

SENATE BILL No. 646

June 17, 2009, Introduced by Senators SANBORN, RICHARDVILLE, GILBERT, ALLEN, GLEASON, PATTERSON and VAN WOERKOM and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by amending the title, as amended by 2002
PA 304, and by adding chapter 43; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to revise, consolidate, and classify the laws relating
to the insurance and surety business; to regulate the incorporation
or formation of domestic insurance and surety companies and
associations and the admission of foreign and alien companies and
associations; to provide their rights, powers, and immunities and
to prescribe the conditions on which companies and associations
organized, existing, or authorized under this act may exercise

1 their powers; to provide the rights, powers, and immunities and to
2 prescribe the conditions on which other persons, firms,
3 corporations, associations, risk retention groups, and purchasing
4 groups engaged in an insurance or surety business may exercise
5 their powers; to provide for the imposition of a privilege fee on
6 domestic insurance companies and associations and the state
7 accident fund; to provide for the imposition of a tax on the
8 business of foreign and alien companies and associations; to
9 provide for the imposition of a tax on risk retention groups and
10 purchasing groups; to provide for the imposition of a tax on the
11 business of surplus line agents; to provide for the imposition of
12 regulatory fees on certain insurers; to provide for assessment fees
13 on certain health maintenance organizations; to modify tort
14 liability arising out of certain accidents; to provide for limited
15 actions with respect to that modified tort liability and to
16 prescribe certain procedures for maintaining those actions; to
17 require security for losses arising out of certain accidents; to
18 provide for the continued availability and affordability of
19 automobile insurance and homeowners insurance in this state and to
20 facilitate the purchase of that insurance by all residents of this
21 state at fair and reasonable rates; to provide for certain
22 reporting with respect to insurance and with respect to certain
23 claims against uninsured or self-insured persons; to prescribe
24 duties for certain state departments and officers with respect to
25 that reporting; to provide for certain assessments; to establish
26 and continue certain state insurance funds; to modify and clarify
27 the status, rights, powers, duties, and operations of the nonprofit

malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; **TO PROVIDE FOR THE REGULATION OF LIFE SETTLEMENT CONTRACTS;** to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act.

CHAPTER 43

LIFE SETTLEMENTS AND STRANGER-ORIGINATED LIFE INSURANCE

SEC. 4301. AS USED IN THIS CHAPTER:

(A) "ADMINISTRATIVE PROCEDURES ACT OF 1969" MEANS THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

(B) "ADVERTISEMENT" MEANS ANY WRITTEN, ELECTRONIC, OR PRINTED COMMUNICATION OR ANY COMMUNICATION BY MEANS OF RECORDED TELEPHONE

1 MESSAGES OR TRANSMITTED ON RADIO, TELEVISION, THE INTERNET, OR
2 SIMILAR COMMUNICATIONS MEDIA, INCLUDING FILM STRIPS, MOTION
3 PICTURES, AND VIDEOS, PUBLISHED, DISSEMINATED, CIRCULATED, OR
4 PLACED BEFORE THE PUBLIC, DIRECTLY OR INDIRECTLY, FOR THE PURPOSE
5 OF CREATING AN INTEREST IN OR INDUCING A PERSON TO PURCHASE OR
6 SELL, ASSIGN, DEVISE, BEQUEST, OR TRANSFER THE DEATH BENEFIT OR
7 OWNERSHIP OF A POLICY OR AN INTEREST IN A POLICY PURSUANT TO A LIFE
8 SETTLEMENT CONTRACT.

9 (C) "BROKER" MEANS A PERSON WHO, ON BEHALF OF AN OWNER, AND
10 FOR A FEE, COMMISSION, OR OTHER VALUABLE CONSIDERATION, OFFERS OR
11 ATTEMPTS TO NEGOTIATE LIFE SETTLEMENT CONTRACTS BETWEEN AN OWNER
12 AND PROVIDERS. A BROKER REPRESENTS ONLY THE OWNER AND OWES A
13 FIDUCIARY DUTY TO THE OWNER TO ACT ACCORDING TO THE OWNER'S
14 INSTRUCTIONS, AND IN THE BEST INTEREST OF THE OWNER,
15 NOTWITHSTANDING THE MANNER IN WHICH THE BROKER IS COMPENSATED. A
16 BROKER DOES NOT INCLUDE AN ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT,
17 OR FINANCIAL PLANNER RETAINED IN THE TYPE OF PRACTICE CUSTOMARILY
18 PERFORMED IN HIS OR HER PROFESSIONAL CAPACITY TO REPRESENT THE
19 OWNER WHOSE COMPENSATION IS NOT PAID DIRECTLY OR INDIRECTLY BY THE
20 PROVIDER OR ANY OTHER PERSON, EXCEPT THE OWNER.

21 (D) "BUSINESS OF LIFE SETTLEMENTS" MEANS AN ACTIVITY INVOLVED
22 IN, BUT NOT LIMITED TO, OFFERING TO ENTER INTO, SOLICITING,
23 NEGOTIATING, PROCURING, EFFECTUATING, MONITORING, OR TRACKING OF
24 LIFE SETTLEMENT CONTRACTS.

25 (E) "CHRONICALLY ILL" MEANS ANY OF THE FOLLOWING:

26 (i) BEING UNABLE TO PERFORM AT LEAST 2 ACTIVITIES OF DAILY
27 LIVING, INCLUDING, BUT NOT LIMITED TO, EATING, TOILETING,

1 TRANSFERRING, BATHING, DRESSING, OR CONTINENCE.

2 (ii) REQUIRING SUBSTANTIAL SUPERVISION TO PROTECT THE
3 INDIVIDUAL FROM THREATS TO HEALTH AND SAFETY DUE TO SEVERE
4 COGNITIVE IMPAIRMENT.

5 (F) "FINANCING ENTITY" MEANS AN UNDERWRITER, PLACEMENT AGENT,
6 LENDER, PURCHASER OF SECURITIES, PURCHASER OF A POLICY FROM A
7 PROVIDER, CREDIT ENHANCER, OR ANY OTHER PERSON, OTHER THAN A
8 NONACCREDITED INVESTOR OR PURCHASER, THAT HAS A DIRECT OWNERSHIP
9 INTEREST IN A POLICY THAT IS THE SUBJECT OF A LIFE SETTLEMENT
10 CONTRACT AND TO WHICH BOTH OF THE FOLLOWING APPLY:

11 (i) ITS PRINCIPAL ACTIVITY RELATED TO THE TRANSACTION IS
12 PROVIDING FUNDS TO EFFECT THE BUSINESS OF LIFE SETTLEMENT CONTRACTS
13 OR THE PURCHASE OF 1 OR MORE POLICIES.

14 (ii) IT HAS AN AGREEMENT IN WRITING WITH 1 OR MORE LICENSED
15 PROVIDERS TO FINANCE THE ACQUISITION OF LIFE SETTLEMENT CONTRACTS.

16 (G) "FINANCING TRANSACTION" MEANS A TRANSACTION IN WHICH A
17 LICENSED PROVIDER OBTAINS FINANCING FROM A FINANCING ENTITY,
18 INCLUDING, WITHOUT LIMITATION, ANY SECURED OR UNSECURED FINANCING,
19 ANY SECURITIZATION TRANSACTION, OR ANY SECURITIES OFFERING THAT IS
20 EITHER REGISTERED OR EXEMPT FROM REGISTRATION UNDER FEDERAL AND
21 STATE SECURITIES LAW.

22 (H) "FRAUDULENT LIFE SETTLEMENT ACT" INCLUDES ALL OF THE
23 FOLLOWING:

24 (i) ACTS OR OMISSIONS COMMITTED BY ANY PERSON WHO KNOWINGLY AND
25 WITH INTENT TO DEFRAUD, FOR THE PURPOSE OF DEPRIVING ANOTHER OF
26 PROPERTY OR FOR PECUNIARY GAIN, COMMITS OR PERMITS ITS EMPLOYEES OR
27 ITS AGENTS TO ENGAGE IN ACTS, INCLUDING, BUT NOT LIMITED TO, ALL OF

1 THE FOLLOWING:

2 (A) PRESENTING, CAUSING TO BE PRESENTED, OR PREPARING WITH
3 KNOWLEDGE AND BELIEF THAT IT WILL BE PRESENTED TO OR BY A PROVIDER,
4 PREMIUM FINANCE LENDER, BROKER, INSURER, INSURANCE PRODUCER, OR ANY
5 OTHER PERSON FALSE MATERIAL INFORMATION, OR CONCEALING MATERIAL
6 INFORMATION, AS PART OF, IN SUPPORT OF, OR CONCERNING A FACT
7 MATERIAL TO 1 OR MORE OF THE FOLLOWING:

8 (I) AN APPLICATION FOR THE ISSUANCE OF A LIFE SETTLEMENT
9 CONTRACT OR INSURANCE POLICY.

10 (II) THE UNDERWRITING OF A LIFE SETTLEMENT CONTRACT OR
11 INSURANCE POLICY.

12 (III) A CLAIM FOR PAYMENT OR BENEFIT PURSUANT TO A LIFE
13 SETTLEMENT CONTRACT OR INSURANCE POLICY.

14 (IV) PREMIUMS PAID ON AN INSURANCE POLICY.

15 (V) PAYMENTS AND CHANGES IN OWNERSHIP OR BENEFICIARY MADE IN
16 ACCORDANCE WITH THE TERMS OF A LIFE SETTLEMENT CONTRACT OR
17 INSURANCE POLICY.

18 (VI) THE REINSTATEMENT OR CONVERSION OF AN INSURANCE POLICY.

19 (VII) THE SOLICITATION OF, OFFER TO ENTER INTO, OR
20 EFFECTUATION OF A LIFE SETTLEMENT CONTRACT OR INSURANCE POLICY.

21 (VIII) THE ISSUANCE OF WRITTEN EVIDENCE OF LIFE SETTLEMENT
22 CONTRACTS OR INSURANCE.

23 (IX) ANY APPLICATION FOR, OR THE EXISTENCE OF OR ANY PAYMENTS
24 RELATED TO, A LOAN SECURED DIRECTLY OR INDIRECTLY BY ANY INTEREST
25 IN A LIFE INSURANCE POLICY.

26 (X) ENTER INTO ANY PRACTICE OR PLAN THAT INVOLVES STOLI.

