNOWN PLACE OF BUSINESS OF SUCH LICENSEE OR REGIS-
56 TRANT, UNLESS SUCH ORDER IS STAYED BY A COURT OF COMPETENT JURISDICTION,

1 THE SUPERINTENDENT MAY REVOKE THE LICENSE OF SUCH LICENSEE OR THE REGIS-
2 TRATION OF SUCH REGISTRANT, OR MAY SUSPEND THE SAME FOR SUCH PERIOD AS
3 THE SUPERINTENDENT DETERMINES.

4 S 7806. LIFE SETTLEMENT CONTRACT FORMS. (A) NO LICENSED LIFE SETTLE-
5 MENT PROVIDER SHALL ENTER INTO A LIFE SETTLEMENT CONTRACT SUBJECT TO
6 THIS CHAPTER UNLESS THE LIFE SETTLEMENT CONTRACT FORM, APPLICATION FORM,
7 AND ANY OTHER FORM AS MAY BE PRESCRIBED BY REGULATION, HAS BEEN FILED
8 WITH AND APPROVED BY THE SUPERINTENDENT. THE SUPERINTENDENT MAY DISAP-
9 PROVE ANY SUCH FORM IF THE SUPERINTENDENT FINDS THE FORM OR ANY
10 PROVISIONS CONTAINED THEREIN TO BE UNREASONABLE, CONTRARY TO LAW OR THE
11 INTERESTS OF THE PEOPLE OF THIS STATE, OR OTHERWISE MISLEADING OR
12 UNFAIR.

13 (B) WHENEVER, BY THE PROVISIONS OF THIS CHAPTER, THE SUPERINTENDENT
14 HAS APPROVED ANY LIFE SETTLEMENT CONTRACT FORM, APPLICATION FORM, OR ANY
15 OTHER FORM, THE SUPERINTENDENT MAY, AFTER NOTICE AND HEARING GIVEN TO
16 THE LIFE SETTLEMENT PROVIDER THAT SUBMITTED THE FORM FOR APPROVAL, WITH-
17 DRAW AN APPROVAL PREVIOUSLY GIVEN IF:

18 (1) THE USE OF THE FORM IS CONTRARY TO THE REQUIREMENTS APPLICABLE TO
19 THE FORM AT THE TIME OF SUCH WITHDRAWAL, OR

20 (2) IT CONTAINS PROVISIONS THAT ARE UNJUST, UNFAIR OR INEQUITABLE.

21 ANY WITHDRAWAL OF APPROVAL SHALL BE EFFECTIVE AT THE EXPIRATION OF
22 SUCH PERIOD, AT LEAST NINETY DAYS AFTER THE GIVING OF NOTICE OF WITH-
23 DRAWAL OR AS THE SUPERINTENDENT SHALL IN SUCH NOTICE PRESCRIBE.

24 S 7807. REPORTING REQUIREMENTS. (A)(1) EVERY LICENSED LIFE SETTLEMENT
25 PROVIDER SHALL FILE IN THE OFFICE OF THE SUPERINTENDENT, ANNUALLY ON OR
26 BEFORE THE FIRST DAY OF MARCH, A STATEMENT, TO BE KNOWN AS ITS ANNUAL
27 STATEMENT, VERIFIED BY THE OATH OF AT LEAST TWO OF ITS PRINCIPAL OFFI-
28 CERS, SHOWING ITS CONDITION AT THE END OF THE PRECEDING CALENDAR YEAR.
29 THE STATEMENT SHALL BE IN SUCH FORM AND SHALL CONTAIN SUCH OTHER MATTERS
30 AS THE SUPERINTENDENT SHALL PRESCRIBE. IN ADDITION TO ANY OTHER REQUIRE-
31 MENTS, THE ANNUAL STATEMENT SHALL SPECIFY THE TOTAL NUMBER, AGGREGATE
32 FACE AMOUNT AND LIFE SETTLEMENT PROCEEDS OF POLICIES SETTLED DURING THE
33 IMMEDIATELY PRECEDING CALENDAR YEAR, TOGETHER WITH A BREAKDOWN OF THE
34 INFORMATION BY POLICY ISSUE YEAR. THE INFORMATION SHALL NOT INCLUDE
35 INDIVIDUAL TRANSACTION DATA REGARDING THE BUSINESS OF LIFE SETTLEMENTS
36 OR INFORMATION IF THERE IS A REASONABLE BASIS TO BELIEVE THE INFORMATION
37 COULD BE USED TO IDENTIFY THE OWNER OR THE INSURED.

38 (2) EVERY LIFE SETTLEMENT PROVIDER THAT WILLFULLY FAILS TO FILE AN
39 ANNUAL STATEMENT AS REQUIRED IN THIS SECTION, OR WILLFULLY FAILS TO
40 REPLY WITHIN THIRTY DAYS TO A WRITTEN INQUIRY BY THE SUPERINTENDENT IN
41 CONNECTION THEREWITH, SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY
42 THIS CHAPTER, BE SUBJECT, UPON DUE NOTICE AND OPPORTUNITY TO BE HEARD,
43 TO A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS PER DAY OF DELAY, NOT TO
44 EXCEED FIFTY THOUSAND DOLLARS IN THE AGGREGATE, FOR EACH SUCH FAILURE.

45 S 7808. EXAMINATIONS OR INVESTIGATIONS. THE SUPERINTENDENT MAY MAKE AN
46 EXAMINATION OR INVESTIGATION INTO THE AFFAIRS OF ANY LIFE SETTLEMENT
47 PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY, APPLI-
48 CANT FOR LICENSURE AS A LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT
49 BROKER, OR APPLICANT FOR REGISTRATION AS A LIFE SETTLEMENT INTERMEDIARY
50 AS PRESCRIBED UNDER ARTICLE THREE OF THIS CHAPTER.

51 S 7809. ADVERTISING. (A) A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT
52 INTERMEDIARY OR LIFE SETTLEMENT BROKER LICENSED PURSUANT TO THIS ARTICLE
53 MAY CONDUCT OR PARTICIPATE IN ADVERTISEMENTS WITHIN THIS STATE. THE
54 ADVERTISEMENTS SHALL COMPLY WITH ALL ADVERTISING AND MARKETING LAWS OR
55 RULES AND REGULATIONS AS MAY BE PROMULGATED BY THE SUPERINTENDENT.

1 (B) ADVERTISEMENTS SHALL BE ACCURATE, TRUTHFUL AND NOT MISLEADING IN
2 FACT OR BY IMPLICATION.

3 (C) NO LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT INTERMEDIARY, LIFE
4 SETTLEMENT BROKER, OR ANY PERSON ACTING ON BEHALF THEREOF SHALL:

5 (1) DIRECTLY OR INDIRECTLY, MARKET, ADVERTISE, SOLICIT OR OTHERWISE
6 PROMOTE THE PURCHASE OF A POLICY FOR THE PRIMARY PURPOSE OF, OR WITH AN
7 EMPHASIS ON, SETTling THE POLICY; OR

8 (2) USE THE WORDS "FREE", "NO COST" OR WORDS OF SIMILAR IMPORT IN THE
9 MARKETING, ADVERTISING, SOLICITING OR OTHERWISE PROMOTING OF THE
10 PURCHASE OF A POLICY.

11 (D) THE FAILURE TO FOLLOW THE PROVISIONS OF THIS SECTION SHALL BE A
12 DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

13 S 7810. PRIVACY. (A) EXCEPT AS OTHERWISE PERMITTED OR REQUIRED BY
14 LAW, NO LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, OR LIFE
15 SETTLEMENT INTERMEDIARY, OR ANY AUTHORIZED REPRESENTATIVE THEREOF,
16 INSURER, INFORMATION BUREAU, RATING AGENCY OR COMPANY, OR ANY OTHER
17 PERSON WITH ACTUAL KNOWLEDGE OF AN INSURED OR OWNER'S IDENTITY, SHALL
18 DISCLOSE THE IDENTITY OF THE INSURED OR OWNER, OR ANY INFORMATION THAT
19 THERE IS A REASONABLE BASIS TO BELIEVE COULD BE USED TO IDENTIFY THE
20 INSURED OR OWNER, OR THE INSURED'S FINANCIAL OR MEDICAL INFORMATION, TO
21 ANY PERSON UNLESS THE DISCLOSURE IS:

22 (1) NECESSARY TO EFFECT A LIFE SETTLEMENT CONTRACT BETWEEN THE OWNER
23 AND A LIFE SETTLEMENT PROVIDER AND THE OWNER AND INSURED HAVE PROVIDED
24 PRIOR WRITTEN CONSENT TO THE DISCLOSURE;

25 (2) NECESSARY TO EFFECTUATE THE SALE OR TRANSFER OF A LIFE SETTLEMENT
26 CONTRACT OR A SETTLED POLICY, OR INTEREST THEREIN, PROVIDED THAT EVERY
27 SALE IS CONDUCTED IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAW
28 AND PROVIDED FURTHER THAT THE OWNER AND THE INSURED HAVE BOTH PROVIDED
29 PRIOR WRITTEN CONSENT TO THE DISCLOSURE;

30 (3) PROVIDED IN RESPONSE TO AN INVESTIGATION OR EXAMINATION BY THE
31 SUPERINTENDENT, ANY OTHER GOVERNMENTAL OFFICER OR AGENCY, OR A SELF-RE-
32 GULATING ENTITY ESTABLISHED PURSUANT TO FEDERAL SECURITIES LAW;

33 (4) A TERM OR CONDITION TO THE TRANSFER OF A POLICY BY ONE LICENSED
34 LIFE SETTLEMENT PROVIDER TO ANOTHER LICENSED LIFE SETTLEMENT PROVIDER,
35 IN WHICH CASE THE RECEIVING LIFE SETTLEMENT PROVIDER SHALL BE REQUIRED
36 TO COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS OF THIS SECTION;

37 (5) NECESSARY TO ALLOW THE LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT
38 BROKER, OR ANY AUTHORIZED REPRESENTATIVE THEREOF TO ADMINISTER THE
39 INSURANCE POLICY, OR TO MAKE CONTACTS FOR THE PURPOSE OF DETERMINING
40 HEALTH STATUS AS AUTHORIZED BY SUBSECTION (L) OF SECTION SEVEN THOUSAND
41 EIGHT HUNDRED THIRTEEN OF THIS ARTICLE. FOR THE PURPOSES OF THIS
42 SECTION, THE TERM "AUTHORIZED REPRESENTATIVE" SHALL NOT INCLUDE ANY
43 PERSON WHO HAS OR MAY HAVE ANY FINANCIAL INTEREST IN THE LIFE SETTLEMENT
44 CONTRACT OTHER THAN A LICENSED LIFE SETTLEMENT PROVIDER, LICENSED LIFE
45 SETTLEMENT BROKER, FINANCING ENTITY, RELATED PROVIDER TRUST OR SPECIAL
46 PURPOSE ENTITY; FURTHER, A LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT
47 BROKER SHALL REQUIRE ITS AUTHORIZED REPRESENTATIVE TO AGREE IN WRITING
48 TO ADHERE TO THE PRIVACY PROVISIONS OF THIS ARTICLE;

49 (6) REQUIRED TO PURCHASE INSURANCE; OR

50 (7) OTHERWISE PERMITTED BY REGULATION PROMULGATED BY THE SUPERINTEN-
51 DENT.

52 (B) ANY PERSON WHO OBTAINS OR MAY OBTAIN A SETTLED POLICY, OR ANY
53 INTEREST THEREIN, PURSUANT TO A TRANSFER, SALE, CONVEYANCE OR ASSIGNMENT
54 OF A SETTLED POLICY, OR ANY INTEREST THEREIN, SHALL:

(1) COMPLY WITH THE PROVISIONS OF THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER AND ALL OTHER APPLICABLE LAWS, GOVERNING THE PROTECTION OF THE IDENTITY AND PRIVACY OF THE INSURED OR OWNER; AND

(2) PROTECT AGAINST THE UNLAWFUL RELEASE OF ALL INFORMATION CONCERNING THE IDENTITY OF ANY INSURED OR OWNER, WHICH INFORMATION WOULD OR COULD REASONABLY BE EXPECTED TO BE USED TO IDENTIFY OR CONTACT SUCH INSURED OR OWNER, INCLUDING THE NAME, ADDRESS (EXCEPT THE STATE OF RESIDENCE) OR SOCIAL SECURITY NUMBER OF THE INSURED OR THE OWNER, OR REPRESENTATIVE THEREOF, THE RELATED INSURANCE POLICY NUMBER OR THE INSURED'S MEDICAL INFORMATION.