27 (B) IF ASKED BY THE INSURER, FAILING TO DISCLOSE TO THE

1 INSURER THAT THE PROSPECTIVE INSURED HAS UNDERGONE A LIFE
2 EXPECTANCY EVALUATION BY ANY PERSON OR ENTITY OTHER THAN THE
3 INSURER OR ITS AUTHORIZED REPRESENTATIVES IN CONNECTION WITH THE
4 ISSUANCE OF THE POLICY.

5 (C) EMPLOYING ANY DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD IN
6 THE BUSINESS OF LIFE SETTLEMENTS.

7 (D) IN THE SOLICITATION, APPLICATION, OR ISSUANCE OF A LIFE
8 INSURANCE POLICY, EMPLOYING ANY DEVICE, SCHEME, OR ARTIFICE IN
9 VIOLATION OF STATE INSURABLE INTEREST LAWS.

10 (ii) ANY OF THE FOLLOWING THAT ANY PERSON DOES, OR PERMITS HIS
11 OR HER EMPLOYEES OR AGENTS TO DO, IN THE FURTHERANCE OF A FRAUD OR
12 TO PREVENT THE DETECTION OF A FRAUD:

13 (A) REMOVE, CONCEAL, ALTER, DESTROY, OR SEQUESTER FROM THE
14 COMMISSIONER THE ASSETS OR RECORDS OF A LICENSEE OR OTHER PERSON
15 ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS.

16 (B) MISREPRESENT OR CONCEAL THE FINANCIAL CONDITION OF A
17 LICENSEE, FINANCING ENTITY, INSURER, OR OTHER PERSON.

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

21 (D) FILE WITH THE COMMISSIONER OR THE CHIEF INSURANCE
22 REGULATORY OFFICIAL OF ANOTHER JURISDICTION A DOCUMENT CONTAINING
23 FALSE INFORMATION OR OTHERWISE CONCEALING INFORMATION ABOUT A
24 MATERIAL FACT FROM THE COMMISSIONER.

25 (E) ENGAGE IN EMBEZZLEMENT, THEFT, MISAPPROPRIATION, OR
26 CONVERSION OF MONEY, FUNDS, PREMIUMS, CREDITS, OR OTHER PROPERTY OF
27 A PROVIDER, INSURER, INSURED, OWNER, INSURANCE POLICYOWNER, OR ANY

1 OTHER PERSON ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS OR
2 INSURANCE.

3 (F) KNOWINGLY AND WITH INTENT TO DEFRAUD, ENTER INTO, BROKER,
4 OR OTHERWISE DEAL IN A LIFE SETTLEMENT CONTRACT, THE SUBJECT OF
5 WHICH IS A LIFE INSURANCE POLICY THAT WAS OBTAINED BY PRESENTING
6 FALSE INFORMATION CONCERNING ANY FACT MATERIAL TO THE POLICY OR BY
7 CONCEALING, FOR THE PURPOSE OF MISLEADING ANOTHER, INFORMATION
8 CONCERNING ANY FACT MATERIAL TO THE POLICY, WHERE THE OWNER OR THE
9 OWNER'S AGENT INTENDED TO DEFRAUD THE POLICY'S ISSUER.

10 (G) ATTEMPT TO COMMIT, ASSIST, AID, OR ABET IN THE COMMISSION
11 OF, OR CONSPIRACY TO COMMIT THE ACTS OR OMISSIONS SPECIFIED IN THIS
12 SUBDIVISION.

13 (H) MISREPRESENT THE STATE OF RESIDENCE OF AN OWNER TO BE A
14 STATE OR JURISDICTION THAT DOES NOT HAVE A LAW SUBSTANTIALLY
15 SIMILAR TO THIS CHAPTER FOR THE PURPOSE OF EVADING OR AVOIDING THE
16 PROVISIONS OF THIS CHAPTER.

17 (I) "FREEDOM OF INFORMATION ACT" MEANS THE FREEDOM OF
18 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

19 (J) "INSURED" MEANS THE PERSON COVERED UNDER THE POLICY BEING
20 CONSIDERED FOR SALE IN A LIFE SETTLEMENT CONTRACT.

21 (K) "LIFE EXPECTANCY" MEANS THE ARITHMETIC MEAN OF THE NUMBER
22 OF MONTHS THE INSURED UNDER THE POLICY TO BE SETTLED CAN BE
23 EXPECTED TO LIVE AS DETERMINED BY A LIFE EXPECTANCY COMPANY
24 CONSIDERING MEDICAL RECORDS AND APPROPRIATE EXPERIENTIAL DATA.

25 (L) "LIFE INSURANCE PRODUCER" OR "PRODUCER" MEANS ANY PERSON
26 LICENSED IN THIS STATE AS A RESIDENT OR NONRESIDENT LIFE OR LIMITED
27 LIFE INSURANCE PRODUCER PURSUANT TO CHAPTER 12.

(M) "LIFE SETTLEMENT CONTRACT", SUBJECT TO SECTION 4303, MEANS A WRITTEN AGREEMENT ENTERED INTO BETWEEN A PROVIDER AND AN OWNER, ESTABLISHING THE TERMS UNDER WHICH COMPENSATION OR ANYTHING OF VALUE WILL BE PAID, WHICH COMPENSATION OR THING OF VALUE IS LESS THAN THE EXPECTED DEATH BENEFIT OF THE POLICY, IN RETURN FOR THE OWNER'S ASSIGNMENT, TRANSFER, SALE, DEVISE, OR BEQUEST OF THE DEATH BENEFIT OR ANY PORTION OF THE POLICY FOR COMPENSATION; PROVIDED, HOWEVER, THAT THE MINIMUM VALUE FOR A LIFE SETTLEMENT CONTRACT SHALL BE GREATER THAN A CASH SURRENDER VALUE OR ACCELERATED DEATH BENEFIT AVAILABLE AT THE TIME OF AN APPLICATION FOR A LIFE SETTLEMENT CONTRACT. LIFE SETTLEMENT CONTRACT ALSO INCLUDES THE TRANSFER FOR COMPENSATION OR VALUE OF OWNERSHIP OR BENEFICIAL INTEREST IN A TRUST OR OTHER ENTITY THAT OWNS SUCH POLICY IF THE TRUST OR OTHER ENTITY WAS FORMED OR AVOIDED OF FOR THE PRINCIPAL PURPOSE OF ACQUIRING 1 OR MORE LIFE INSURANCE CONTRACTS, WHICH LIFE INSURANCE CONTRACT INSURES THE LIFE OF A PERSON RESIDING IN THIS STATE. A LIFE SETTLEMENT CONTRACT ALSO INCLUDES EITHER OF THE FOLLOWING:

(i) A WRITTEN AGREEMENT FOR A LOAN OR OTHER LENDING TRANSACTION, SECURED PRIMARILY BY AN INDIVIDUAL OR GROUP LIFE INSURANCE POLICY.

(ii) A PREMIUM FINANCE LOAN MADE FOR A POLICY ON OR BEFORE THE DATE OF ISSUANCE OF THE POLICY WHERE 1 OF THE FOLLOWING APPLIES:

(A) THE LOAN PROCEEDS ARE NOT USED SOLELY TO PAY PREMIUMS FOR THE POLICY AND ANY COSTS OR EXPENSES INCURRED BY THE LENDER OR THE BORROWER IN CONNECTION WITH THE FINANCING.

(B) THE OWNER RECEIVES ON THE DATE OF THE PREMIUM FINANCE LOAN

1 A GUARANTEE OF THE FUTURE LIFE SETTLEMENT VALUE OF THE POLICY.

2 (C) THE OWNER AGREES ON THE DATE OF THE PREMIUM FINANCE LOAN
3 TO SELL THE POLICY OR ANY PORTION OF ITS DEATH BENEFIT ON ANY DATE
4 FOLLOWING THE ISSUANCE OF THE POLICY.

5 (N) "OWNER" MEANS THE OWNER OF A POLICY OR A CERTIFICATE
6 HOLDER UNDER A GROUP POLICY, WITH OR WITHOUT A TERMINAL ILLNESS,
7 WHO ENTERS OR SEEKS TO ENTER INTO A LIFE SETTLEMENT CONTRACT. AN
8 OWNER IS NOT LIMITED TO AN OWNER OF A POLICY OR A CERTIFICATE
9 HOLDER UNDER A GROUP POLICY THAT INSURES THE LIFE OF AN INDIVIDUAL
10 WITH A TERMINAL OR CHRONIC ILLNESS OR CONDITION EXCEPT WHERE
11 SPECIFICALLY ADDRESSED. OWNER DOES NOT INCLUDE ANY OF THE
12 FOLLOWING:

13 (i) ANY PROVIDER OR OTHER LICENSEE UNDER THIS ACT.

14 (ii) A QUALIFIED INSTITUTIONAL BUYER AS DEFINED IN RULE 144A
15 PROMULGATED UNDER THE FEDERAL SECURITIES ACT OF 1933, 17 CFR
16 230.144A.

17 (iii) A FINANCING ENTITY.

18 (iv) A SPECIAL PURPOSE ENTITY.

19 (v) A RELATED PROVIDER TRUST.

20 (O) "POLICY" MEANS AN INDIVIDUAL OR GROUP POLICY, GROUP
21 CERTIFICATE, CONTRACT, OR ARRANGEMENT OF LIFE INSURANCE OWNED BY A
22 RESIDENT OF THIS STATE, REGARDLESS OF WHETHER DELIVERED OR ISSUED
23 FOR DELIVERY IN THIS STATE.

24 (P) "PREMIUM FINANCE LOAN" IS A LOAN MADE PRIMARILY FOR THE
25 PURPOSE OF MAKING PREMIUM PAYMENTS ON A POLICY, WHICH LOAN IS
26 SECURED BY AN INTEREST IN THE POLICY.

27 (Q) "PROVIDER" MEANS A PERSON, OTHER THAN AN OWNER, WHO ENTERS

1 INTO OR EFFECTUATES A LIFE SETTLEMENT CONTRACT WITH AN OWNER. A
2 PROVIDER DOES NOT INCLUDE ANY OF THE FOLLOWING:

3 (i) ANY BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR
4 CREDIT UNION.

5 (ii) A LICENSED LENDING INSTITUTION OR CREDITOR OR SECURED
6 PARTY PURSUANT TO A PREMIUM FINANCE LOAN AGREEMENT THAT TAKES AN
7 ASSIGNMENT OF A POLICY AS COLLATERAL FOR A LOAN.

8 (iii) THE INSURER OF A POLICY OR RIDER TO THE EXTENT OF
9 PROVIDING ACCELERATED DEATH BENEFITS OR RIDERS OR CASH SURRENDER
10 VALUE.

11 (iv) ANY NATURAL PERSON WHO ENTERS INTO OR EFFECTUATES NO MORE
12 THAN 1 AGREEMENT IN A CALENDAR YEAR FOR THE TRANSFER OF A POLICY,
13 FOR COMPENSATION OR ANYTHING OF VALUE LESS THAN THE EXPECTED DEATH
14 BENEFIT PAYABLE UNDER THE POLICY.

15 (v) A PURCHASER.

16 (vi) ANY AUTHORIZED OR ELIGIBLE INSURER THAT PROVIDES STOP LOSS
17 COVERAGE TO A PROVIDER, PURCHASER, FINANCING ENTITY, SPECIAL
18 PURPOSE ENTITY, OR RELATED PROVIDER TRUST.

19 (vii) A FINANCING ENTITY.

20 (viii) A SPECIAL PURPOSE ENTITY.

21 (ix) A RELATED PROVIDER TRUST.

22 (x) A BROKER.

23 (xi) AN ACCREDITED INVESTOR OR QUALIFIED INSTITUTIONAL BUYER AS
24 DEFINED RESPECTIVELY IN REGULATION D, RULE 501 OR RULE 144A
25 PROMULGATED UNDER THE SECURITIES ACT OF 1933, 17 CFR 230.501 TO
26 230.508 AND 17 CFR 230.144A, WHO PURCHASES A LIFE SETTLEMENT POLICY
27 FROM A PROVIDER.

1 (R) "PURCHASED POLICY" MEANS A POLICY THAT HAS BEEN ACQUIRED
2 BY A PROVIDER PURSUANT TO A LIFE SETTLEMENT CONTRACT.

3 (S) "PURCHASER" MEANS A PERSON WHO PAYS COMPENSATION OR
4 ANYTHING OF VALUE AS CONSIDERATION FOR A BENEFICIAL INTEREST IN A
5 TRUST THAT IS VESTED WITH, OR FOR THE ASSIGNMENT, TRANSFER, OR SALE
6 OF, AN OWNERSHIP OR OTHER INTEREST IN A POLICY THAT HAS BEEN THE
7 SUBJECT OF A LIFE SETTLEMENT CONTRACT.

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

20 (U) "SETTLED POLICY" MEANS A POLICY THAT HAS BEEN ACQUIRED BY
21 A PROVIDER PURSUANT TO A LIFE SETTLEMENT CONTRACT.

22 (V) "SPECIAL PURPOSE ENTITY" MEANS A CORPORATION, PARTNERSHIP,
23 TRUST, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY FORMED
24 SOLELY TO PROVIDE EITHER DIRECTLY OR INDIRECTLY ACCESS TO
25 INSTITUTIONAL CAPITAL MARKETS FOR A FINANCING ENTITY OR PROVIDER OR
26 IN CONNECTION WITH A TRANSACTION IN WHICH THE SECURITIES IN THE
27 SPECIAL PURPOSE ENTITY ARE ACQUIRED BY THE OWNER OR BY A "QUALIFIED

1 INSTITUTIONAL BUYER" AS DEFINED IN RULE 144 PROMULGATED UNDER THE
2 FEDERAL SECURITIES ACT OF 1933, 17 CFR 230.144, OR THE SECURITIES
3 PAY A FIXED RATE OF RETURN COMMENSURATE WITH ESTABLISHED ASSET-
4 BACKED INSTITUTIONAL CAPITAL MARKETS.

5 (W) "STRANGER-ORIGINATED LIFE INSURANCE" OR "STOLI" IS A
6 PRACTICE OR PLAN TO INITIATE A POLICY FOR THE BENEFIT OF A THIRD-
7 PARTY INVESTOR WHO, AT THE TIME OF POLICY ORIGINATION, HAS NO
8 INSURABLE INTEREST IN THE LIFE OF THE INSURED. STOLI PRACTICES
9 INCLUDE, BUT ARE NOT LIMITED TO, CASES IN WHICH LIFE INSURANCE IS
10 PURCHASED WITH RESOURCES OR GUARANTEES FROM OR THROUGH A PERSON OR
11 ENTITY, THAT, AT THE TIME OF POLICY INCEPTION, COULD NOT LAWFULLY
12 INITIATE THE POLICY HIMSELF, HERSELF, OR ITSELF, AND WHERE, AT THE
13 TIME OF INCEPTION, THERE IS AN ARRANGEMENT OR AGREEMENT, WHETHER
14 VERBAL OR IN WRITING, TO DIRECTLY OR INDIRECTLY TRANSFER THE
15 OWNERSHIP OF THE POLICY OR THE POLICY BENEFITS TO A THIRD PARTY.
16 TRUSTS THAT ARE CREATED TO GIVE THE APPEARANCE OF INSURABLE
17 INTEREST AND THAT ARE USED TO INITIATE POLICIES FOR INVESTORS
18 VIOLATE INSURABLE INTEREST LAWS AND THE PROHIBITION AGAINST
19 WAGERING ON LIFE. STOLI ARRANGEMENTS DO NOT INCLUDE THOSE PRACTICES
20 SET FORTH UNDER SECTION 4303.

21 (X) "TERMINALLY ILL" MEANS HAVING AN ILLNESS OR SICKNESS THAT
22 CAN REASONABLY BE EXPECTED TO RESULT IN DEATH IN 24 MONTHS OR LESS.

23 SEC. 4303. A LIFE SETTLEMENT CONTRACT DOES NOT INCLUDE ANY OF
24 THE FOLLOWING:

25 (A) A POLICY LOAN BY A LIFE INSURANCE COMPANY PURSUANT TO THE
26 TERMS OF THE POLICY OR ACCELERATED DEATH PROVISIONS CONTAINED IN
27 THE POLICY, WHETHER ISSUED WITH THE ORIGINAL POLICY OR AS A RIDER.

1 (B) A PREMIUM FINANCE LOAN OR ANY LOAN MADE BY A BANK OR OTHER
2 LICENSED FINANCIAL INSTITUTION, PROVIDED THAT NEITHER DEFAULT ON
3 SUCH LOAN NOR THE TRANSFER OF THE POLICY IN CONNECTION WITH SUCH
4 DEFAULT IS PURSUANT TO AN AGREEMENT OR UNDERSTANDING WITH ANY OTHER
5 PERSON FOR THE PURPOSE OF EVADING REGULATION UNDER THIS CHAPTER.

6 (C) A COLLATERAL ASSIGNMENT OF A POLICY BY AN OWNER.

7 (D) A LOAN MADE BY A LENDER THAT DOES NOT VIOLATE THIS ACT AND
8 IS NOT OTHERWISE WITHIN THE DEFINITION OF LIFE SETTLEMENT CONTRACT.

9 (E) AN AGREEMENT WHERE ALL OF THE PARTIES SATISFY 1 OF THE
10 FOLLOWING CONDITIONS:

11 (i) THEY ARE CLOSELY RELATED TO THE INSURED BY BLOOD OR LAW.

12 (ii) THEY HAVE A LAWFUL SUBSTANTIAL ECONOMIC INTEREST IN THE
13 CONTINUED LIFE, HEALTH, AND BODILY SAFETY OF THE PERSON INSURED OR
14 ARE TRUSTS ESTABLISHED PRIMARILY FOR THE BENEFIT OF THOSE PARTIES.

15 (F) ANY DESIGNATION, CONSENT, OR AGREEMENT BY AN INSURED WHO
16 IS AN EMPLOYEE OF AN EMPLOYER IN CONNECTION WITH THE PURCHASE BY
17 THE EMPLOYER, OR TRUST ESTABLISHED BY THE EMPLOYER, OF LIFE
18 INSURANCE ON THE LIFE OF THE EMPLOYEE.

19 (G) A BONA FIDE BUSINESS SUCCESSION PLANNING ARRANGEMENT AS
20 FOLLOWS:

21 (i) BETWEEN 1 OR MORE SHAREHOLDERS IN A CORPORATION OR BETWEEN
22 A CORPORATION AND 1 OR MORE OF ITS SHAREHOLDERS OR 1 OR MORE TRUSTS
23 ESTABLISHED BY ITS SHAREHOLDERS.

24 (ii) BETWEEN 1 OR MORE PARTNERS IN A PARTNERSHIP OR BETWEEN A
25 PARTNERSHIP AND 1 OR MORE OF ITS PARTNERS OR 1 OR MORE TRUSTS
26 ESTABLISHED BY ITS PARTNERS.

27 (iii) BETWEEN 1 OR MORE MEMBERS IN A LIMITED LIABILITY COMPANY

1 OR BETWEEN A LIMITED LIABILITY COMPANY AND 1 OR MORE OF ITS MEMBERS
2 OR 1 OR MORE TRUSTS ESTABLISHED BY ITS MEMBERS.

3 (H) AN AGREEMENT ENTERED INTO BY A SERVICE RECIPIENT, OR A
4 TRUST ESTABLISHED BY THE SERVICE RECIPIENT, AND A SERVICE PROVIDER,
5 OR A TRUST ESTABLISHED BY THE SERVICE PROVIDER, WHO PERFORMS
6 SIGNIFICANT SERVICES FOR THE SERVICE RECIPIENT'S TRADE OR BUSINESS.

7 (I) ANY OTHER CONTRACT, TRANSACTION, OR ARRANGEMENT FROM THE
8 DEFINITION OF "LIFE SETTLEMENT CONTRACT" THAT THE COMMISSIONER BY
9 RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
10 1969 DETERMINES IS NOT OF THE TYPE INTENDED TO BE REGULATED BY THIS
11 CHAPTER.

12 SEC. 4305. (1) A PERSON SHALL NOT OPERATE IN THIS STATE AS A
13 PROVIDER OR BROKER WITHOUT FIRST HAVING OBTAINED A LICENSE FROM THE
14 COMMISSIONER. THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE
15 EFFECTIVE DATE OF THIS CHAPTER.