(C) NON-PUBLIC PERSONAL INFORMATION SOLICITED OR OBTAINED IN CONNECTION WITH A PROPOSED OR EXECUTED LIFE SETTLEMENT CONTRACT SHALL BE SUBJECT TO THE PROVISIONS APPLICABLE TO FINANCIAL INSTITUTIONS UNDER THE GRAMM LEACH BLILEY ACT, P.L. 106-102 (1999), AND ALL OTHER APPLICABLE LAWS RELATING TO CONFIDENTIALITY OF NON-PUBLIC PERSONAL INFORMATION.

(D) THE FAILURE TO FOLLOW THE PROVISIONS OF THIS SECTION SHALL BE A DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

S 7811. DISCLOSURES TO OWNERS AND INSURED. (A) THE LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER SHALL PROVIDE TO THE OWNER AND INSURED WITH A SEPARATE WRITTEN DOCUMENT CONSPICUOUSLY DISPLAYING THE INFORMATION AND DISCLOSURES REQUIRED BY THIS SUBSECTION. THE SEPARATE DOCUMENT SHALL BE SIGNED BY THE OWNER, INSURED AND LIFE SETTLEMENT PROVIDER, NO LATER THAN THE DATE THE LIFE SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES. AT A MINIMUM, THE DOCUMENT SHALL STATE:

(1) THAT THERE ARE POSSIBLE ALTERNATIVES TO LIFE SETTLEMENT CONTRACTS, INCLUDING ACCELERATED BENEFITS OFFERED BY THE ISSUER OF THE POLICY;

(2) THAT SOME OR ALL OF THE PROCEEDS OF A LIFE SETTLEMENT CONTRACT MAY BE TAXABLE AND THAT ADVICE SHOULD BE SOUGHT FROM A PROFESSIONAL TAX ADVISOR;

(3) THAT THE PROCEEDS FROM A LIFE SETTLEMENT CONTRACT COULD BE SUBJECT TO THE CLAIMS OF CREDITORS;

(4) THAT RECEIPT OF PROCEEDS FROM A LIFE SETTLEMENT CONTRACT MAY ADVERSELY AFFECT THE RECIPIENTS' ELIGIBILITY FOR PUBLIC ASSISTANCE OR OTHER GOVERNMENT BENEFITS OR ENTITLEMENTS AND THAT ADVICE SHOULD BE OBTAINED FROM THE APPROPRIATE AGENCIES;

(5) THAT THE OWNER HAS A RIGHT TO RESCIND A LIFE SETTLEMENT CONTRACT FROM THE TIME OF EXECUTION OF THE CONTRACT UNTIL FIFTEEN DAYS AFTER THE RECEIPT OF THE LIFE SETTLEMENT PROCEEDS BY THE OWNER;

(6) THAT PROCEEDS WILL BE SENT TO THE OWNER WITHIN THREE BUSINESS DAYS AFTER THE LIFE SETTLEMENT PROVIDER HAS RECEIVED THE INSURER OR GROUP ADMINISTRATOR'S ACKNOWLEDGEMENT THAT OWNERSHIP OF THE POLICY OR INTEREST IN THE CERTIFICATE HAS BEEN TRANSFERRED AND THE BENEFICIARY HAS BEEN DESIGNATED IN ACCORDANCE WITH THE TERMS OF THE LIFE SETTLEMENT CONTRACT;

(7) THAT ENTERING INTO A LIFE SETTLEMENT CONTRACT MAY CAUSE OTHER RIGHTS OR BENEFITS, INCLUDING CONVERSION RIGHTS AND WAIVER OF PREMIUM BENEFITS, THAT MAY EXIST UNDER THE POLICY OR CERTIFICATE OF A GROUP POLICY TO BE FORFEITED BY THE OWNER AND THAT ASSISTANCE SHOULD BE SOUGHT FROM A PROFESSIONAL FINANCIAL ADVISOR;

(8) THE AMOUNT AND METHOD OF CALCULATING THE COMPENSATION PROVIDED OR TO BE PROVIDED TO THE LIFE SETTLEMENT BROKER, AND ANY OTHER PERSON IN CONNECTION WITH THE TRANSACTION;

(9) THE DATE BY WHICH THE FUNDS WILL BE AVAILABLE TO THE OWNER AND THE TRANSMITTER OF THE FUNDS;

(10) THAT THE LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER IS REQUIRED TO PROVIDE AN OWNER OR INSURED DURING THE SOLICITATION PROCESS

1 WITH A CONSUMER INFORMATION BOOKLET IN A FORM PRESCRIBED BY THE SUPER-
2 INTENDENT, OR OTHER MATERIAL APPROVED BY THE SUPERINTENDENT;
3 (11) THAT THE INSURED MAY BE CONTACTED BY EITHER THE LIFE SETTLEMENT
4 PROVIDER OR LIFE SETTLEMENT BROKER, OR ANY AUTHORIZED REPRESENTATIVE
5 THEREOF, FOR THE PURPOSE OF DETERMINING THE INSURED'S HEALTH STATUS OR
6 TO VERIFY THE INSURED'S ADDRESS, AND THAT THE CONTACT SHALL BE LIMITED
7 TO ONCE EVERY THREE MONTHS IF THE INSURED HAS A LIFE EXPECTANCY OF MORE
8 THAN ONE YEAR, AND NO MORE THAN ONCE PER MONTH IF THE INSURED HAS A LIFE
9 EXPECTANCY OF ONE YEAR OR LESS;
10 (12) ANY AFFILIATIONS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE LIFE
11 SETTLEMENT PROVIDER AND THE ISSUER OF THE POLICY TO BE SETTLED;
12 (13) ANY AFFILIATIONS OR CONTRACTUAL ARRANGEMENTS WITH ANY OTHER LIFE
13 SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERME-
14 DIARY OR PARTY FINANCING THE TRANSACTION;
15 (14) THAT A LIFE SETTLEMENT BROKER REPRESENTS EXCLUSIVELY THE OWNER,
16 AND NOT THE INSURER OR THE LIFE SETTLEMENT PROVIDER OR ANY OTHER PERSON,
17 AND OWES A FIDUCIARY DUTY TO THE OWNER, INCLUDING A DUTY TO ACT ACCORD-
18 ING TO THE OWNER'S INSTRUCTIONS AND IN THE BEST INTEREST OF THE OWNER;
19 (15) THE NAME, BUSINESS ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS
20 OF THE INDEPENDENT, THIRD PARTY ESCROW AGENT AND THAT THE OWNER HAS THE
21 RIGHT TO INSPECT OR RECEIVE COPIES OF THE RELEVANT ESCROW OR TRUST
22 AGREEMENTS OR DOCUMENTS;
23 (16) THAT A CHANGE OF OWNERSHIP COULD IN THE FUTURE LIMIT THE
24 INSURED'S ABILITY TO PURCHASE FUTURE INSURANCE ON THE INSURED'S LIFE
25 BECAUSE THERE IS A LIMIT TO HOW MUCH COVERAGE INSURERS WILL ISSUE ON ONE
26 LIFE; AND
27 (17) THE NAME, BUSINESS ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS
28 OF THE LIFE SETTLEMENT PROVIDER.
29 (B) THE DISCLOSURE DOCUMENT PROVIDED BY THE LIFE SETTLEMENT PROVIDER
30 SHALL CONTAIN THE FOLLOWING LANGUAGE, OR SUCH OTHER LANGUAGE REQUIRED BY
31 THE SUPERINTENDENT BY REGULATION: "ALL MEDICAL, FINANCIAL OR PERSONAL
32 INFORMATION SOLICITED OR OBTAINED BY A LIFE SETTLEMENT PROVIDER OR LIFE
33 SETTLEMENT BROKER ABOUT AN INSURED, INCLUDING THE INSURED'S IDENTITY OR
34 THE IDENTITY OF FAMILY MEMBERS, A SPOUSE OR A SIGNIFICANT OTHER MAY BE
35 DISCLOSED AS NECESSARY TO EFFECT THE LIFE SETTLEMENT CONTRACT BETWEEN
36 THE OWNER AND PROVIDER. IF YOU ARE ASKED TO PROVIDE THIS INFORMATION,
37 YOU WILL BE ASKED TO CONSENT TO THE DISCLOSURE. THE INFORMATION MAY BE
38 PROVIDED TO SOMEONE WHO BUYS THE POLICY OR PROVIDES FUNDS FOR THE
39 PURCHASE. YOU MAY BE ASKED TO RENEW YOUR PERMISSION TO SHARE INFORMATION
40 EVERY TWO YEARS".
41 (C) THE LIFE SETTLEMENT BROKER SHALL PROVIDE THE OWNER AND INSURED
42 WITH A SEPARATE WRITTEN DOCUMENT CONSPICUOUSLY DISPLAYING THE INFORMA-
43 TION AND DISCLOSURES REQUIRED BY THIS SUBSECTION. THE SEPARATE DOCUMENT
44 SHALL BE SIGNED BY THE OWNER, INSURED AND LIFE SETTLEMENT BROKER, NO
45 LATER THAN THE DATE THE LIFE SETTLEMENT CONTRACT IS SIGNED BY ALL
46 PARTIES. AT A MINIMUM, THE DOCUMENT SHALL STATE:
47 (1) THE NAME, BUSINESS ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF
48 THE LIFE SETTLEMENT BROKER;
49 (2) A FULL, COMPLETE AND ACCURATE DESCRIPTION OF ALL THE OFFERS, COUN-
50 TER-OFFERS, ACCEPTANCES AND REJECTIONS RELATING TO THE PROPOSED LIFE
51 SETTLEMENT CONTRACT;
52 (3) ANY AFFILIATIONS OR CONTRACTUAL ARRANGEMENTS WITH ANY LIFE SETTLE-
53 MENT PROVIDER, OTHER LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERME-
54 DIARY OR ANY FINANCING ENTITY;
55 (4) THE NAME OF EACH LIFE SETTLEMENT BROKER AND ANY OTHER PERSON
56 LICENSED OR REGISTERED PURSUANT TO THIS CHAPTER, AND ANY PERSON AFFIL-

1 IATED WITH SUCH BROKER OR PERSON, WHO RECEIVES OR WILL RECEIVE COMPEN-
2 SATION DUE TO THE LIFE SETTLEMENT CONTRACT AND THE AMOUNT OF COMPEN-
3 SATION DIRECTLY RECEIVED OR TO BE RECEIVED BY THAT BROKER; AND

4 (5) A COMPLETE RECONCILIATION OF THE GROSS OFFER OR BID BY THE LIFE
5 SETTLEMENT PROVIDER TO THE NET AMOUNT OF PROCEEDS OR VALUE TO BE
6 RECEIVED BY THE OWNER, PROVIDED THAT FOR THE PURPOSE OF THIS SECTION,
7 "GROSS OFFER OR BID" SHALL MEAN THE TOTAL AMOUNT OR VALUE OFFERED BY THE
8 LIFE SETTLEMENT PROVIDER FOR THE PURCHASE OF ONE OR MORE LIFE INSURANCE
9 POLICIES, INCLUSIVE OF COMMISSIONS AND FEES.

10 (D) THE FAILURE TO PROVIDE THE DISCLOSURES DESCRIBED IN THIS SECTION
11 SHALL BE A DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

12 S 7812. LIFE INSURANCE APPLICATIONS. (A) WITHOUT LIMITING THE ABILITY
13 OF AN INSURER TO ASSESS THE INSURABILITY OF A POLICY APPLICANT AND TO
14 DETERMINE WHETHER OR NOT TO ISSUE THE POLICY, AND IN ADDITION TO OTHER
15 QUESTIONS AN INSURER MAY LAWFULLY POSE TO A LIFE INSURANCE APPLICANT,
16 INSURERS MAY INQUIRE IN THE APPLICATION FOR INSURANCE WHETHER THE
17 PROPOSED OWNER INTENDS TO PAY PREMIUMS WITH THE ASSISTANCE OF FINANCING
18 FROM A LENDER THAT WILL USE THE POLICY AS COLLATERAL TO SUPPORT THE
19 FINANCING.