16 (2) APPLICATION FOR A PROVIDER OR BROKER LICENSE SHALL BE MADE
17 TO THE COMMISSIONER BY THE APPLICANT ON A FORM PRESCRIBED BY THE
18 COMMISSIONER, AND THE APPLICATION SHALL BE ACCOMPANIED BY A FEE IN
19 AN AMOUNT ESTABLISHED BY THE COMMISSIONER, PROVIDED, HOWEVER, THAT
20 THE LICENSE AND RENEWAL FEES FOR A PROVIDER LICENSE SHALL BE
21 REASONABLE AND THAT THE LICENSE AND RENEWAL FEES FOR A BROKER
22 LICENSE SHALL NOT EXCEED THOSE ESTABLISHED FOR AN INSURANCE
23 PRODUCER.

24 (3) A LIFE INSURANCE PRODUCER WHO HAS BEEN DULY LICENSED AS A
25 RESIDENT INSURANCE PRODUCER WITH A LIFE LINE OF AUTHORITY IN THIS
26 STATE OR HIS OR HER HOME STATE FOR AT LEAST 1 YEAR AND IS LICENSED
27 AS A NONRESIDENT PRODUCER IN THIS STATE MEETS THE LICENSING

1 REQUIREMENTS OF THIS SECTION AND MAY OPERATE AS A BROKER WITHOUT
2 THE LICENSE REQUIRED UNDER THIS CHAPTER.

3 (4) NOT LATER THAN 30 DAYS FROM THE FIRST DAY OF OPERATING AS
4 A BROKER, THE LIFE INSURANCE PRODUCER SHALL NOTIFY THE COMMISSIONER
5 THAT HE OR SHE IS ACTING AS A BROKER ON A FORM PRESCRIBED BY THE
6 COMMISSIONER AND SHALL PAY ANY APPLICABLE FEE TO BE DETERMINED BY
7 THE COMMISSIONER. NOTIFICATION SHALL INCLUDE AN ACKNOWLEDGEMENT BY
8 THE LIFE INSURANCE PRODUCER THAT HE OR SHE WILL OPERATE AS A BROKER
9 IN ACCORDANCE WITH THIS CHAPTER.

10 (5) THE INSURER THAT ISSUED THE POLICY THAT IS THE SUBJECT OF
11 A LIFE SETTLEMENT CONTRACT IS NOT RESPONSIBLE FOR ANY ACT OR
12 OMISSION OF A BROKER OR PROVIDER OR PURCHASER ARISING OUT OF OR IN
13 CONNECTION WITH THE LIFE SETTLEMENT TRANSACTION, UNLESS THE INSURER
14 RECEIVES COMPENSATION FOR THE PLACEMENT OF A LIFE SETTLEMENT
15 CONTRACT FROM THE PROVIDER OR PURCHASER OR BROKER IN CONNECTION
16 WITH THE LIFE SETTLEMENT CONTRACT.

17 (6) A PERSON LICENSED AS AN ATTORNEY, CERTIFIED PUBLIC
18 ACCOUNTANT, OR FINANCIAL PLANNER ACCREDITED BY A NATIONALLY
19 RECOGNIZED ACCREDITATION AGENCY, WHO IS RETAINED TO REPRESENT THE
20 OWNER, AND WHOSE COMPENSATION IS NOT PAID DIRECTLY OR INDIRECTLY BY
21 THE PROVIDER OR PURCHASER, MAY NEGOTIATE A LIFE SETTLEMENT CONTRACT
22 ON BEHALF OF THE OWNER WITHOUT HAVING TO OBTAIN A LICENSE AS A
23 BROKER.

24 (7) THE TERM OF A PROVIDER LICENSE SHALL BE EQUAL TO THAT OF A
25 DOMESTIC STOCK LIFE INSURANCE COMPANY UNDER THIS ACT AND THE TERM
26 OF A BROKER LICENSE SHALL BE EQUAL TO THAT OF AN INSURANCE PRODUCER
27 LICENSE UNDER THIS ACT.

1 (8) LICENSES SHALL BE RENEWED BIENNIALY UPON PAYMENT OF A
2 PERIODIC RENEWAL FEE. FAILURE TO PAY THE FEE RESULTS IN THE
3 AUTOMATIC REVOCATION OF THE LICENSE.

4 (9) THE APPLICANT SHALL PROVIDE INFORMATION AS THE
5 COMMISSIONER MAY REQUIRE ON FORMS PREPARED BY THE COMMISSIONER. THE
6 COMMISSIONER MAY, AT ANY TIME, REQUIRE THE APPLICANT TO FULLY
7 DISCLOSE THE IDENTITY OF ITS STOCKHOLDERS, EXCEPT FOR STOCKHOLDERS
8 OWNING FEWER THAN 10% OF THE SHARES OF AN APPLICANT WHOSE SHARES
9 ARE PUBLICLY TRADED, PARTNERS, OFFICERS, AND EMPLOYEES. THE
10 COMMISSIONER MAY REFUSE TO ISSUE A LICENSE IN THE NAME OF ANY
11 PERSON IF NOT SATISFIED THAT ANY OFFICER, EMPLOYEE, STOCKHOLDER, OR
12 PARTNER WHO MAY MATERIALLY INFLUENCE THE APPLICANT'S CONDUCT MEETS
13 THE STANDARDS OF THIS CHAPTER.

14 (10) A LICENSE ISSUED TO A PARTNERSHIP, CORPORATION, OR OTHER
15 ENTITY AUTHORIZES ALL MEMBERS, OFFICERS, AND DESIGNATED EMPLOYEES
16 TO ACT AS A LICENSEE UNDER THE LICENSE, IF THOSE PERSONS ARE NAMED
17 IN THE APPLICATION AND ANY SUPPLEMENTS TO THE APPLICATION.

18 (11) UPON THE FILING OF AN APPLICATION UNDER THIS SECTION AND
19 THE PAYMENT OF THE LICENSE FEE, THE COMMISSIONER SHALL MAKE AN
20 INVESTIGATION OF THE APPLICANT AND MAY ISSUE TO THE APPLICANT A
21 LICENSE IF THE COMMISSIONER FINDS THAT ALL OF THE FOLLOWING APPLY
22 TO THE APPLICANT:

23 (A) REGARDING AN APPLICATION FOR A LICENSE AS A PROVIDER, THE
24 APPLICANT PROVIDES A DETAILED PLAN OF OPERATION.

25 (B) THE APPLICANT IS COMPETENT AND TRUSTWORTHY AND INTENDS TO
26 TRANSACT ITS BUSINESS IN GOOD FAITH.

27 (C) THE APPLICANT HAS A GOOD BUSINESS REPUTATION AND HAS HAD

1 EXPERIENCE, TRAINING, OR EDUCATION SO AS TO BE QUALIFIED TO ACT IN
2 THE CAPACITY OF A PROVIDER OR BROKER, AS APPLICABLE.

3 (D) IF THE APPLICANT IS A PERSON OTHER THAN AN INDIVIDUAL, IS
4 FORMED OR ORGANIZED PURSUANT TO THE LAWS OF THIS STATE OR IS A
5 FOREIGN LEGAL ENTITY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE
6 OR PROVIDES A CERTIFICATE OF GOOD STANDING FROM THE STATE OF ITS
7 ORGANIZATION.

8 (E) THE APPLICANT PROVIDES AN ANTIFRAUD PLAN THAT MEETS THE
9 REQUIREMENTS OF SECTION 4339.

10 (12) THE COMMISSIONER SHALL NOT ISSUE A LICENSE TO ANY
11 NONRESIDENT APPLICANT, UNLESS A WRITTEN DESIGNATION OF AN AGENT FOR
12 SERVICE OF PROCESS IS FILED AND MAINTAINED WITH THE COMMISSIONER OR
13 UNLESS THE APPLICANT HAS FILED WITH THE COMMISSIONER THE
14 APPLICANT'S WRITTEN IRREVOCABLE CONSENT THAT ANY ACTION AGAINST THE
15 APPLICANT MAY BE COMMENCED AGAINST THE APPLICANT BY SERVICE OF
16 PROCESS ON THE COMMISSIONER.

17 (13) EACH LICENSEE SHALL FILE WITH THE COMMISSIONER ON OR
18 BEFORE THE FIRST DAY OF MARCH OF EACH YEAR AN ANNUAL STATEMENT
19 CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY PRESCRIBE BY
20 RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
21 1969.

22 (14) A PROVIDER SHALL NOT USE ANY PERSON TO PERFORM THE
23 FUNCTIONS OF A BROKER UNLESS THE PERSON HOLDS A CURRENT, VALID
24 LICENSE AS A BROKER OR IS OTHERWISE AUTHORIZED TO ACT AS A BROKER
25 UNDER THIS CHAPTER.

26 (15) A BROKER SHALL NOT USE ANY PERSON TO PERFORM THE
27 FUNCTIONS OF A PROVIDER UNLESS SUCH PERSON HOLDS A CURRENT, VALID

1 LICENSE AS A PROVIDER.

2 (16) A PROVIDER OR BROKER SHALL PROVIDE TO THE COMMISSIONER
3 NEW OR REVISED INFORMATION ABOUT OFFICERS, 10% OR MORE
4 STOCKHOLDERS, PARTNERS, DIRECTORS, MEMBERS, OR DESIGNATED EMPLOYEES
5 WITHIN 30 DAYS OF THE CHANGE.

6 (17) AN INDIVIDUAL LICENSED AS A BROKER SHALL COMPLETE ON A
7 BIENNIAL BASIS 15 HOURS OF TRAINING RELATED TO LIFE SETTLEMENTS AND
8 LIFE SETTLEMENT TRANSACTIONS, AS REQUIRED BY THE COMMISSIONER. THIS
9 SUBSECTION DOES NOT APPLY TO A LIFE INSURANCE PRODUCER WHO IS
10 OPERATING AS A BROKER UNDER THIS SECTION.

11 SEC. 4307. (1) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE
12 TO RENEW THE LICENSE OF ANY LICENSEE IF THE COMMISSIONER FINDS ANY
13 OF THE FOLLOWING:

14 (A) THERE WAS ANY MATERIAL MISREPRESENTATION IN THE
15 APPLICATION FOR THE LICENSE.

16 (B) THE LICENSEE OR ANY OFFICER, PARTNER, MEMBER, OR DIRECTOR
17 HAS BEEN GUILTY OF FRAUDULENT OR DISHONEST PRACTICES, IS SUBJECT TO
18 A FINAL ADMINISTRATIVE ACTION, OR IS OTHERWISE SHOWN TO BE
19 UNTRUSTWORTHY OR INCOMPETENT TO ACT AS A LICENSEE.

20 (C) THE PROVIDER DEMONSTRATES A PATTERN OF UNREASONABLY
21 WITHHOLDING PAYMENTS TO POLICYOWNERS.