20 (B) THE INSURER MAY INCLUDE THE FOLLOWING NOTICE TO THE APPLICANT AND
21 THE INSURED, OR OTHER NOTICE ACCEPTABLE TO THE SUPERINTENDENT, ON THE
22 APPLICATION OR AS AN AMENDMENT THERETO: "IF YOU ENTER INTO A LOAN
23 ARRANGEMENT WHERE THE POLICY IS USED AS COLLATERAL, AND THE POLICY
24 CHANGES OWNERSHIP AT SOME POINT IN THE FUTURE IN SATISFACTION OF THE
25 LOAN, THEN THE FOLLOWING MAY BE TRUE:

26 (1) A CHANGE OF OWNERSHIP MAY LEAD TO A PERSON UNKNOWN TO YOU OWNING
27 AN INTEREST IN THE INSURED'S LIFE;

28 (2) A CHANGE OF OWNERSHIP MAY LIMIT YOUR ABILITY TO PURCHASE INSURANCE
29 IN THE FUTURE ON THE INSURED'S LIFE BECAUSE THERE IS A LIMIT TO HOW MUCH
30 COVERAGE INSURERS WILL ISSUE ON ONE LIFE;

31 (3) IF OWNERSHIP OF THE LIFE INSURANCE POLICY CHANGES, AND YOU WISH TO
32 OBTAIN MORE INSURANCE COVERAGE ON THE INSURED'S LIFE IN THE FUTURE, THE
33 INSURED'S HIGHER ISSUE AGE, A CHANGE IN HEALTH STATUS, AND/OR OTHER
34 FACTORS MAY REDUCE THE ABILITY TO OBTAIN COVERAGE AND/OR MAY RESULT IN
35 SIGNIFICANTLY HIGHER PREMIUMS; AND

36 (4) YOU SHOULD CONSULT A PROFESSIONAL ADVISOR, SINCE A CHANGE IN
37 OWNERSHIP IN SATISFACTION OF THE LOAN MAY RESULT IN TAX CONSEQUENCES TO
38 THE OWNER."

39 S 7813. GENERAL RULES. (A) A LIFE SETTLEMENT PROVIDER ENTERING INTO A
40 LIFE SETTLEMENT CONTRACT SHALL FIRST OBTAIN A WRITTEN CONSENT FROM THE
41 INSURED TO THE RELEASE OF THE INSURED'S MEDICAL RECORDS SUBJECT TO THE
42 LIMITATIONS CONTAINED IN SECTION SEVEN THOUSAND EIGHT HUNDRED TEN OF
43 THIS ARTICLE.

44 (B) THE INSURER SHALL RESPOND TO A REQUEST FOR VERIFICATION OF COVER-
45 AGE SUBMITTED BY A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER OR
46 LIFE SETTLEMENT INTERMEDIARY WITHIN FIFTEEN DAYS AFTER THE DATE THE
47 REQUEST IS RECEIVED. THE INSURER SHALL COMPLETE AND ISSUE THE VERIFICA-
48 TION OF COVERAGE OR INDICATE THE SPECIFIC REASONS WHY IT IS UNABLE TO
49 RESPOND. IN ITS RESPONSE, THE INSURER SHALL INDICATE WHETHER, BASED ON
50 THE MEDICAL EVIDENCE AND DOCUMENTS PROVIDED, THE INSURER IS PURSUING OR
51 INTENDS TO PURSUE AN INVESTIGATION REGARDING THE VALIDITY OF THE POLICY.

52 (C) THE LIFE SETTLEMENT PROVIDER SHALL GIVE WRITTEN NOTICE TO THE
53 INSURER THAT ISSUED THE POLICY WITHIN TEN DAYS AFTER THE LIFE SETTLEMENT
54 CONTRACT IS EXECUTED BY ALL PARTIES.

55 (D) UNLESS THE INSURER IS PURSUING OR INTENDS TO PURSUE AN INVESTI-
56 GATION, THE INSURER SHALL, WITHIN FIFTEEN DAYS OF RECEIPT OF A REQUEST

FOR A CHANGE OF OWNERSHIP OR ASSIGNMENT USED TO EFFECTUATE THE TRANSFER OR ASSIGNMENT OF THE OWNER'S RIGHTS OR BENEFITS UNDER A POLICY TO A LIFE SETTLEMENT PROVIDER, PROCESS THE CHANGE OF OWNERSHIP OR ASSIGNMENT AND NOTIFY THE LIFE SETTLEMENT PROVIDER AND THE OWNER THAT THE TRANSFER OR ASSIGNMENT HAS BEEN EFFECTUATED.

(E) IF A LIFE SETTLEMENT BROKER PERFORMS ANY ACTIVITY REQUIRED OF THE LIFE SETTLEMENT PROVIDER IN THIS SECTION OR PROVIDES ANY DISCLOSURES REQUIRED BY SECTION SEVEN THOUSAND EIGHT HUNDRED ELEVEN OF THIS ARTICLE, THEN THE LIFE SETTLEMENT PROVIDER IS DEEMED TO HAVE PERFORMED THAT ACTIVITY OR PROVIDED THAT DISCLOSURE.

(F) ALL MEDICAL INFORMATION SOLICITED OR OBTAINED BY ANY LICENSEE OR ANY OTHER PERSON SHALL BE SUBJECT TO THE PROVISIONS APPLICABLE TO HEALTH CARE PROVIDERS UNDER THE PUBLIC HEALTH LAW AND ALL APPLICABLE LAWS RELATING TO CONFIDENTIALITY OF MEDICAL INFORMATION, PROVIDED THAT, TO THE EXTENT THAT THIS CHAPTER PROVIDES FOR GREATER CONFIDENTIALITY OF MEDICAL INFORMATION, THIS CHAPTER SHALL GOVERN.

(G)(1) EVERY LIFE SETTLEMENT CONTRACT SHALL PROVIDE THAT THE OWNER HAS AN UNCONDITIONAL RIGHT TO RESCIND THE LIFE SETTLEMENT CONTRACT FROM THE TIME OF EXECUTION OF THE CONTRACT UNTIL FIFTEEN DAYS AFTER THE RECEIPT OF THE LIFE SETTLEMENT PROCEEDS BY THE OWNER BY GIVING NOTICE OF RESCISSION TO THE LIFE SETTLEMENT PROVIDER BY MIDNIGHT OF THE FIFTEENTH DAY.

(2) WITHIN FIVE DAYS AFTER RECEIPT OF THE NOTICE OF RESCISSION, THE LIFE SETTLEMENT PROVIDER SHALL PROVIDE A WRITTEN STATEMENT TO THE OWNER ITEMIZING THE AMOUNT OF ALL LIFE SETTLEMENT PROCEEDS AND ANY PREMIUMS, LOANS AND LOAN INTEREST PAID OR TO BE PAID AS OF A DATE CERTAIN AS MAY BE REQUESTED BY THE OWNER.

(3) WITHIN FIFTEEN DAYS AFTER THE RECEIPT OF THE WRITTEN, ITEMIZED STATEMENT BY THE OWNER, THE OWNER MUST REPAY ALL SUCH LIFE SETTLEMENT PROCEEDS AND ANY PREMIUMS, LOANS AND LOAN INTEREST PAID BY THE LIFE SETTLEMENT PROVIDER.

(4) IF THE INSURED DIES DURING THE RESCISSION PERIOD, THE LIFE SETTLEMENT CONTRACT SHALL BE DEEMED TO HAVE BEEN RESCINDED, SUBJECT TO REPAYMENT OF ALL LIFE SETTLEMENT PROCEEDS AND ANY PREMIUMS, LOANS AND LOAN INTEREST PAID BY THE LIFE SETTLEMENT PROVIDER.

(5) WITHIN FIVE DAYS AFTER RECEIPT OF NOTICE OF THE INSURED'S DEATH DURING THE RESCISSION PERIOD, THE LIFE SETTLEMENT PROVIDER SHALL PROVIDE A WRITTEN STATEMENT TO THE OWNER OR, IF THE OWNER IS DECEASED, TO THE LEGAL REPRESENTATIVE OF THE OWNER'S ESTATE, ITEMIZING THE AMOUNT OF ALL LIFE SETTLEMENT PROCEEDS AND ANY PREMIUMS, LOANS AND LOAN INTEREST PAID OR TO BE PAID AS OF A DATE CERTAIN AS MAY BE REQUESTED BY THE OWNER OR THE LEGAL REPRESENTATIVE OF THE OWNER'S ESTATE. AS SOON AS PRACTICABLE, THE OWNER OR THE OWNER'S ESTATE SHALL REPAY ALL SUCH PROCEEDS AND ANY PREMIUMS, LOANS AND LOAN INTEREST PAID BY THE LIFE SETTLEMENT PROVIDER.

(H) WITHIN THREE BUSINESS DAYS AFTER RECEIPT FROM THE OWNER OF DOCUMENTS TO EFFECT THE TRANSFER OF THE INSURANCE POLICY, THE LIFE SETTLEMENT PROVIDER SHALL DEPOSIT THE PROCEEDS OF THE LIFE SETTLEMENT CONTRACT INTO AN ESCROW OR TRUST ACCOUNT MAINTAINED IN AN INSURED BANK LOCATED IN THIS STATE OR OTHER BANK ACCEPTABLE TO THE SUPERINTENDENT. THE ESCROW AGENT OR TRUSTEE SHALL BE REQUIRED TO TRANSFER THE PROCEEDS DUE TO THE OWNER WITHIN THREE BUSINESS DAYS OF ACKNOWLEDGEMENT OF THE TRANSFER FROM THE INSURER.

(I) FAILURE TO TENDER THE LIFE SETTLEMENT CONTRACT PROCEEDS TO THE OWNER BY THE DATE DISCLOSED TO THE OWNER SHALL RENDER THE LIFE SETTLEMENT CONTRACT VOIDABLE BY THE OWNER FOR LACK OF CONSIDERATION UNTIL THE TIME THE PROCEEDS ARE TENDERED TO AND ACCEPTED BY THE OWNER. A FAILURE TO GIVE WRITTEN NOTICE OF THE RIGHT OF RESCISSION HEREUNDER SHALL TOLL

1 THE RIGHT OF RESCISSION UNTIL THIRTY DAYS AFTER THE WRITTEN NOTICE OF
2 THE RIGHT OF RESCISSION HAS BEEN GIVEN.

3 (J) THE VALUE OF ANY COMPENSATION PROVIDED TO A LIFE SETTLEMENT BROKER
4 IN EXCHANGE FOR SERVICES PROVIDED TO THE OWNER PERTAINING TO A LIFE
5 SETTLEMENT CONTRACT SHALL BE COMPUTED AS A PERCENTAGE OF THE OFFER
6 OBTAINED, NOT THE FACE VALUE OF THE POLICY. A LIFE SETTLEMENT BROKER MAY
7 REDUCE THE COMPENSATION PROVIDED BELOW THIS PERCENTAGE.