22 (D) THE LICENSEE NO LONGER MEETS THE REQUIREMENTS FOR INITIAL
23 LICENSURE.

24 (E) THE LICENSEE OR ANY OFFICER, PARTNER, MEMBER, OR DIRECTOR
25 HAS BEEN CONVICTED OF A FELONY, OR OF ANY MISDEMEANOR OF WHICH
26 CRIMINAL FRAUD IS AN ELEMENT; OR THE LICENSEE HAS PLEADED GUILTY OR
27 NO CONTEST TO ANY FELONY OR ANY MISDEMEANOR OF WHICH CRIMINAL FRAUD

1 OR MORAL TURPITUDE IS AN ELEMENT, REGARDLESS OF WHETHER A JUDGMENT
2 OF CONVICTION HAS BEEN ENTERED BY THE COURT.

3 (F) THE PROVIDER HAS ENTERED INTO ANY LIFE SETTLEMENT CONTRACT
4 THAT HAS NOT BEEN APPROVED PURSUANT TO THIS CHAPTER.

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

7 (H) THE PROVIDER HAS ASSIGNED, TRANSFERRED, OR PLEDGED A
8 SETTLED POLICY TO A PERSON OTHER THAN A PROVIDER LICENSED IN THIS
9 STATE, A PURCHASER, AN ACCREDITED INVESTOR, OR QUALIFIED
10 INSTITUTIONAL BUYER AS DEFINED RESPECTIVELY IN REGULATION D, RULE
11 501 OR RULE 144A AS PROMULGATED UNDER THE SECURITIES ACT OF 1933,
12 17 CFR 230.501 TO 230.508 AND 17 CFR 230.144A, FINANCING ENTITY,
13 SPECIAL PURPOSE ENTITY, OR RELATED PROVIDER TRUST.

14 (I) THE LICENSEE OR ANY OFFICER, PARTNER, MEMBER, OR KEY
15 MANAGEMENT PERSONNEL HAS VIOLATED ANY OF THE PROVISIONS OF THIS
16 CHAPTER.

17 (2) BEFORE THE COMMISSIONER DENIES A LICENSE APPLICATION OR
18 SUSPENDS, REVOKES, OR REFUSES TO RENEW THE LICENSE OF ANY LICENSEE
19 UNDER THIS CHAPTER, THE COMMISSIONER SHALL CONDUCT A HEARING IN
20 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF 1969.

21 SEC. 4309. (1) A PERSON SHALL NOT USE A LIFE SETTLEMENT
22 CONTRACT FORM OR PROVIDE A DISCLOSURE STATEMENT FORM IN THIS STATE
23 UNLESS THE LIFE SETTLEMENT CONTRACT FORM OR THE DISCLOSURE
24 STATEMENT FORM IS FILED WITH AND APPROVED BY THE COMMISSIONER IN A
25 MANNER THAT CONFORMS WITH THE FILING PROCEDURES AND TIME
26 RESTRICTIONS, IF ANY, FOR LIFE INSURANCE FORMS, POLICIES, AND
27 CONTRACTS.

1 (2) AN INSURER SHALL NOT, AS A CONDITION OF RESPONDING TO A
2 REQUEST FOR VERIFICATION OF COVERAGE OR IN CONNECTION WITH THE
3 TRANSFER OF A POLICY PURSUANT TO A LIFE SETTLEMENT CONTRACT,
4 REQUIRE THAT THE OWNER, INSURED, PROVIDER, OR BROKER SIGN ANY FORM,
5 DISCLOSURE, CONSENT, WAIVER, OR ACKNOWLEDGMENT THAT HAS NOT BEEN
6 EXPRESSLY APPROVED BY THE COMMISSIONER FOR USE IN CONNECTION WITH
7 LIFE SETTLEMENT CONTRACTS IN THIS STATE.

8 (3) THE COMMISSIONER SHALL DISAPPROVE A LIFE SETTLEMENT
9 CONTRACT FORM OR DISCLOSURE STATEMENT FORM IF, IN THE
10 COMMISSIONER'S OPINION, THE CONTRACT OR PROVISIONS CONTAINED IN THE
11 FORM FAIL TO MEET THE REQUIREMENTS OF THIS CHAPTER OR ARE
12 UNREASONABLE, CONTRARY TO THE INTERESTS OF THE PUBLIC, OR OTHERWISE
13 MISLEADING OR UNFAIR TO THE OWNER. AT THE COMMISSIONER'S
14 DISCRETION, THE COMMISSIONER MAY REQUIRE THE SUBMISSION OF
15 ADVERTISING MATERIAL FOR THE COMMISSIONER'S REVIEW AND APPROVAL.

16 SEC. 4311. (1) FOR ANY POLICY SETTLED WITHIN 5 YEARS OF POLICY
17 ISSUANCE, EACH PROVIDER SHALL FILE WITH THE COMMISSIONER ON OR
18 BEFORE MARCH 1 OF EACH YEAR AN ANNUAL STATEMENT CONTAINING SUCH
19 INFORMATION AS THE COMMISSIONER MAY PRESCRIBE BY ORDER. IN ADDITION
20 TO ANY OTHER REQUIREMENTS, THE ANNUAL STATEMENT SHALL SPECIFY THE
21 TOTAL NUMBER, AGGREGATE FACE AMOUNT, AND LIFE SETTLEMENT PROCEEDS
22 OF POLICIES SETTLED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR,
23 TOGETHER WITH A BREAKDOWN OF THE INFORMATION BY POLICY ISSUE YEAR.
24 THE ANNUAL STATEMENT SHALL ALSO INCLUDE THE NAMES OF THE INSURERS
25 WHOSE POLICIES HAVE BEEN SETTLED AND THE BROKERS THAT HAVE SETTLED
26 THE POLICIES. THE INFORMATION SHALL BE LIMITED TO ONLY THOSE
27 TRANSACTIONS WHERE THE INSURED IS A RESIDENT OF THIS STATE AND

1 SHALL NOT INCLUDE INDIVIDUAL TRANSACTION DATA REGARDING THE
2 BUSINESS OF LIFE SETTLEMENTS OR INFORMATION THAT THERE IS A
3 REASONABLE BASIS TO BELIEVE COULD BE USED TO IDENTIFY THE OWNER OR
4 THE INSURED. EVERY PROVIDER THAT WILLFULLY FAILS TO FILE AN ANNUAL
5 STATEMENT AS REQUIRED IN THIS SECTION, OR WILLFULLY FAILS TO REPLY
6 WITHIN 30 DAYS TO A WRITTEN INQUIRY BY THE COMMISSIONER CONCERNING
7 THE ANNUAL STATEMENT, IS SUBJECT, IN ADDITION TO OTHER PENALTIES
8 PROVIDED BY THIS CHAPTER, TO A PENALTY OF UP TO \$250.00 PER DAY OF
9 DELAY, NOT TO EXCEED \$25,000.00 FOR EACH SUCH FAILURE.

10 (2) EXCEPT AS OTHERWISE ALLOWED OR REQUIRED BY LAW, A
11 PROVIDER, BROKER, INSURER, PRODUCER, INFORMATION BUREAU, RATING
12 AGENCY OR COMPANY, OR ANY OTHER PERSON WITH ACTUAL KNOWLEDGE OF AN
13 INSURED'S IDENTITY SHALL NOT DISCLOSE THE IDENTITY OF AN INSURED OR
14 INFORMATION THAT THERE IS A REASONABLE BASIS TO BELIEVE COULD BE
15 USED TO IDENTIFY THE INSURED OR THE INSURED'S FINANCIAL OR MEDICAL
16 INFORMATION TO ANY OTHER PERSON UNLESS ANY 1 OR MORE OF THE
17 FOLLOWING APPLY:

18 (A) THE DISCLOSURE IS NECESSARY TO EFFECT A LIFE SETTLEMENT
19 CONTRACT BETWEEN THE OWNER AND A PROVIDER AND THE OWNER AND INSURED
20 HAVE PROVIDED PRIOR WRITTEN CONSENT TO THE DISCLOSURE.

21 (B) THE DISCLOSURE IS NECESSARY TO EFFECTUATE THE SALE OF LIFE
22 SETTLEMENT CONTRACTS, OR INTERESTS THEREIN, AS INVESTMENTS, AND
23 BOTH OF THE FOLLOWING APPLY:

24 (i) THE SALE IS CONDUCTED IN ACCORDANCE WITH APPLICABLE STATE
25 AND FEDERAL SECURITIES LAW.

26 (ii) THE OWNER AND THE INSURED HAVE BOTH PROVIDED PRIOR WRITTEN
27 CONSENT TO THE DISCLOSURE.

1 (C) THE DISCLOSURE IS PROVIDED IN RESPONSE TO AN INVESTIGATION
2 OR EXAMINATION UNDER THIS CHAPTER BY THE COMMISSIONER OR ANY OTHER
3 GOVERNMENTAL OFFICER OR AGENCY.

4 (D) THE DISCLOSURE IS A TERM OR CONDITION TO THE TRANSFER OF A
5 POLICY BY 1 PROVIDER TO ANOTHER PROVIDER, IN WHICH CASE THE
6 RECEIVING PROVIDER SHALL BE REQUIRED TO COMPLY WITH THE
7 CONFIDENTIALITY REQUIREMENTS OF THIS SUBSECTION.

8 (E) THE DISCLOSURE IS NECESSARY TO ALLOW THE PROVIDER OR
9 BROKER OR THEIR AUTHORIZED REPRESENTATIVES TO MAKE CONTACTS FOR THE
10 PURPOSE OF DETERMINING HEALTH STATUS. FOR THE PURPOSES OF THIS
11 SECTION, THE TERM "AUTHORIZED REPRESENTATIVE" DOES NOT INCLUDE ANY
12 PERSON WHO HAS OR MAY HAVE ANY FINANCIAL INTEREST IN THE SETTLEMENT
13 CONTRACT OTHER THAN A PROVIDER, LICENSED BROKER, FINANCING ENTITY,
14 RELATED PROVIDER TRUST, OR SPECIAL PURPOSE ENTITY. IN ADDITION, A
15 PROVIDER OR BROKER SHALL REQUIRE ITS AUTHORIZED REPRESENTATIVE TO
16 AGREE IN WRITING TO ADHERE TO THE PRIVACY PROVISIONS OF THIS
17 CHAPTER.

18 (F) THE DISCLOSURE IS REQUIRED TO PURCHASE STOP-LOSS COVERAGE.