8 (K)(1) NO PERSON, AT ANY TIME PRIOR TO, OR AT THE TIME OF, THE APPLI-
9 CATION FOR, OR ISSUANCE OF, A POLICY, OR DURING THE TWO-YEAR PERIOD
10 COMMENCING WITH THE DATE OF ISSUANCE OF THE POLICY, SHALL ENTER INTO A
11 LIFE SETTLEMENT CONTRACT, REGARDLESS OF THE DATE THE COMPENSATION IS TO
12 BE PROVIDED AND REGARDLESS OF THE DATE THE ASSIGNMENT, TRANSFER, SALE,
13 DEVISE OR BEQUEST OF THE POLICY IS TO OCCUR. THIS PROHIBITION SHALL NOT
14 APPLY IF THE OWNER CERTIFIES TO THE LIFE SETTLEMENT PROVIDER THAT:

15 (A) THE POLICY WAS ISSUED UPON THE OWNER'S EXERCISE OF CONVERSION
16 RIGHTS ARISING OUT OF A POLICY, PROVIDED THE TOTAL OF THE TIME COVERED
17 UNDER THE CONVERSION POLICY PLUS THE TIME COVERED UNDER THE PRIOR POLICY
18 IS AT LEAST TWENTY-FOUR MONTHS. THE TIME COVERED UNDER A GROUP POLICY
19 SHALL BE CALCULATED WITHOUT REGARD TO A CHANGE IN INSURERS, PROVIDED THE
20 COVERAGE HAS BEEN CONTINUOUS AND UNDER THE SAME GROUP SPONSORSHIP; OR

21 (B) ONE OR MORE OF THE FOLLOWING CONDITIONS, FOR WHICH THE OWNER
22 SUBMITS INDEPENDENT EVIDENCE TO THE LIFE SETTLEMENT PROVIDER, HAVE BEEN
23 MET WITHIN THE TWO-YEAR PERIOD:

24 (I) THE OWNER OR INSURED IS TERMINALLY OR CHRONICALLY ILL;

25 (II) THE OWNER OR INSURED DISPOSES OF OWNERSHIP INTERESTS IN A CLOSELY
26 HELD CORPORATION, PURSUANT TO THE TERMS OF A BUYOUT OR OTHER SIMILAR
27 AGREEMENT IN EFFECT AT THE TIME THE INSURANCE POLICY WAS INITIALLY
28 ISSUED;

29 (III) THE OWNER'S SPOUSE DIES;

30 (IV) THE OWNER DIVORCES HIS OR HER SPOUSE;

31 (V) THE OWNER RETIRES FROM FULL-TIME EMPLOYMENT OR INVOLUNTARILY CEAS-
32 ES EMPLOYMENT;

33 (VI) THE OWNER BECOMES PHYSICALLY OR MENTALLY DISABLED AND A PHYSICIAN
34 DETERMINES THAT THE DISABILITY PREVENTS THE OWNER FROM MAINTAINING
35 FULL-TIME EMPLOYMENT;

36 (VII) A FINAL ORDER, JUDGMENT OR DECREE IS ENTERED BY A COURT OF
37 COMPETENT JURISDICTION, ON THE APPLICATION OF A CREDITOR OF THE OWNER,
38 ADJUDICATING THE OWNER BANKRUPT OR INSOLVENT, OR APPROVING A PETITION
39 SEEKING REORGANIZATION OF THE OWNER OR APPOINTING A RECEIVER, TRUSTEE OR
40 LIQUIDATOR TO ALL OR A SUBSTANTIAL PART OF THE OWNER'S ASSETS; OR

41 (VIII) ANY OTHER CONDITION THAT THE SUPERINTENDENT MAY DETERMINE BY
42 REGULATION TO BE AN EXTRAORDINARY CIRCUMSTANCE FOR THE OWNER OR THE
43 INSURED.

44 (2) COPIES OF THE INDEPENDENT EVIDENCE REQUIRED BY SUBPARAGRAPH (B) OF
45 PARAGRAPH ONE OF THIS SUBSECTION SHALL BE SUBMITTED TO THE INSURER WHEN
46 THE LIFE SETTLEMENT PROVIDER SUBMITS A REQUEST TO THE INSURER FOR
47 VERIFICATION OF COVERAGE. THE COPIES SHALL BE ACCOMPANIED BY A LETTER OF
48 ATTESTATION FROM THE LIFE SETTLEMENT PROVIDER THAT THE COPIES ARE TRUE
49 AND CORRECT COPIES OF THE DOCUMENTS RECEIVED BY THE LIFE SETTLEMENT
50 PROVIDER. NOTHING IN THIS SECTION SHALL PROHIBIT AN INSURER FROM EXER-
51 CISING ITS RIGHT TO CONTEST THE VALIDITY OF ANY POLICY.

52 (3) FOR THE PURPOSES OF THIS SECTION A PERSON IS:

53 (A) TERMINALLY ILL IF THE INDIVIDUAL HAS AN ILLNESS, SICKNESS OR PHYS-
54 ICAL CONDITION THAT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH IN
55 TWENTY-FOUR MONTHS OR LESS; OR

1 (B) CHRONICALLY ILL IF THAT INDIVIDUAL HAS BEEN CERTIFIED BY A
2 LICENSED HEALTH CARE PRACTITIONER AS:

3 (I) BEING UNABLE TO PERFORM WITHOUT SUBSTANTIAL ASSISTANCE FROM ANOTH-
4 ER INDIVIDUAL AT LEAST TWO ACTIVITIES OF DAILY LIVING (I.E., EATING,
5 TOILETING, TRANSFERRING, BATHING, DRESSING OR CONTINENCE) FOR A PERIOD
6 OF AT LEAST NINETY DAYS, DUE TO A LOSS OF FUNCTIONAL CAPACITY;

7 (II) REQUIRING SUBSTANTIAL SUPERVISION TO PROTECT THE INDIVIDUAL FROM
8 THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE IMPAIRMENT FOR A
9 PERIOD OF AT LEAST NINETY DAYS, DUE TO A LOSS OF FUNCTIONAL CAPACITY; OR

10 (III) HAVING A LEVEL OF DISABILITY SIMILAR TO THAT DESCRIBED IN CLAUSE
11 (I) OF THIS SUBPARAGRAPH, AS DETERMINED BY THE UNITED STATES SECRETARY
12 OF HEALTH AND HUMAN SERVICES.

13 (L) CONTACTS WITH THE INSURED FOR THE PURPOSE OF DETERMINING THE
14 HEALTH STATUS OF THE INSURED BY A LICENSED LIFE SETTLEMENT PROVIDER
15 AFTER THE LIFE SETTLEMENT CONTRACT HAS BEEN EXECUTED SHALL BE MADE ONLY
16 BY THE LICENSED LIFE SETTLEMENT PROVIDER OR LICENSED LIFE SETTLEMENT
17 BROKER, OR ANY AUTHORIZED REPRESENTATIVE THEREOF, AND SHALL BE LIMITED
18 TO ONCE EVERY THREE MONTHS FOR AN INSURED WITH A LIFE EXPECTANCY OF MORE
19 THAN ONE YEAR, AND TO NO MORE THAN ONCE PER MONTH FOR AN INSURED WITH A
20 LIFE EXPECTANCY OF ONE YEAR OR LESS.

21 (M) THE LIFE SETTLEMENT BROKER SHALL REPRESENT ONLY THE OWNER AND OWES
22 A FIDUCIARY DUTY TO THE OWNER, INCLUDING A DUTY TO ACT ACCORDING TO THE
23 OWNER'S INSTRUCTIONS AND IN THE BEST INTEREST OF THE OWNER.

24 (N)(1) A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, OR LIFE
25 SETTLEMENT INTERMEDIARY SHALL BE RESPONSIBLE FOR THE ACTIONS OF ITS
26 AUTHORIZED REPRESENTATIVE.

27 (2) AN AUTHORIZED REPRESENTATIVE OF A LIFE SETTLEMENT PROVIDER, LIFE
28 SETTLEMENT BROKER, OR LIFE SETTLEMENT INTERMEDIARY SHALL NOT HAVE ANY
29 FINANCIAL INTEREST IN THE LIFE SETTLEMENT CONTRACT OR A SETTLED POLICY.

30 (O)(1) A LIFE SETTLEMENT INTERMEDIARY'S SERVICES SHALL NOT BE LIMITED
31 TO LIFE SETTLEMENT PROVIDERS OR LIFE SETTLEMENT BROKERS THAT ARE AFFIL-
32 IATES, PARENTS, OR SUBSIDIARIES OF THE LIFE SETTLEMENT INTERMEDIARY.

33 (2) A LIFE SETTLEMENT INTERMEDIARY SHALL ESTABLISH AND MAINTAIN
34 SYSTEMS, PRACTICES AND PROCEDURES TO ENSURE THAT:

35 (A) EVERY TRANSACTION WITH AN AFFILIATE, PARENT OR SUBSIDIARY OF THE
36 LIFE SETTLEMENT INTERMEDIARY IS FAIR AND EQUITABLE AND CONDUCTED ON AN
37 ARMS-LENGTH BASIS; AND

38 (B) AN AFFILIATE, PARENT OR SUBSIDIARY OF THE LIFE SETTLEMENT INTERME-
39 DIARY IS NOT GRANTED OR PROVIDED WITH PREFERENTIAL TREATMENT OR ACCESS
40 TO INFORMATION OR SERVICES THAT ARE NOT GRANTED OR PROVIDED TO AN UNAF-
41 FILIATED LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER THAT
42 CONDUCTS BUSINESS WITH THE LIFE SETTLEMENT INTERMEDIARY.

43 (P) A LIFE SETTLEMENT PROVIDER MAY SELL, ASSIGN, PLEDGE OR OTHERWISE
44 TRANSFER THE OWNERSHIP OF A SETTLED POLICY ONLY TO A LICENSED LIFE
45 SETTLEMENT PROVIDER, AN ACCREDITED INVESTOR OR QUALIFIED INSTITUTIONAL
46 BUYER, FINANCING ENTITY, SPECIAL PURPOSE ENTITY, OR RELATED PROVIDER
47 TRUST; PROVIDED, HOWEVER, A LIFE SETTLEMENT PROVIDER MAY SELL, ASSIGN,
48 PLEDGE OR OTHERWISE TRANSFER A BENEFICIAL INTEREST IN A SETTLED POLICY
49 TO SOMEONE OTHER THAN A LIFE SETTLEMENT PROVIDER LICENSED IN THIS STATE,
50 AN ACCREDITED INVESTOR OR QUALIFIED INSTITUTIONAL BUYER, FINANCING ENTI-
51 TY, SPECIAL PURPOSE ENTITY, OR RELATED PROVIDER TRUST IF A LICENSED LIFE
52 SETTLEMENT PROVIDER CONTINUES TO ADMINISTER AND SERVICE THE SETTLED
53 POLICY AND PROTECTS THE PRIVACY OF THE INSURED AND OWNER PURSUANT TO
54 SECTION SEVEN THOUSAND EIGHT HUNDRED TEN OF THIS ARTICLE.

55 (Q) THE FAILURE TO FOLLOW THE PROVISIONS OF THIS SECTION SHALL BE A
56 DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

1 S 7814. PROHIBITED PRACTICES. (A) NO PERSON SHALL:

2 (1) ENTER INTO A LIFE SETTLEMENT CONTRACT IF THE PERSON KNOWS OR
3 REASONABLY SHOULD HAVE KNOWN THAT THE POLICY WAS OBTAINED IN A FALSE,
4 DECEPTIVE OR MISLEADING WAY;

5 (2) ENGAGE IN ANY TRANSACTION, PRACTICE OR COURSE OF BUSINESS IF THE
6 PERSON KNOWS OR REASONABLY SHOULD HAVE KNOWN THAT THE INTENT WAS TO
7 AVOID THE DISCLOSURE OR OTHER NOTICE REQUIREMENTS OF THIS ARTICLE;

8 (3) ENGAGE IN ANY FRAUDULENT ACT OR PRACTICE IN CONNECTION WITH ANY
9 TRANSACTION RELATING TO ANY LIFE SETTLEMENT;

10 (4)(A) ENTER INTO A PREMIUM FINANCE LOAN WITH ANY PERSON OR AGENCY, OR
11 ANY PERSON AFFILIATED WITH SUCH PERSON OR AGENCY, PURSUANT TO WHICH THE
12 PERSON SHALL RECEIVE ANY PROCEEDS, FEES OR OTHER CONSIDERATION, DIRECTLY
13 OR INDIRECTLY, FROM THE POLICY OR OWNER OF THE POLICY OR ANY OTHER
14 PERSON, OTHER THAN COMMISSIONS EARNED BY A LICENSED INSURANCE PRODUCER
15 ON THE POLICY, WITH RESPECT TO THE PREMIUM FINANCE LOAN OR ANY SETTLE-
16 MENT CONTRACT OR OTHER TRANSACTION RELATED TO SUCH POLICY THAT ARE IN
17 ADDITION TO THE AMOUNTS REQUIRED TO PAY THE PRINCIPAL, INTEREST AND ANY
18 REASONABLE COSTS OR EXPENSES INCURRED BY THE LENDER OR BORROWER RELATED
19 TO THE PREMIUM FINANCE LOAN OR SUBSEQUENT SALE OF SUCH LOAN; PROVIDED,
20 FURTHER, THAT ANY PAYMENTS, CHARGES, FEES OR OTHER AMOUNTS IN ADDITION
21 TO THE AMOUNTS REQUIRED TO PAY THE PRINCIPAL, INTEREST AND ANY REASON-
22 ABLE COSTS OR EXPENSES INCURRED BY THE LENDER OR BORROWER RELATED TO THE
23 PREMIUM FINANCE LOAN SHALL BE REMITTED TO THE ORIGINAL OWNER OF THE
24 POLICY OR TO THE ORIGINAL OWNER'S ESTATE IF THE ORIGINAL OWNER IS NOT
25 LIVING AT THE TIME OF THE DETERMINATION OF THE OVERPAYMENT;

26 (B) IF, AT ANY TIME, A POLICY THAT IS THE SUBJECT OF A PREMIUM FINANCE
27 LOAN IS SOLD, ASSIGNED, TRANSFERRED, DEVISED OR BEQUEATHED TO A PERSON
28 OR AGENCY SPECIFIED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH OR TO A LIFE
29 SETTLEMENT PROVIDER PURSUANT TO THE TERMS OF A PREMIUM FINANCE LOAN, ANY
30 PROCEEDS OR OTHER CONSIDERATION RECEIVED OTHER THAN THE AMOUNTS SPECI-
31 FIED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE REMITTED TO THE
32 ORIGINAL OWNER OF THE POLICY OR TO THE ORIGINAL OWNER'S ESTATE IF THE
33 ORIGINAL OWNER IS NOT THEN LIVING.

34 (5) WITH RESPECT TO ANY LIFE SETTLEMENT CONTRACT, KNOWINGLY FAIL TO
35 DISCLOSE ANY AFFILIATION OR CONTRACTUAL ARRANGEMENT AS REQUIRED BY THIS
36 ARTICLE;

37 (6) DIRECTLY OR INDIRECTLY, PURCHASE OR OBTAIN AN INTEREST IN ANY
38 POLICY THAT IS THE SUBJECT OF A LIFE SETTLEMENT CONTRACT WHERE THE
39 PERSON HAS ACTED AS A LIFE SETTLEMENT BROKER OR LIFE SETTLEMENT INTERME-
40 DIARY WITH RESPECT TO THE POLICY;

41 (7) DIRECTLY OR INDIRECTLY PROVIDE OR OFFER TO PROVIDE ANY COMPEN-
42 SATION TO ANY PERSON ACTING IN THIS STATE AS A LIFE SETTLEMENT BROKER,
43 UNLESS THE PERSON IS A LICENSED LIFE SETTLEMENT BROKER PURSUANT TO THE
44 PROVISIONS OF SECTION TWO THOUSAND ONE HUNDRED THIRTY-SEVEN OF THIS
45 CHAPTER;

46 (8) DIRECTLY OR INDIRECTLY PAY OR OFFER TO PAY ANY REFERRAL OR
47 FINDER'S FEE OR PROVIDE OR OFFER TO PROVIDE ANY OTHER COMPENSATION TO
48 ANY OWNER'S PHYSICIAN, ATTORNEY, ACCOUNTANT OR OTHER PERSON PROVIDING
49 MEDICAL, LEGAL OR FINANCIAL PLANNING SERVICES TO THE OWNER, OR TO ANY
50 OTHER PERSON, OTHER THAN A LIFE SETTLEMENT BROKER, REPRESENTING THE
51 OWNER WITH RESPECT TO THE LIFE SETTLEMENT CONTRACT;

52 (9) DIRECTLY OR INDIRECTLY PROVIDE OR OFFER TO PROVIDE COMPENSATION TO
53 A LIFE SETTLEMENT BROKER, EXCEPT WHERE THE COMPENSATION IS FOR A SPECIF-
54 IC LIFE SETTLEMENT CONTRACT AND IS CLEARLY DISCLOSED TO THE OWNER AS
55 REQUIRED IN THIS ARTICLE;

(10) DIRECTLY OR INDIRECTLY ENGAGE IN ANY ACT DETERMINED BY THE SUPERINTENDENT TO BE AN UNFAIR OR DECEPTIVE ACT OR PRACTICE PURSUANT TO THIS CHAPTER;

(11) REMOVE, CONCEAL, ALTER, DESTROY OR SEQUESTER FROM THE SUPERINTENDENT THE ASSETS OR RECORDS OF A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY OR OTHER PERSON ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS;

(12) MISREPRESENT OR CONCEAL THE FINANCIAL CONDITION OF A LIFE SETTLEMENT PROVIDER; OR

(13) IN RELATION TO THE BUSINESS OF LIFE SETTLEMENTS, FILE WITH THE SUPERINTENDENT A DOCUMENT CONTAINING MATERIALLY FALSE INFORMATION CONCERNING ANY FACT MATERIAL THERETO OR OTHERWISE CONCEAL INFORMATION ABOUT A FACT MATERIAL THERETO FROM THE SUPERINTENDENT.

(B) NO LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY, OWNER OR ANY OTHER PERSON, AS A CONDITION OF ENTERING INTO A LIFE SETTLEMENT CONTRACT, SHALL REQUEST OR REQUIRE AN INSURED TO SUBMIT TO A MEDICAL EXAMINATION AT ANY TIME SUBSEQUENT TO THE SETTLEMENT OF THE POLICY.

(C) NO LIFE SETTLEMENT PROVIDER SHALL ENTER INTO ANY LIFE SETTLEMENT CONTRACT IN WHICH PAYMENTS OF PROCEEDS ARE MADE IN INSTALLMENTS.

(D) NO LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER OR LIFE SETTLEMENT INTERMEDIARY SHALL DIRECTLY OR INDIRECTLY:

(1) BE A PARTY TO OR ENTER INTO AN AGREEMENT OR UNDERSTANDING LIMITING OR RESTRICTING AN OWNER'S OR LIFE SETTLEMENT BROKER'S ABILITY TO SEEK COMPETITIVE BIDS ON POLICIES TO THE EXTENT THAT THE AGREEMENT OR UNDERSTANDING UNLAWFULLY RESTRAINS TRADE OR CONSTITUTES ANTI-COMPETITIVE BEHAVIOR;

(2) MONOPOLIZE OR ATTEMPT TO MONOPOLIZE, OR COMBINE OR CONSPIRE WITH ANY OTHER PERSON OR PERSONS TO MONOPOLIZE, IN THIS STATE, THE BUSINESS OF LIFE SETTLEMENTS;

(3) BE A PARTY TO OR ENTER INTO AN AGREEMENT WITH A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER OR LIFE SETTLEMENT INTERMEDIARY TO THE EXTENT THAT THE AGREEMENT FIXES OR LIMITS THE VALUE PAID TO OWNERS;

(4) BE A PARTY TO OR ENTER INTO ANY AGREEMENT OR COMMUNICATION WITH A LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT INTERMEDIARY WITH RESPECT TO THE TERMS TO BE OFFERED TO AN OWNER TO THE EXTENT THAT THE AGREEMENT OR UNDERSTANDING UNLAWFULLY RESTRAINS TRADE OR CONSTITUTES ANTI-COMPETITIVE BEHAVIOR;

(5) BE A PARTY TO OR ENTER INTO ANY AGREEMENT WITH A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY OR OTHER PERSON TO RESTRAIN TRADE OR ENGAGE IN ANY OTHER ANTI-COMPETITIVE BEHAVIOR;

(6) BE PARTY TO OR ENTER INTO ANY AGREEMENT WITH A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY OR OTHER PERSON THE EFFECT OF WHICH MAY BE SUBSTANTIALLY TO LESSEN COMPETITION IN THE BUSINESS OF LIFE SETTLEMENTS SUBJECT TO THIS CHAPTER; OR

(7) BE A PARTY TO OR ENTER INTO ANY AGREEMENT WITH A LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTERMEDIARY OR OTHER PERSON TO REFUSE TO CONDUCT BUSINESS WITH ANY PERSON IN THE BUSINESS OF LIFE SETTLEMENTS.

(E) NO LIFE SETTLEMENT INTERMEDIARY SHALL:

(1) REPRESENT, SOLICIT, NEGOTIATE OR ACT ON BEHALF OF, AN OWNER, A LIFE SETTLEMENT PROVIDER, OR A LIFE SETTLEMENT BROKER; OR

(2) ACT AS A LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER.

(F) NO INSURER SHALL PROHIBIT AN INSURANCE AGENT FROM DISCLOSING TO A CLIENT THE AVAILABILITY OF A LIFE SETTLEMENT CONTRACT.

(G) THE FAILURE TO FOLLOW THE PROVISIONS OF THIS SECTION SHALL BE A DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

S 7815. STRANGER-ORIGINATED LIFE INSURANCE. (A) IN THIS CHAPTER, "STRANGER-ORIGINATED LIFE INSURANCE" MEANS ANY ACT, PRACTICE OR ARRANGEMENT, AT OR PRIOR TO POLICY ISSUANCE, TO INITIATE OR FACILITATE THE ISSUANCE OF A POLICY FOR THE INTENDED BENEFIT OF A PERSON WHO, AT THE TIME OF POLICY ORIGINATION, HAS NO INSURABLE INTEREST IN THE LIFE OF THE INSURED UNDER THE LAWS OF THIS STATE, INCLUDING:

(1) THE PURCHASE OF LIFE INSURANCE WITH RESOURCES OR GUARANTEES FROM OR THROUGH A PERSON THAT, AT THE TIME OF POLICY INITIATION, COULD NOT LAWFULLY INITIATE THE POLICY;

(2) AN ARRANGEMENT OR OTHER AGREEMENT TO TRANSFER THE OWNERSHIP OF THE POLICY OR THE POLICY BENEFITS TO ANOTHER PERSON; OR

(3) A TRUST OR SIMILAR ARRANGEMENT THAT IS USED, DIRECTLY OR INDIRECTLY, FOR THE PURPOSE OF PURCHASING ONE OR MORE POLICIES FOR THE INTENDED BENEFIT OF ANOTHER PERSON IN A MANNER THAT VIOLATES THE INSURABLE INTEREST LAWS OF THIS STATE.

(B) STRANGER-ORIGINATED LIFE INSURANCE DOES NOT INCLUDE THOSE TRANSACTIONS AND PRACTICES SET FORTH IN PARAGRAPH THREE OF SUBSECTION (K) OF SECTION SEVEN THOUSAND EIGHT HUNDRED TWO OF THIS ARTICLE, PROVIDED THAT THE TRANSACTION OR PRACTICE ITSELF IS NOT PURSUANT TO AN AGREEMENT OR UNDERSTANDING WITH ANY OTHER PERSON FOR THE PURPOSE OF EVADING REGULATION UNDER THIS ARTICLE.

(C) NO PERSON SHALL DIRECTLY OR INDIRECTLY ENGAGE IN ANY ACT, PRACTICE OR ARRANGEMENT THAT CONSTITUTES STRANGER-ORIGINATED LIFE INSURANCE.

(D) THE FAILURE TO FOLLOW THE PROVISION OF SUBSECTION (C) OF THIS SECTION SHALL BE A DEFINED VIOLATION UNDER ARTICLE TWENTY-FOUR OF THIS CHAPTER.

S 7816. PENALTIES AND CIVIL REMEDIES. (A)(1) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT ANY INFORMATION REQUIRED BY SUBSECTION (C) OF SECTION SEVEN THOUSAND EIGHT HUNDRED ELEVEN OF THIS ARTICLE WAS NOT PROVIDED OR WAS DELAYED IN BEING PROVIDED TO THE MATERIAL DETRIMENT OF THE OWNER, THEN THE SUPERINTENDENT, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, MAY REQUIRE THE LIFE SETTLEMENT BROKER TO PAY THE OWNER AN AMOUNT NOT TO EXCEED THE COMPENSATION DUE OR PROVIDED TO THE LIFE SETTLEMENT BROKER.

(2) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT ANY INFORMATION REQUIRED BY SUBSECTION (A) OF SECTION SEVEN THOUSAND EIGHT HUNDRED ELEVEN OF THIS ARTICLE WAS NOT PROVIDED OR WAS DELAYED IN BEING PROVIDED TO THE MATERIAL DETRIMENT OF THE OWNER, THEN THE SUPERINTENDENT, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, MAY REQUIRE THE LIFE SETTLEMENT PROVIDER TO PAY THE OWNER AN AMOUNT NOT TO EXCEED THE DEATH BENEFIT UNDER THE POLICY AT THE TIME THE POLICY WAS SETTLED.