19 (3) NONPUBLIC PERSONAL INFORMATION SOLICITED OR OBTAINED IN
20 CONNECTION WITH A PROPOSED OR ACTUAL LIFE SETTLEMENT CONTRACT IS
21 SUBJECT TO THE PROVISIONS APPLICABLE TO FINANCIAL INSTITUTIONS
22 UNDER THE FEDERAL GRAMM LEACH BLILEY ACT, PUBLIC LAW 106-102
23 (1999), AND ALL OTHER STATE AND FEDERAL LAWS RELATING TO
24 CONFIDENTIALITY OF NONPUBLIC PERSONAL INFORMATION.

25 SEC. 4313. (1) THE COMMISSIONER MAY, WHEN THE COMMISSIONER
26 CONSIDERS IT REASONABLY NECESSARY TO PROTECT THE INTERESTS OF THE
27 PUBLIC, EXAMINE THE BUSINESS AND AFFAIRS OF ANY LICENSEE OR

1 APPLICANT FOR A LICENSE UNDER THIS CHAPTER. THE COMMISSIONER MAY
2 ORDER ANY LICENSEE OR APPLICANT TO PRODUCE ANY RECORDS, BOOKS,
3 FILES, OR OTHER INFORMATION REASONABLY NECESSARY TO ASCERTAIN
4 WHETHER THE LICENSEE OR APPLICANT IS ACTING OR HAS ACTED IN
5 VIOLATION OF THE LAW OR OTHERWISE CONTRARY TO THE INTERESTS OF THE
6 PUBLIC. THE EXPENSES INCURRED IN CONDUCTING ANY EXAMINATION SHALL
7 BE PAID BY THE LICENSEE OR APPLICANT.

8 (2) INSTEAD OF AN EXAMINATION UNDER THIS CHAPTER OF ANY
9 FOREIGN OR ALIEN LICENSEE LICENSED IN THIS STATE, THE COMMISSIONER
10 MAY ACCEPT AN EXAMINATION REPORT ON THE LICENSEE AS PREPARED BY THE
11 COMMISSIONER FOR THE LICENSEE'S STATE OF DOMICILE OR PORT-OF-ENTRY
12 STATE.

13 (3) NAMES OF AND INDIVIDUAL IDENTIFICATION DATA FOR ALL OWNERS
14 AND INSUREDS ARE PRIVATE AND CONFIDENTIAL INFORMATION AND SHALL NOT
15 BE DISCLOSED BY THE COMMISSIONER UNLESS REQUIRED BY LAW.

16 (4) RECORDS OF ALL CONSUMMATED TRANSACTIONS AND LIFE
17 SETTLEMENT CONTRACTS SHALL BE MAINTAINED BY THE PROVIDER FOR 3
18 YEARS AFTER THE DEATH OF THE INSURED AND SHALL BE AVAILABLE TO THE
19 COMMISSIONER FOR INSPECTION DURING REASONABLE BUSINESS HOURS.

20 (5) UPON DETERMINING THAT AN EXAMINATION SHOULD BE CONDUCTED,
21 THE COMMISSIONER SHALL APPOINT 1 OR MORE EXAMINERS TO PERFORM THE
22 EXAMINATION AND INSTRUCT THEM AS TO THE SCOPE OF THE EXAMINATION.
23 IN CONDUCTING THE EXAMINATION, THE EXAMINER SHALL USE METHODS
24 COMMON TO THE EXAMINATION OF ANY LIFE SETTLEMENT LICENSEE.

25 (6) EVERY LICENSEE, OR PERSON FROM WHOM INFORMATION IS SOUGHT,
26 AND ALL OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OF ANY LICENSEE,
27 OR PERSON FROM WHOM INFORMATION IS SOUGHT, SHALL PROVIDE TO THE

1 EXAMINERS TIMELY, CONVENIENT, AND FREE ACCESS AT ALL REASONABLE
2 HOURS AT THE LICENSEE'S OR PERSON'S OFFICES TO ALL BOOKS, RECORDS,
3 ACCOUNTS, PAPERS, DOCUMENTS, ASSETS, AND COMPUTER OR OTHER
4 RECORDINGS RELATING TO THE PROPERTY, ASSETS, BUSINESS, AND AFFAIRS
5 OF THE LICENSEE BEING EXAMINED. THE OFFICERS, DIRECTORS, EMPLOYEES,
6 AND AGENTS OF THE LICENSEE OR PERSON SHALL FACILITATE THE
7 EXAMINATION AND AID IN THE EXAMINATION SO FAR AS IT IS IN THEIR
8 POWER TO DO SO. THE REFUSAL OF A LICENSEE, BY ITS OFFICERS,
9 DIRECTORS, EMPLOYEES, OR AGENTS, TO SUBMIT TO EXAMINATION OR TO
10 COMPLY WITH ANY REASONABLE WRITTEN REQUEST OF THE COMMISSIONER
11 SHALL BE GROUNDS FOR SUSPENSION, REVOCATION, DENIAL OF ISSUANCE, OR
12 NONRENEWAL OF ANY LICENSE HELD BY THE LICENSEE TO ENGAGE IN THE
13 BUSINESS OF LIFE SETTLEMENTS OR OTHER BUSINESS SUBJECT TO THE
14 COMMISSIONER'S JURISDICTION. ANY PROCEEDINGS FOR SUSPENSION,
15 REVOCATION, DENIAL, OR REFUSAL TO RENEW ANY LICENSE OR AUTHORITY
16 ARE SUBJECT TO THIS ACT.

17 (7) THE COMMISSIONER HAS THE POWER TO ISSUE SUBPOENAS, TO
18 ADMINISTER OATHS, AND TO EXAMINE UNDER OATH ANY PERSON AS TO ANY
19 MATTER PERTINENT TO THE EXAMINATION. UPON THE FAILURE OR REFUSAL OF
20 A PERSON TO OBEY A SUBPOENA, THE COMMISSIONER MAY PETITION A COURT
21 OF COMPETENT JURISDICTION, AND, UPON PROPER SHOWING, THE COURT MAY
22 ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR
23 PRODUCE DOCUMENTARY EVIDENCE.

24 (8) WHEN MAKING AN EXAMINATION UNDER THIS CHAPTER, THE
25 COMMISSIONER MAY RETAIN ATTORNEYS, APPRAISERS, INDEPENDENT
26 ACTUARIES, INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, OR OTHER
27 PROFESSIONALS AND SPECIALISTS AS EXAMINERS, AND THE LICENSEE THAT

1 IS THE SUBJECT OF THE EXAMINATION SHALL BEAR THE COST OF THOSE
2 EXAMINERS AS PROVIDED IN THIS SECTION.

3 (9) NOTHING IN THIS CHAPTER LIMITS THE COMMISSIONER'S
4 AUTHORITY TO TERMINATE OR SUSPEND AN EXAMINATION IN ORDER TO PURSUE
5 OTHER LEGAL OR REGULATORY ACTION PURSUANT TO THE INSURANCE LAWS OF
6 THIS STATE. FINDINGS OF FACT AND CONCLUSIONS MADE PURSUANT TO ANY
7 EXAMINATION SHALL BE PRIMA FACIE EVIDENCE IN ANY LEGAL OR
8 REGULATORY ACTION.

9 (10) NOTHING IN THIS CHAPTER LIMITS THE COMMISSIONER'S
10 AUTHORITY TO USE AND, IF APPROPRIATE, TO MAKE PUBLIC ANY FINAL OR
11 PRELIMINARY EXAMINATION REPORT, ANY EXAMINER OR LICENSEE WORKING
12 PAPERS OR OTHER DOCUMENTS, OR ANY OTHER INFORMATION DISCOVERED OR
13 DEVELOPED DURING THE COURSE OF ANY EXAMINATION IN THE FURTHERANCE
14 OF ANY LEGAL OR REGULATORY ACTION THAT THE COMMISSIONER CONSIDERS
15 APPROPRIATE.

16 SEC. 4315. (1) EXAMINATION REPORTS SHALL BE COMPOSED OF ONLY
17 FACTS APPEARING UPON THE BOOKS, FROM THE TESTIMONY OF ITS OFFICERS,
18 AGENTS, OR OTHER PERSONS EXAMINED CONCERNING ITS AFFAIRS, AND THE
19 CONCLUSIONS AND RECOMMENDATIONS THAT THE EXAMINERS FIND REASONABLY
20 WARRANTED FROM THE FACTS.

21 (2) NO LATER THAN 60 DAYS FOLLOWING COMPLETION OF THE
22 EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE
23 COMMISSIONER A VERIFIED WRITTEN REPORT OF EXAMINATION. UPON RECEIPT
24 OF THE VERIFIED REPORT, THE COMMISSIONER SHALL TRANSMIT THE REPORT
25 TO THE LICENSEE EXAMINED, TOGETHER WITH A NOTICE THAT SHALL AFFORD
26 THE LICENSEE EXAMINED A REASONABLE OPPORTUNITY OF NOT MORE THAN 30
27 DAYS FROM RECEIPT OF THE REPORT TO MAKE A WRITTEN SUBMISSION OR

1 REBUTTAL WITH RESPECT TO ANY MATTERS CONTAINED IN THE EXAMINATION
2 REPORT AND WHICH SHALL BECOME PART OF THE REPORT OR TO REQUEST A
3 HEARING ON ANY MATTER IN DISPUTE.

4 (3) IF THE COMMISSIONER DETERMINES THAT REGULATORY ACTION IS
5 APPROPRIATE AS A RESULT OF AN EXAMINATION, THE COMMISSIONER MAY
6 INITIATE ANY PROCEEDINGS OR ACTIONS PROVIDED BY LAW.

7 (4) NAMES AND INDIVIDUAL IDENTIFICATION DATA FOR ALL OWNERS,
8 PURCHASERS, AND INSUREDS SHALL BE CONSIDERED PRIVATE AND
9 CONFIDENTIAL INFORMATION AND SHALL NOT BE DISCLOSED BY THE
10 COMMISSIONER, UNLESS REQUIRED BY LAW.