(B)(1) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT ANY LIFE SETTLEMENT BROKER OR ANY REPRESENTATIVE THEREOF VIOLATES SUBSECTION (C) OF SECTION SEVEN THOUSAND EIGHT HUNDRED FIFTEEN OF THIS ARTICLE, THEN THE SUPERINTENDENT, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, MAY REQUIRE THE LIFE SETTLEMENT BROKER TO PAY THE OWNER AN AMOUNT NOT TO EXCEED THE COMPENSATION DUE OR PROVIDED TO THE LIFE SETTLEMENT BROKER.

(2) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES ANY LIFE SETTLEMENT PROVIDER OR ANY REPRESENTATIVE THEREOF VIOLATES SUBSECTION (C) OF SECTION SEVEN THOUSAND EIGHT HUNDRED FIFTEEN OF THIS ARTICLE, THEN THE SUPERINTENDENT, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, MAY REQUIRE THE LIFE SETTLEMENT PROVIDER TO PAY THE

1 OWNER AN AMOUNT NOT TO EXCEED THE DEATH BENEFIT UNDER THE POLICY AT THE
2 TIME THE POLICY WAS SETTLED.

3 (C) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT
4 ANY PERSON VIOLATED SECTION SEVEN THOUSAND EIGHT HUNDRED TEN OF THIS
5 ARTICLE, THEN THE SUPERINTENDENT, IN ADDITION TO ANY OTHER PENALTY
6 PRESCRIBED BY LAW, MAY REQUIRE THE PERSON TO PAY THE INSURED AN AMOUNT
7 NOT TO EXCEED TWENTY THOUSAND DOLLARS.

8 (D)(1) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES
9 THAT ANY PERSON THAT ACTED AS A LIFE SETTLEMENT PROVIDER WITHOUT A
10 LICENSE IN VIOLATION OF SUBSECTION (A) OF SECTION SEVEN THOUSAND EIGHT
11 HUNDRED THREE OF THIS ARTICLE, THEN THE SUPERINTENDENT MAY IMPOSE A
12 CIVIL PENALTY NOT TO EXCEED TWENTY THOUSAND DOLLARS FOR EACH POLICY
13 SETTLED IN VIOLATION THEREOF; AND, IN ADDITION, THE SUPERINTENDENT MAY
14 REQUIRE THE LIFE SETTLEMENT PROVIDER TO PAY THE INSURED AN AMOUNT NOT TO
15 EXCEED THE DEATH BENEFIT UNDER THE POLICY AT THE TIME THE POLICY WAS
16 SETTLED.

17 (2) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT
18 ANY PERSON ACTED AS A LIFE SETTLEMENT BROKER WITHOUT A LICENSE IN
19 VIOLATION OF SUBSECTION (A) OF SECTION TWO THOUSAND ONE HUNDRED THIRTY-
20 SEVEN OF THIS CHAPTER, THEN THE SUPERINTENDENT MAY IMPOSE A CIVIL PENAL-
21 TY NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH POLICY AND REQUIRE THE
22 LIFE SETTLEMENT BROKER TO PAY THE OWNER AN AMOUNT NOT TO EXCEED THE
23 COMPENSATION DUE OR PROVIDED TO THE LIFE SETTLEMENT BROKER.

24 (3) IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT
25 ANY PERSON ACTED AS A LIFE SETTLEMENT INTERMEDIARY WITHOUT A REGISTRA-
26 TION IN VIOLATION OF SUBSECTION (A) OF SECTION SEVEN THOUSAND EIGHT
27 HUNDRED FOUR OF THIS ARTICLE, THEN THE SUPERINTENDENT MAY IMPOSE A CIVIL
28 PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH TRANSACTION AND
29 REQUIRE THE LIFE SETTLEMENT INTERMEDIARY TO PAY THE OWNER AN AMOUNT NOT
30 TO EXCEED THE COMPENSATION DUE OR PROVIDED TO THE LIFE SETTLEMENT INTER-
31 MEDIARY.

32 (E) NOTHING PROVIDED IN THIS ARTICLE SHALL LIMIT OR RESTRICT ANY
33 COMMON LAW, CONTRACTUAL OR OTHER RIGHT OF ACTION.

34 S 7817. AUTHORITY TO PROMULGATE REGULATIONS. THE SUPERINTENDENT MAY
35 PROMULGATE REGULATIONS IMPLEMENTING THIS ARTICLE.

36 S 7818. NONCONFORMING CONTRACTS. (A) EXCEPT AS OTHERWISE SPECIFICALLY
37 PROVIDED IN THIS CHAPTER, ANY LIFE SETTLEMENT CONTRACT SUBJECT TO THIS
38 CHAPTER THAT IS IN VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER
39 SHALL BE VALID AND BINDING UPON THE LIFE SETTLEMENT PROVIDER, BUT IN ALL
40 RESPECTS IN WHICH THE CONTRACT'S PROVISIONS ARE IN VIOLATION OF THE
41 REQUIREMENTS OR PROHIBITIONS OF THIS CHAPTER IT SHALL BE ENFORCEABLE AS
42 IF IT CONFORMED WITH SUCH REQUIREMENTS OR PROHIBITIONS.

43 (B) IN ANY ACTION TO RECOVER UNDER THE PROVISIONS OF ANY LIFE SETTLE-
44 MENT CONTRACT THAT THE SUPERINTENDENT IS AUTHORIZED BY THIS CHAPTER TO
45 APPROVE, IF IN THE SUPERINTENDENT'S OPINION THE PROVISIONS OF THIS CHAP-
46 TER ARE MORE FAVORABLE TO OWNERS, THE COURT SHALL ENFORCE SUCH CONTRACT
47 AS IF ITS PROVISIONS WERE THE SAME AS THOSE SPECIFIED IN THIS CHAPTER
48 UNLESS THE COURT FINDS THAT THE ACTUAL PROVISIONS OF THE CONTRACT WERE
49 MORE FAVORABLE TO OWNERS AT THE DATE WHEN THE CONTRACT WAS ENTERED INTO.

50 S 7819. APPLICABILITY AND CHOICE OF LAW. (A) THE PROVISIONS OF THIS
51 ARTICLE SHALL APPLY TO ANY LIFE SETTLEMENT CONTRACT MADE, PROPOSED TO BE
52 MADE, OR SOLICITED WITH A RESIDENT OF THIS STATE OR ANY PERSON PHYS-
53 ICALLY IN THIS STATE.

54 (B)(1) IF THERE IS MORE THAN ONE OWNER ON A SINGLE POLICY, AND THE
55 OWNERS ARE RESIDENTS OF DIFFERENT STATES, THEN THE STATE OF RESIDENCY
56 SHALL BE THE STATE IN WHICH THE OWNER HAVING THE LARGEST PERCENTAGE OF

OWNERSHIP RESIDES OR, IF THE OWNERS HOLD EQUAL OWNERSHIP, THE STATE OF RESIDENCE OF ONE OWNER, AGREED UPON IN WRITING BY ALL OF THE OWNERS.

(2) A LIFE SETTLEMENT CONTRACT ENTERED INTO WITH AN OWNER WHO IS A RESIDENT OF ANOTHER STATE MAY BE GOVERNED BY THE LAWS OF THE OTHER STATE PROVIDED THAT THE OWNER ELECTS IN WRITING TO BE GOVERNED BY THE LAWS OF THE OTHER STATE, AND IF THE OWNER IS ALSO A RESIDENT OF THIS STATE, THE LIFE SETTLEMENT CONTRACT IS MADE, PROPOSED TO BE MADE AND SOLICITED OUTSIDE THIS STATE.

(C) FOR THE PURPOSES OF THIS SECTION, WITH RESPECT TO ANY PERSON OTHER THAN A NATURAL PERSON, THE STATE OF RESIDENCE SHALL BE:

(1) A STATE IN WHICH THE PERSON MAINTAINS AN OFFICE; OR

(2) WITH RESPECT TO A TRUST, A STATE IN WHICH THE GRANTOR RESIDES.

S 7820. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW, THE JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

S 12. Subsection (b) of section 403 of the insurance law, as amended by chapter 805 of the laws of 1984, is amended to read as follows:

(b) For the purpose of section one hundred nine of this chapter, it is a violation of this chapter for any individual, firm, association or corporation subject to the provisions of this chapter to commit a fraudulent insurance act OR A FRAUDULENT LIFE SETTLEMENT ACT.

S 13. Section 403 of the insurance law is amended by adding a new subsection (f) to read as follows:

(F) IN THIS ARTICLE, "FRAUDULENT LIFE SETTLEMENT ACT" MEANS A FRAUD AS DEFINED IN SECTION 176.40 OF THE PENAL LAW.

S 14. Subsection (c) of section 403 of the insurance law, as amended by chapter 262 of the laws of 1998, is amended to read as follows:

(c) In addition to any criminal liability arising under the provisions of this section, the superintendent shall be empowered to levy a civil penalty not exceeding five thousand dollars and the amount of the claim for each violation upon any person, including those persons and their employees licensed pursuant to this chapter, who is found to have: (i) committed a fraudulent insurance act, FRAUDULENT LIFE SETTLEMENT ACT or otherwise violates the provisions of this section; or (ii) knowingly and with intent to defraud files, makes, or assists, solicits or conspires with another to file or make an application for a premium reduction, pursuant to subsection (a) of section two thousand three hundred thirty-six of this chapter, containing any materially false information or which, for the purpose of misleading, conceals information concerning any fact material thereto.

S 15. Subsection (a) of section 404 of the insurance law is amended to read as follows:

(a) If the insurance frauds bureau has reason to believe that a person has engaged in, or is engaging in, an act defined in section 155.05 of the penal law, with respect to personal or commercial insurance transactions [or], THE BUSINESS OF LIFE SETTLEMENTS, section 176.05 OR SECTION 176.40 of such law, the superintendent may make such investigation within or without this state as [he] THE SUPERINTENDENT deems necessary to aid in the enforcement of this chapter or to determine whether any person has violated or is about to violate any such provision of the penal law.

1 S 16. Section 405 of the insurance law, subsection (a) as amended by
2 chapter 635 of the laws of 1996, subsection (d) as added by chapter 57
3 of the laws of 1993, the opening paragraph of subsection (d) as amended
4 by chapter 191 of the laws of 2008, paragraphs 9 and 10 of subsection
5 (d) as amended and paragraph 11 of subsection (d) as added by chapter
6 678 of the laws of 1997, is amended to read as follows:

7 S 405. Reports. (a) Any person licensed OR REGISTERED pursuant to the
8 provisions of this chapter, and any person engaged in the business of
9 insurance OR LIFE SETTLEMENT in this state who is exempted from compli-
10 ance with the licensing requirements of this chapter, including the
11 state insurance fund of this state, who has reason to believe that an
12 insurance transaction OR LIFE SETTLEMENT ACT may be fraudulent, or has
13 knowledge that a fraudulent insurance transaction OR FRAUDULENT LIFE
14 SETTLEMENT ACT is about to take place, or has taken place shall, within
15 thirty days after determination by such person that the transaction
16 appears to be fraudulent, send to the insurance frauds bureau on a form
17 prescribed by the superintendent, the information requested by the form
18 and such additional information relative to the factual circumstances of
19 the transaction and the parties involved as the superintendent may
20 require. The insurance frauds bureau shall accept reports of suspected
21 fraudulent insurance transactions OR FRAUDULENT LIFE SETTLEMENT ACTS
22 from any self insurer, including but not limited to self insurers
23 providing health insurance coverage or those defined in section fifty of
24 the workers' compensation law, and shall treat such reports as any other
25 received pursuant to this section.

26 (b) The insurance frauds bureau shall review each report and undertake
27 such further investigation as it deems necessary and proper to determine
28 the validity of the allegations.