11 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, ALL
12 EXAMINATION REPORTS, WORKING PAPERS, RECORDED INFORMATION,
13 DOCUMENTS, AND COPIES OF THOSE REPORTS, PAPERS, INFORMATION,
14 DOCUMENTS, AND COPIES PRODUCED BY, OBTAINED BY, OR DISCLOSED TO THE
15 COMMISSIONER OR TO ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION
16 MADE UNDER THIS CHAPTER, OR IN THE COURSE OF THE COMMISSIONER'S
17 ANALYSIS OR INVESTIGATION OF THE FINANCIAL CONDITION OR MARKET
18 CONDUCT OF A LICENSEE ARE CONFIDENTIAL BY LAW AND PRIVILEGED, ARE
19 NOT SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF
20 INFORMATION ACT, ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT SUBJECT
21 TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.
22 THE COMMISSIONER MAY USE THE DOCUMENTS, MATERIALS, OR OTHER
23 INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL ACTION
24 BROUGHT AS PART OF THE COMMISSIONER'S OFFICIAL DUTIES. THE LICENSEE
25 BEING EXAMINED SHALL HAVE ACCESS TO ALL DOCUMENTS USED TO MAKE THE
26 REPORT.

27 (6) THE COMMISSIONER SHALL NOT APPOINT AN EXAMINER IF THE

1 EXAMINER, EITHER DIRECTLY OR INDIRECTLY, HAS A CONFLICT OF INTEREST
2 OR IS AFFILIATED WITH THE MANAGEMENT OF, OR OWNS A PECUNIARY
3 INTEREST IN, ANY PERSON SUBJECT TO EXAMINATION UNDER THIS CHAPTER.
4 THIS DOES NOT AUTOMATICALLY PRECLUDE AN OWNER, AN INSURED IN A LIFE
5 SETTLEMENT POLICY, OR A BENEFICIARY IN A POLICY THAT IS PROPOSED
6 FOR A LIFE SETTLEMENT CONTRACT FROM BEING AN EXAMINER.

7 (7) NOTWITHSTANDING SUBSECTION (6), THE COMMISSIONER MAY
8 RETAIN FROM TIME TO TIME, ON AN INDIVIDUAL BASIS, QUALIFIED
9 ACTUARIES, CERTIFIED PUBLIC ACCOUNTANTS, OR OTHER SIMILAR
10 INDIVIDUALS WHO ARE INDEPENDENTLY PRACTICING THEIR PROFESSIONS,
11 EVEN THOUGH THESE PERSONS MAY FROM TIME TO TIME BE SIMILARLY
12 EMPLOYED OR RETAINED BY PERSONS SUBJECT TO EXAMINATION UNDER THIS
13 CHAPTER.

14 SEC. 4317. (1) NO CAUSE OF ACTION SHALL ARISE NOR SHALL ANY
15 LIABILITY BE IMPOSED AGAINST THE COMMISSIONER, ANY AUTHORIZED
16 REPRESENTATIVE OF THE COMMISSIONER, OR ANY EXAMINER APPOINTED BY
17 THE COMMISSIONER FOR ANY STATEMENTS MADE OR CONDUCT PERFORMED IN
18 GOOD FAITH WHILE CARRYING OUT THE PROVISIONS OF THIS CHAPTER.

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

1 DESCRIBED IN SUBSECTION (1) .

2 (3) A PERSON DESCRIBED IN SUBSECTION (1) OR (2) IS ENTITLED TO
3 AN AWARD OF ATTORNEY FEES AND COSTS IF THE PERSON IS THE PREVAILING
4 PARTY IN A CIVIL ACTION FOR LIBEL, SLANDER, OR ANY OTHER RELEVANT
5 TORT ARISING OUT OF ACTIVITIES IN CARRYING OUT THE PROVISIONS OF
6 THIS CHAPTER AND THE PARTY BRINGING THE ACTION WAS NOT
7 SUBSTANTIALLY JUSTIFIED IN BRINGING THE ACTION. FOR PURPOSES OF
8 THIS SECTION, AN ACTION IS "SUBSTANTIALLY JUSTIFIED" IF IT HAD A
9 REASONABLE BASIS IN LAW OR FACT AT THE TIME THAT IT WAS INITIATED.

10 SEC. 4319. THE COMMISSIONER MAY INVESTIGATE SUSPECTED
11 FRAUDULENT LIFE SETTLEMENT ACTS AND PERSONS ENGAGED IN THE BUSINESS
12 OF LIFE SETTLEMENTS.

13 SEC. 4321. (1) A BROKER AND PROVIDER LICENSED PURSUANT TO THIS
14 CHAPTER MAY CONDUCT OR PARTICIPATE IN ADVERTISEMENTS WITHIN THIS
15 STATE. THE ADVERTISEMENTS SHALL COMPLY WITH ALL STATE ADVERTISING
16 AND MARKETING LAWS OR RULES AND RULES PROMULGATED BY THE
17 COMMISSIONER PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
18 THAT ARE APPLICABLE TO LIFE INSURERS OR TO BROKERS AND PROVIDERS
19 LICENSED PURSUANT TO THIS CHAPTER.

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

22 (3) A PERSON OR TRUST SHALL NOT DIRECTLY OR INDIRECTLY,
23 MARKET, ADVERTISE, SOLICIT, OR OTHERWISE PROMOTE THE PURCHASE OF A
24 POLICY FOR THE SOLE PURPOSE OF OR WITH AN EMPHASIS ON SETTLING THE
25 POLICY, OR USE THE WORDS "FREE", "NO COST", OR WORDS OF SIMILAR
26 IMPORT IN THE MARKETING, ADVERTISING, SOLICITING, OR OTHERWISE
27 PROMOTING OF THE PURCHASE OF A POLICY.

1 SEC. 4323. (1) THE PROVIDER SHALL PROVIDE IN WRITING, IN A
2 SEPARATE DOCUMENT THAT IS SIGNED BY THE OWNER AND PROVIDER, ALL OF
3 THE FOLLOWING INFORMATION TO THE OWNER NO LATER THAN THE DATE THE
4 LIFE SETTLEMENT CONTRACT IS SIGNED BY ALL PARTIES:

5 (A) THAT THERE ARE POSSIBLE ALTERNATIVES TO LIFE SETTLEMENT
6 CONTRACTS, INCLUDING, BUT NOT LIMITED TO, ANY ACCELERATED DEATH
7 BENEFITS OFFERED BY THE ISSUER OF THE POLICY.

8 (B) THAT SOME OR ALL OF THE PROCEEDS OF THE LIFE SETTLEMENT
9 CONTRACT MAY BE SUBJECT TO FEDERAL INCOME TAXATION AND STATE
10 TAXATION, AND THAT ASSISTANCE SHOULD BE SOUGHT FROM A PROFESSIONAL
11 TAX ADVISOR.

12 (C) THAT THE PROCEEDS OF THE LIFE SETTLEMENT CONTRACT COULD BE
13 SUBJECT TO THE CLAIMS OF CREDITORS.

14 (D) THAT RECEIPT OF THE PROCEEDS OF THE LIFE SETTLEMENT
15 CONTRACT MAY ADVERSELY AFFECT THE RECIPIENT'S ELIGIBILITY FOR
16 MEDICAL ASSISTANCE OR OTHER GOVERNMENT BENEFITS OR ENTITLEMENTS,
17 AND THAT ADVICE SHOULD BE OBTAINED FROM THE APPROPRIATE GOVERNMENT
18 AGENCIES.

19 (E) THAT THE OWNER HAS A RIGHT TO RESCIND THE LIFE SETTLEMENT
20 CONTRACT FOR AT LEAST 15 CALENDAR DAYS AFTER THE DATE IT IS
21 EXECUTED BY ALL PARTIES AND THE OWNER HAS RECEIVED THE DISCLOSURES
22 CONTAINED IN THIS SECTION. RESCISSION, IF EXERCISED BY THE OWNER,
23 IS EFFECTIVE ONLY IF BOTH NOTICE OF THE RESCISSION IS GIVEN AND THE
24 OWNER REPAYS ALL PROCEEDS AND ANY PREMIUMS, LOANS, AND LOAN
25 INTEREST PAID ON ACCOUNT OF THE PROVIDER WITHIN THE RESCISSION
26 PERIOD. IF THE INSURED DIES DURING THE RESCISSION PERIOD, THE LIFE
27 SETTLEMENT CONTRACT SHALL BE CONSIDERED RESCINDED, SUBJECT TO

1 REPAYMENT OF ALL LIFE SETTLEMENT PROCEEDS TO THE LIFE SETTLEMENT
2 COMPANY.

3 (F) THAT FUNDS WILL BE SENT TO THE OWNER WITHIN 3 BUSINESS
4 DAYS AFTER THE PROVIDER HAS RECEIVED WRITTEN ACKNOWLEDGMENT FROM
5 THE INSURER OR GROUP ADMINISTRATOR THAT OWNERSHIP OF THE POLICY OR
6 INTEREST IN THE CERTIFICATE HAS BEEN TRANSFERRED AND THAT THE
7 BENEFICIARY HAS BEEN DESIGNATED PURSUANT TO THE LIFE SETTLEMENT
8 CONTRACT.

9 (G) THAT ENTERING INTO A LIFE SETTLEMENT CONTRACT MAY CAUSE
10 OTHER RIGHTS OR BENEFITS, INCLUDING CONVERSION RIGHTS AND WAIVER OF
11 PREMIUM BENEFITS THAT MAY EXIST UNDER THE POLICY, TO BE FORFEITED
12 BY THE OWNER AND THAT ASSISTANCE SHOULD BE SOUGHT FROM A FINANCIAL
13 ADVISOR.

14 (H) THE AMOUNT AND METHOD OF CALCULATING THE COMPENSATION PAID
15 OR TO BE PAID TO THE BROKER, OR ANY OTHER PERSON ACTING FOR THE
16 OWNER IN CONNECTION WITH THE TRANSACTION. AS USED IN THIS
17 SUBDIVISION "COMPENSATION" MEANS ANYTHING OF VALUE PAID OR GIVEN.

18 (I) THE DATE BY WHICH THE FUNDS WILL BE AVAILABLE TO THE OWNER
19 AND THE TRANSMITTER OF THE FUNDS.