29 (c) Whenever the superintendent is satisfied that a material fraud,
30 deceit, or intentional misrepresentation has been committed in an insur-
31 ance transaction OR IN THE BUSINESS OF LIFE SETTLEMENTS or purported
32 insurance transaction OR BUSINESS OF LIFE SETTLEMENTS, he OR SHE shall
33 report any such violation of law to the appropriate licensing agency,
34 the district attorney of the county in which such acts were committed,
35 when authorized by law, to the attorney general, and where appropriate,
36 to the person who submitted the report of fraudulent activity, as
37 provided by the provisions of this article. Within one hundred twenty
38 days of receipt of the superintendent's report, the attorney general or
39 the district attorney concerned shall inform the superintendent as to
40 the status of the reported violations.

41 (d) No later than March fifteenth of each year, beginning in nineteen
42 hundred ninety-four, the superintendent shall furnish to the governor,
43 the speaker of the assembly and the president pro tem of the senate a
44 report containing:

45 (1) a comprehensive summary and assessment of the frauds bureau's
46 efforts in discovering, investigating and halting fraudulent activities
47 and assisting in the prosecution of persons who are parties to insurance
48 fraud OR LIFE SETTLEMENT FRAUD;

49 (2) the number of reports received from any person or persons engaged
50 in the business of insurance OR LIFE SETTLEMENTS, the number of investi-
51 gations undertaken by the bureau pursuant to any reports received, the
52 number of investigations undertaken not as a result of reports received,
53 the number of investigations that resulted in a referral to a licensing
54 agency, a local prosecutor or the attorney general, the number of such
55 referrals pursued by a licensing agency, a local prosecutor or the
56 attorney general, and the disposition of such cases;

(3) a delineation of the number of reported and investigated cases by line of insurance AND THOSE THAT RELATE TO LIFE SETTLEMENTS;

(4) a comparison of the frauds bureau's experience, with regard to paragraphs two and three of this [subdivision] SUBSECTION, to the bureau's experience of years past;

(5) the total number of employees assigned to the frauds bureau delineated by title and location of bureau assigned;

(6) an assessment of THE ACTIVITIES OF insurance [company] COMPANIES AND LIFE SETTLEMENT PROVIDERS activities in regard to detecting, investigating and reporting fraudulent activities, including a list of companies which maintain special investigative units for the sole purpose of detecting, investigating and reporting fraudulent activities and the number of investigators assigned to such units per every thirty thousand policies OR LIFE SETTLEMENT CONTRACTS in force with such company OR PROVIDER;

(7) the amount of technical and monetary assistance requested and received by the frauds bureau from any insurance company or companies, ANY LIFE SETTLEMENT PROVIDER OR PROVIDERS, or any organization funded by insurance companies OR LIFE SETTLEMENT PROVIDERS;

(8) the amount of money returned by the frauds bureau to insurance companies pursuant to any fraudulent claims that were recouped by the bureau;

(9) the number and amount of civil penalties levied by the frauds bureau pursuant to chapter four hundred eighty of the laws of nineteen hundred ninety-two;

(10) recommendations for further statutory or administrative changes designed to meet the objectives of this article; and

(11) an assessment of law enforcement and insurance company activities to detect and curtail the incidence of operating a motor vehicle without proper insurance coverage as required by this chapter.

S 17. Section 406 of the insurance law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

S 406. Immunity. In the absence of fraud or bad faith, no person shall be subject to civil liability, and no civil cause of action of any nature shall arise against such person [(i)] for any: (I) information relating to suspected fraudulent insurance transactions OR FRAUDULENT LIFE SETTLEMENT ACTS furnished to law enforcement officials, their agents and employees; [and (ii) for any] (II) information relating to suspected fraudulent insurance transactions OR FRAUDULENT LIFE SETTLEMENT ACTS furnished to other persons subject to the provisions of this chapter; and [(iii) for any] (III) such information furnished in reports to the insurance frauds bureau, its agents or employees or any state agency investigating fraud or misconduct relating to workers' compensation insurance, its agents or employees. Nor shall the superintendent or any employee of the insurance frauds bureau, in the absence of fraud or bad faith, be subject to civil liability and no civil cause of action of any nature shall arise against them by virtue of the publication of any report or bulletin related to the official activities of the insurance frauds bureau. Nothing herein is intended to abrogate or modify in any way any common law privilege of immunity heretofore enjoyed by any person.

S 18. The insurance law is amended by adding a new section 411 to read as follows:

S 411. LIFE SETTLEMENTS FRAUD PREVENTION PLANS. (A) EVERY LIFE SETTLEMENT PROVIDER SHALL FILE WITH THE SUPERINTENDENT A PLAN FOR THE DETECTION, INVESTIGATION AND PREVENTION OF FRAUDULENT LIFE SETTLEMENT

1 ACTS IN THIS STATE AND THOSE FRAUDULENT LIFE SETTLEMENT ACTS AFFECTING
2 LIFE SETTLEMENT CONTRACTS IN THIS STATE.

3 (1) THE PLAN SHALL PROVIDE THE TIME AND MANNER IN WHICH SUCH PLAN
4 SHALL BE IMPLEMENTED, INCLUDING PROVISIONS FOR A SPECIAL INVESTIGATIONS
5 UNIT AND STAFFING LEVELS WITHIN SUCH UNIT. SUCH INVESTIGATORS SHALL BE
6 RESPONSIBLE FOR INVESTIGATING INFORMATION ON OR CASES OF SUSPECTED FRAU-
7 DULENT ACTIVITY AND FOR EFFECTIVELY IMPLEMENTING FRAUD PREVENTION AND
8 REDUCTION ACTIVITIES PURSUANT TO THE PLAN FILED WITH THE SUPERINTENDENT.
9 A LIFE SETTLEMENT PROVIDER SHALL INCLUDE IN SUCH PLAN STAFFING LEVELS
10 AND ALLOCATIONS OF RESOURCES OF SUCH SPECIAL INVESTIGATIONS UNIT THAT
11 SHALL BE SUFFICIENT AND APPROPRIATE FOR THE PROPER IMPLEMENTATION OF THE
12 PLAN AND APPROVAL OF SUCH PLAN PURSUANT TO SUBSECTION (C) OF THIS
13 SECTION.

14 (2) IN LIEU OF A SPECIAL INVESTIGATIONS UNIT, A LIFE SETTLEMENT
15 PROVIDER MAY CONTRACT WITH A PROVIDER OF SERVICES RELATED TO THE INVES-
16 TIGATION OF INFORMATION ON OR CASES OF SUSPECTED FRAUDULENT ACTIVITIES;
17 PROVIDED, HOWEVER, THAT A LIFE SETTLEMENT PROVIDER THAT OPTS FOR
18 CONTRACTING WITH A SEPARATE PROVIDER OF SERVICES, SHALL PROVIDE TO THE
19 SUPERINTENDENT A DETAILED PLAN THEREFOR, PURSUANT TO REQUIREMENTS SET
20 FORTH IN REGULATION BY THE SUPERINTENDENT.

21 (3) A PERSON EMPLOYED BY A SPECIAL INVESTIGATIONS UNIT OR AN INDEPEND-
22 ENT PROVIDER OF INVESTIGATIVE SERVICES UNDER CONTRACT WITH A LIFE
23 SETTLEMENT PROVIDER SHALL BE QUALIFIED BY EDUCATION OR EXPERIENCE TO ACT
24 IN SUCH CAPACITY, SUBJECT TO REQUIREMENTS ESTABLISHED BY THE SUPERINTEN-
25 DENT IN A REGULATION.

26 (B) THE PLAN SHALL PROVIDE FOR THE FOLLOWING:

27 (1) INTERFACE OF SPECIAL INVESTIGATIONS UNIT PERSONNEL WITH LAW
28 ENFORCEMENT AND PROSECUTORIAL AGENCIES, INCLUDING THE INSURANCE FRAUDS
29 BUREAU IN THE DEPARTMENT;

30 (2) REPORTING OF FRAUD DATA TO A CENTRAL ORGANIZATION APPROVED BY THE
31 SUPERINTENDENT;

32 (3) IN-SERVICE EDUCATION AND TRAINING FOR PERSONNEL IN IDENTIFYING AND
33 EVALUATING INSTANCES OF SUSPECTED FRAUDULENT ACTIVITY;

34 (4) COORDINATION WITH OTHER UNITS OF A LIFE SETTLEMENT PROVIDER FOR
35 THE INVESTIGATION AND INITIATION OF CIVIL ACTIONS BASED UPON INFORMATION
36 RECEIVED BY OR THROUGH THE SPECIAL INVESTIGATION UNIT;

37 (5) PUBLIC AWARENESS OF THE COST AND FREQUENCY OF FRAUDULENT ACTIV-
38 ITIES, AND THE METHODS OF PREVENTING FRAUD;

39 (6) DEVELOPMENT AND USE OF A FRAUD DETECTION AND PROCEDURES MANUAL TO
40 ASSIST IN THE DETECTION AND ELIMINATION OF FRAUDULENT ACTIVITY; AND

41 (7) THE TIME AND MANNER IN WHICH SUCH PLAN SHALL BE IMPLEMENTED AND A
42 DEMONSTRATION THAT THE FRAUD PREVENTION AND REDUCTION MEASURES OUTLINED
43 IN THE PLAN WILL BE FULLY IMPLEMENTED.

44 (C)(1) A FRAUD DETECTION AND PREVENTION PLAN FILED BY A LIFE SETTLE-
45 MENT PROVIDER WITH THE SUPERINTENDENT PURSUANT TO THIS SECTION SHALL BE
46 DEEMED APPROVED BY THE SUPERINTENDENT IF NOT RETURNED BY THE SUPERINTEN-
47 DENT FOR REVISION WITHIN ONE HUNDRED TWENTY DAYS OF THE DATE OF FILING.
48 IF THE SUPERINTENDENT RETURNS A PLAN FOR REVISION, THE SUPERINTENDENT
49 SHALL STATE THE POINTS OF OBJECTION WITH SUCH PLAN, AND ANY AMENDMENTS
50 AS THE SUPERINTENDENT MAY REQUIRE CONSISTENT WITH THE PROVISIONS OF THIS
51 SECTION, INCLUDING STAFFING LEVELS, RESOURCE ALLOCATION, OR OTHER POLICY
52 OR OPERATIONAL CONSIDERATIONS. AN AMENDED PLAN REFLECTING THE CHANGES
53 SHALL BE FILED WITH THE SUPERINTENDENT WITHIN FORTY-FIVE DAYS FROM THE
54 DATE OF RETURN.

55 (2) IF THE SUPERINTENDENT HAS RETURNED A PLAN FOR REVISION MORE THAN
56 ONE TIME, THEN THE LIFE SETTLEMENT PROVIDER SHALL BE ENTITLED TO A HEAR-

1 ING PURSUANT TO THE PROVISIONS OF ARTICLE THREE OF THIS CHAPTER AND
2 REGULATIONS PROMULGATED THEREUNDER.

3 (3) IF A LIFE SETTLEMENT PROVIDER FAILS TO SUBMIT A FINAL PLAN WITHIN
4 THIRTY DAYS AFTER A DETERMINATION OF THE SUPERINTENDENT AFTER THE HEAR-
5 ING HELD PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION, OR OTHERWISE
6 FAILS TO SUBMIT A PLAN, OR FAILS TO IMPLEMENT THE PROVISIONS OF A PLAN
7 IN A TIME AND MANNER PROVIDED FOR IN SUCH PLAN, OR OTHERWISE REFUSES TO
8 COMPLY WITH THE PROVISIONS OF THIS SECTION, THE SUPERINTENDENT MAY
9 IMPOSE:

10 (A) A FINE OF NOT MORE THAN TWO THOUSAND DOLLARS PER DAY FOR SUCH
11 FAILURE BY A LIFE SETTLEMENT PROVIDER UNTIL THE SUPERINTENDENT DEEMS THE
12 LIFE SETTLEMENT PROVIDER TO BE IN COMPLIANCE;

13 (B) UPON THE LIFE SETTLEMENT PROVIDER A FRAUD DETECTION AND PREVENTION
14 PLAN DEEMED TO BE APPROPRIATE BY THE SUPERINTENDENT, WHICH SHALL BE
15 IMPLEMENTED BY THE LIFE SETTLEMENT PROVIDER; OR

16 (C) BOTH A FINE AND A FRAUD DETECTION AND PREVENTION PLAN PURSUANT TO
17 SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH.

18 (D) ANY PLAN, THE INFORMATION CONTAINED THEREIN, OR CORRESPONDENCE
19 RELATED THERETO, OR ANY OTHER INFORMATION FURNISHED PURSUANT TO THIS
20 SECTION SHALL BE DEEMED TO BE A CONFIDENTIAL COMMUNICATION AND SHALL NOT
21 BE OPEN FOR REVIEW OR BE SUBJECT TO A SUBPOENA EXCEPT BY A COURT ORDER
22 OR BY REQUEST FROM ANY LAW ENFORCEMENT AGENCY OR AUTHORITY.

23 (E) EVERY LIFE SETTLEMENT PROVIDER REQUIRED TO FILE A FRAUD PREVENTION
24 PLAN SHALL REPORT TO THE SUPERINTENDENT ON AN ANNUAL BASIS, NO LATER
25 THAN MARCH FIFTEENTH, DESCRIBING THE PROVIDER'S EXPERIENCE, PERFORMANCE
26 AND COST EFFECTIVENESS IN IMPLEMENTING THE PLAN, UTILIZING SUCH FORMS AS
27 THE SUPERINTENDENT MAY PRESCRIBE. UPON CONSIDERATION OF SUCH REPORTS,
28 THE SUPERINTENDENT MAY REQUIRE AMENDMENTS TO THE PROVIDER'S FRAUD
29 DETECTION AND PREVENTION PLAN AS DEEMED NECESSARY.

30 S 19. The penal law is amended by adding seven new sections 176.40,
31 176.45, 176.50, 176.55, 176.60, 176.65 and 176.70 to read as follows:

32 S 176.40 FRAUDULENT LIFE SETTLEMENT ACT; DEFINED.

33 A FRAUDULENT LIFE SETTLEMENT ACT IS COMMITTED BY ANY PERSON WHO, KNOW-
34 INGLY AND WITH INTENT TO DEFRAUD, PRESENTS, CAUSES TO BE PRESENTED, OR
35 PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO, OR BY, A
36 LIFE SETTLEMENT PROVIDER, LIFE SETTLEMENT BROKER, LIFE SETTLEMENT INTER-
37 MEDIARY, OR PURCHASER OF A SETTLED LIFE INSURANCE POLICY OR ANY INTEREST
38 THEREIN, OR ANY AGENT THEREOF, OR TO ANY OWNER ANY WRITTEN STATEMENT OR
39 OTHER PHYSICAL EVIDENCE AS PART OF, OR IN SUPPORT OF, AN APPLICATION FOR
40 A LIFE SETTLEMENT CONTRACT, A CLAIM FOR PAYMENT OR OTHER BENEFIT UNDER A
41 LIFE SETTLEMENT CONTRACT OR THE SALE OF A SETTLED LIFE INSURANCE POLICY
42 OR ANY INTEREST THEREIN, WHICH THE PERSON KNOWS TO:

43 (1) CONTAIN MATERIALLY FALSE INFORMATION CONCERNING ANY MATERIAL FACT
44 THERETO; OR

45 (2) CONCEAL, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY
46 FACT MATERIAL THERETO.

47 S 176.45 LIFE SETTLEMENT FRAUD IN THE FIFTH DEGREE.

48 A PERSON IS GUILTY OF LIFE SETTLEMENT FRAUD IN THE FIFTH DEGREE WHEN
49 HE OR SHE COMMITS A FRAUDULENT LIFE SETTLEMENT ACT.

50 LIFE SETTLEMENT FRAUD IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

51 S 176.50 LIFE SETTLEMENT FRAUD IN THE FOURTH DEGREE.

52 A PERSON IS GUILTY OF LIFE SETTLEMENT FRAUD IN THE FOURTH DEGREE WHEN
53 HE OR SHE COMMITS A FRAUDULENT LIFE SETTLEMENT ACT AND THEREBY WRONGFUL-
54 LY TAKES, OBTAINS OR WITHHOLDS, OR ATTEMPTS TO WRONGFULLY TAKE, OBTAIN
55 OR WITHHOLD PROPERTY WITH A VALUE IN EXCESS OF TWENTY-FIVE THOUSAND
56 DOLLARS.

1 LIFE SETTLEMENT FRAUD IN THE FOURTH DEGREE IS A CLASS E FELONY.

2 S 176.55 LIFE SETTLEMENT FRAUD IN THE THIRD DEGREE.

3 A PERSON IS GUILTY OF LIFE SETTLEMENT FRAUD IN THE THIRD DEGREE WHEN
4 HE OR SHE COMMITS A FRAUDULENT LIFE SETTLEMENT ACT AND THEREBY WRONGFUL-
5 LY TAKES, OBTAINS OR WITHHOLDS, OR ATTEMPTS TO WRONGFULLY TAKE, OBTAIN
6 OR WITHHOLD PROPERTY WITH A VALUE IN EXCESS OF FIFTY THOUSAND DOLLARS.

7 LIFE SETTLEMENT FRAUD IN THE THIRD DEGREE IS A CLASS D FELONY.

8 S 176.60 LIFE SETTLEMENT FRAUD IN THE SECOND DEGREE.

9 A PERSON IS GUILTY OF LIFE SETTLEMENT FRAUD IN THE SECOND DEGREE WHEN
10 HE OR SHE COMMITS A FRAUDULENT LIFE SETTLEMENT ACT AND THEREBY WRONGFUL-
11 LY TAKES, OBTAINS OR WITHHOLDS, OR ATTEMPTS TO WRONGFULLY TAKE, OBTAIN
12 OR WITHHOLD PROPERTY WITH A VALUE IN EXCESS OF ONE HUNDRED THOUSAND
13 DOLLARS.

14 LIFE SETTLEMENT FRAUD IN THE SECOND DEGREE IS A CLASS C FELONY.

15 S 176.65 LIFE SETTLEMENT FRAUD IN THE FIRST DEGREE.

16 A PERSON IS GUILTY OF LIFE SETTLEMENT FRAUD IN THE FIRST DEGREE WHEN
17 HE OR SHE COMMITS A FRAUDULENT LIFE SETTLEMENT ACT AND THEREBY WRONGFUL-
18 LY TAKES, OBTAINS OR WITHHOLDS, OR ATTEMPTS TO WRONGFULLY TAKE, OBTAIN
19 OR WITHHOLD PROPERTY WITH A VALUE IN EXCESS OF ONE MILLION DOLLARS.

20 LIFE SETTLEMENT FRAUD IN THE FIRST DEGREE IS A CLASS B FELONY.

21 S 176.70 AGGRAVATED LIFE SETTLEMENT FRAUD.

22 A PERSON IS GUILTY OF AGGRAVATED LIFE SETTLEMENT FRAUD WHEN HE OR SHE
23 COMMITS A FRAUDULENT LIFE SETTLEMENT ACT, AND HAS BEEN PREVIOUSLY
24 CONVICTED WITHIN THE PRECEDING FIVE YEARS OF ANY OFFENSE, AN ESSENTIAL
25 ELEMENT OF WHICH IS THE COMMISSION OF A FRAUDULENT LIFE SETTLEMENT ACT.

26 AGGRAVATED LIFE SETTLEMENT FRAUD IS A CLASS D FELONY.

27 S 20. Section 570 of the banking law, as added by chapter 488 of the
28 laws of 1960, is amended to read as follows:

29 S 570. Restrictions on premium finance agreements. 1. No premium
30 finance agreement shall contain any provision by which:

31 (a) In the absence of default of the insured, the premium finance
32 agency holding the agreement may, arbitrarily and without reasonable
33 cause, accelerate the maturity of any part or all of the amount owing
34 thereunder;

35 (b) A power of attorney is given to confess judgment in this state; or

36 (c) The insured relieves the insurance agent or broker or the premium
37 finance agency holding the agreement from liability for any legal rights
38 or remedies [which] THAT the insured may otherwise have against [him]
39 THE INSURANCE AGENT OR BROKER.

40 2. NO PERSON MAY USE A PREMIUM FINANCE AGREEMENT IN A MANNER DESIGNED
41 TO EVADE ANY REQUIREMENT OF ARTICLE SEVENTY-EIGHT OF THE INSURANCE LAW.

42 3. EVERY PERSON OR PREMIUM FINANCE AGENCY THAT ENTERS INTO A PREMIUM
43 FINANCE AGREEMENT, AS SUCH TERMS ARE DEFINED PURSUANT TO ARTICLE
44 TWELVE-B OF THIS CHAPTER, SHALL FILE IN THE OFFICE OF THE SUPERINTENDENT
45 OF INSURANCE, ON OR BEFORE THE FIRST DAY OF MARCH, A STATEMENT, TO BE
46 KNOWN AS ITS ANNUAL STATEMENT, VERIFIED BY THE OATH OF AT LEAST TWO OF
47 ITS PRINCIPAL OFFICERS, SHOWING ITS CONDITION AT THE END OF THE PRECED-
48 ING CALENDAR YEAR. THE STATEMENT SHALL BE IN SUCH FORM AND SHALL CONTAIN
49 SUCH OTHER MATTERS AS THE SUPERINTENDENT OF INSURANCE SHALL PRESCRIBE.
50 IN ADDITION TO ANY OTHER REQUIREMENTS, THE ANNUAL STATEMENT SHALL SPECI-
51 FY THE TOTAL NUMBER, AGGREGATE FACE AMOUNT AND LIFE SETTLEMENT PROCEEDS
52 OF, POLICIES SETTLED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR,
53 TOGETHER WITH A BREAKDOWN OF THE INFORMATION BY POLICY ISSUE YEAR.

54 S 21. This act shall take effect on the one hundred eightieth day
55 after it shall have become a law, provided that:

1 (1) a person lawfully operating as a life settlement provider, life
2 settlement broker or life settlement intermediary in this state with
3 respect to life settlement transactions not heretofore regulated under
4 the insurance law may, with respect to such transactions, continue to do
5 so after such one hundred eightieth day, pending approval or disapproval
6 of the person's application for a license or registration, as applica-
7 ble, if the appropriate application is filed with the superintendent of
8 insurance not later than 30 days after the superintendent publishes, on
9 the insurance department's website, the application form for such licen-
10 sure or registration, and provided further that such person certifies in
11 the application that such person shall comply with all applicable
12 provisions of the insurance law and regulations thereunder;

13 (2) a person licensed as a viatical settlement company or a viatical
14 settlement broker immediately prior to the effective date of this act
15 may act as a life settlement provider or a life settlement broker after
16 such one hundred eightieth day, for the duration of the term of the
17 provider or the broker's license, without having to file a new applica-
18 tion, including with respect to transactions not heretofore regulated
19 under the insurance law;

20 (3) with respect to life settlement transactions not heretofore regu-
21 lated under the insurance law, a person licensed as a viatical settle-
22 ment company immediately prior to the effective date of this act or a
23 person lawfully operating as a life settlement provider in this state,
24 as described in subdivision one of this section, that has filed, no
25 later than 30 days prior to the effective date of this act, specimen
26 copies of the contract forms, application forms and other forms that it
27 intends to use, and certified to the superintendent of insurance that
28 such forms are in compliance with the insurance law and any regulations
29 promulgated thereunder, may use the unapproved forms until the super-
30 intendent of insurance has either approved or disapproved the forms;

31 (4) with respect to viatical settlement transactions heretofore regu-
32 lated under the insurance law, a person licensed as a viatical settle-
33 ment company immediately prior to the effective date of this act, as
34 described in subdivision two of this section, shall not continue to
35 issue contract forms, application forms and other forms approved by the
36 superintendent of insurance prior to the effective date of this act,
37 after the effective date of this act. Any such person that has filed, no
38 later than thirty days prior to the effective date of this act, specimen
39 copies of the contract forms, application forms and other forms that it
40 intends to use, and that has certified to the superintendent of insur-
41 ance that such forms are in compliance with the insurance law and any
42 regulations promulgated thereunder, as of the effective date of this
43 act, may use such unapproved forms until the superintendent of insurance
44 has either approved or disapproved the forms;

45 (5) sections 7810, 7811 and 7815 of the insurance law, as added by
46 section eleven of this act, shall take effect immediately; and

47 (6) effective immediately, the superintendent of insurance may promul-
48 gate any rules and regulations necessary for the implementation of the
49 provisions of this act on its effective date.