20 (2) THE DISCLOSURE DOCUMENT UNDER SUBSECTION (1) SHALL CONTAIN
21 THE FOLLOWING LANGUAGE:

22 "ALL MEDICAL, FINANCIAL, OR PERSONAL INFORMATION SOLICITED OR
23 OBTAINED BY A PROVIDER OR BROKER ABOUT AN INSURED, INCLUDING THE
24 INSURED'S IDENTITY OR THE IDENTITY OF FAMILY MEMBERS, A SPOUSE, OR
25 A SIGNIFICANT OTHER MAY BE DISCLOSED AS NECESSARY TO EFFECT THE
26 LIFE SETTLEMENT CONTRACT BETWEEN THE OWNER AND THE PROVIDER. IF YOU
27 ARE ASKED TO PROVIDE THIS INFORMATION, YOU WILL BE ASKED TO CONSENT

1 TO THE DISCLOSURE. THE INFORMATION MAY BE PROVIDED TO SOMEONE WHO
2 BUYS THE POLICY OR PROVIDES FUNDS FOR THE PURCHASE. YOU MAY BE
3 ASKED TO RENEW YOUR PERMISSION TO SHARE INFORMATION EVERY 2
4 YEARS."

5 (3) THE PROVIDER SHALL PROVIDE TO AN OWNER DURING THE
6 SOLICITATION PROCESS A BUYER'S GUIDE OR SIMILAR CONSUMER ADVISORY
7 BROCHURE DESCRIBING THE PROCESS OF LIFE SETTLEMENTS.

8 (4) THE COMMISSIONER SHALL REQUIRE PROVIDERS AND BROKERS TO
9 PRINT SEPARATE SIGNED FRAUD WARNINGS ON THEIR APPLICATIONS AND ON
10 THEIR LIFE SETTLEMENT CONTRACTS THAT READ AS FOLLOWS:

11 "ANY PERSON WHO KNOWINGLY PRESENTS FALSE INFORMATION IN AN
12 APPLICATION FOR INSURANCE OR LIFE SETTLEMENT CONTRACT IS GUILTY OF
13 A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON."

14 (5) THE INSURED MAY BE CONTACTED BY EITHER THE PROVIDER OR
15 BROKER OR ITS AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF
16 DETERMINING THE INSURED'S HEALTH STATUS OR TO VERIFY THE INSURED'S
17 ADDRESS. THIS CONTACT IS LIMITED TO ONCE EVERY 3 MONTHS IF THE
18 INSURED HAS A LIFE EXPECTANCY OF MORE THAN 1 YEAR, AND NO MORE THAN
19 ONCE PER MONTH IF THE INSURED HAS A LIFE EXPECTANCY OF 1 YEAR OR
20 LESS.

21 (6) A PROVIDER SHALL DISCLOSE AT LEAST THE FOLLOWING TO AN
22 OWNER PRIOR TO THE DATE THE LIFE SETTLEMENT CONTRACT IS SIGNED BY
23 ALL THE NECESSARY PARTIES:

24 (A) THE AFFILIATION, IF ANY, BETWEEN THE PROVIDER AND THE
25 ISSUER OF THE POLICY TO BE SETTLED.

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

1 (C) THAT A BROKER REPRESENTS EXCLUSIVELY THE OWNER, AND NOT
2 THE INSURER OR THE PROVIDER OR ANY OTHER PERSON, AND OWES A
3 FIDUCIARY DUTY TO THE OWNER, INCLUDING A DUTY TO ACT ACCORDING TO
4 THE OWNER'S INSTRUCTIONS AND IN THE BEST INTEREST OF THE OWNER.

5 (D) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE
6 INDEPENDENT THIRD-PARTY ESCROW AGENT, AND THE FACT THAT THE OWNER
7 MAY INSPECT OR RECEIVE COPIES OF THE RELEVANT ESCROW OR TRUST
8 AGREEMENTS OR DOCUMENTS.

9 (E) THE FACT THAT A CHANGE OF OWNERSHIP COULD IN THE FUTURE
10 LIMIT THE INSURED'S ABILITY TO PURCHASE FUTURE INSURANCE ON THE
11 INSURED'S LIFE BECAUSE THERE IS A LIMIT TO HOW MUCH COVERAGE
12 INSURERS WILL ISSUE ON 1 LIFE.

13 (7) THE WRITTEN DISCLOSURES UNDER SUBSECTION (6) SHALL BE
14 CONSPICUOUSLY DISPLAYED IN ANY LIFE SETTLEMENT CONTRACT FURNISHED
15 TO THE OWNER BY A PROVIDER INCLUDING ANY AFFILIATIONS OR
16 CONTRACTUAL ARRANGEMENTS BETWEEN THE PROVIDER AND THE BROKER.

17 (8) THE BROKER SHALL DISCLOSE AT LEAST THE FOLLOWING TO AN
18 OWNER PRIOR TO THE EXECUTION OF THE LIFE SETTLEMENT CONTRACT AND
19 THE DISCLOSURES SHALL BE CONSPICUOUSLY DISPLAYED IN THE CONTRACT OR
20 IN A SEPARATE DOCUMENT SIGNED BY THE OWNER:

21 (A) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF THE
22 BROKER.

23 (B) A FULL, COMPLETE, AND ACCURATE DESCRIPTION OF ALL OFFERS,
24 COUNTEROFFERS, ACCEPTANCES, AND REJECTIONS RELATING TO THE PROPOSED
25 LIFE SETTLEMENT CONTRACT.

26 (C) ANY AFFILIATIONS OR CONTRACTUAL AGREEMENTS BETWEEN THE
27 BROKER AND ANY PERSON MAKING AN OFFER IN CONNECTION WITH THE

1 PROPOSED LIFE SETTLEMENT CONTRACT.

2 (D) THE AMOUNT OF EACH BROKER'S COMPENSATION, WHICH
3 COMPENSATION INCLUDES ANYTHING OF VALUE PAID OR GIVEN TO THE BROKER
4 IN CONNECTION WITH THE LIFE SETTLEMENT CONTRACT.

5 (E) A COMPLETE RECONCILIATION OF THE GROSS OFFER OR BID BY THE
6 PROVIDER TO THE NET AMOUNT OF PROCEEDS OR VALUE TO BE RECEIVED BY
7 THE OWNER. FOR THE PURPOSE OF THIS SECTION, "GROSS OFFER OR BID"
8 MEANS THE TOTAL AMOUNT OR VALUE OFFERED BY THE PROVIDER FOR THE
9 PURCHASE OF 1 OR MORE POLICIES, INCLUSIVE OF COMMISSIONS AND FEES.

10 SEC. 4325. (1) WITHOUT LIMITING THE ABILITY OF AN INSURER FROM
11 ASSESSING THE INSURABILITY OF A POLICY APPLICANT AND DETERMINING
12 WHETHER OR NOT TO ISSUE THE POLICY, AND IN ADDITION TO OTHER
13 QUESTIONS AN INSURER MAY LAWFULLY POSE TO A LIFE INSURANCE
14 APPLICANT, INSURERS MAY INQUIRE IN THE APPLICATION FOR INSURANCE
15 WHETHER THE PROPOSED OWNER INTENDS TO PAY PREMIUMS WITH THE
16 ASSISTANCE OF FINANCING FROM A LENDER THAT WILL USE THE POLICY AS
17 COLLATERAL TO SUPPORT THE FINANCING.

18 (2) IF THE LOAN PROVIDES FUNDS THAT CAN BE USED FOR A PURPOSE
19 OTHER THAN PAYING FOR THE PREMIUMS, COSTS, AND EXPENSES ASSOCIATED
20 WITH OBTAINING AND MAINTAINING THE POLICY AND LOAN, THE APPLICATION
21 SHALL BE REJECTED AS A VIOLATION OF SECTION 4331.

22 (3) IF THE FINANCING DOES NOT VIOLATE SECTION 4331, THE
23 INSURANCE CARRIER MAY DO BOTH OF THE FOLLOWING:

24 (A) MAKE DISCLOSURES, INCLUDING, BUT NOT LIMITED TO, THE
25 FOLLOWING, TO THE APPLICANT AND THE INSURED, EITHER ON THE
26 APPLICATION OR ON AN AMENDMENT TO THE APPLICATION TO BE COMPLETED
27 NO LATER THAN THE DELIVERY OF THE POLICY:

1 "IF YOU HAVE ENTERED INTO A LOAN ARRANGEMENT WHERE THE POLICY
2 IS USED AS COLLATERAL, AND THE POLICY DOES CHANGE OWNERSHIP AT SOME
3 POINT IN THE FUTURE IN SATISFACTION OF THE LOAN, ALL OF THE
4 FOLLOWING MAY BE TRUE:

5 (i) A CHANGE OF OWNERSHIP COULD LEAD TO A STRANGER OWNING AN
6 INTEREST IN THE INSURED'S LIFE.

7 (ii) A CHANGE OF OWNERSHIP COULD IN THE FUTURE LIMIT YOUR
8 ABILITY TO PURCHASE FUTURE INSURANCE ON THE INSURED'S LIFE BECAUSE
9 THERE IS A LIMIT TO HOW MUCH COVERAGE INSURERS WILL ISSUE ON 1
10 LIFE.

11 (iii) SHOULD THERE BE A CHANGE OF OWNERSHIP AND YOU WISH TO
12 OBTAIN MORE INSURANCE COVERAGE ON THE INSURED'S LIFE IN THE FUTURE,
13 THE INSURED'S HIGHER ISSUE AGE, A CHANGE IN HEALTH STATUS, OR OTHER
14 FACTORS MAY REDUCE THE ABILITY TO OBTAIN COVERAGE OR MAY RESULT IN
15 SIGNIFICANTLY HIGHER PREMIUMS.

16 (iv) YOU SHOULD CONSULT A PROFESSIONAL TAX ADVISOR, SINCE A
17 CHANGE IN OWNERSHIP IN SATISFACTION OF THE LOAN MAY RESULT IN TAX
18 CONSEQUENCES TO THE OWNER, DEPENDING ON THE STRUCTURE OF THE
19 LOAN."

20 (B) REQUIRE CERTIFICATIONS, INCLUDING ANY OF THE FOLLOWING,
21 FROM THE APPLICANT OR THE INSURED:

22 (i) I HAVE NOT ENTERED INTO ANY AGREEMENT OR ARRANGEMENT
23 PROVIDING FOR THE FUTURE SALE OF THIS POLICY.

24 (ii) MY LOAN ARRANGEMENT FOR THIS POLICY PROVIDES FUNDS
25 SUFFICIENT TO PAY FOR SOME OR ALL OF THE PREMIUMS, COSTS, AND
26 EXPENSES ASSOCIATED WITH OBTAINING AND MAINTAINING MY POLICY, BUT I
27 HAVE NOT ENTERED INTO ANY AGREEMENT BY WHICH I AM TO RECEIVE

1 CONSIDERATION IN EXCHANGE FOR PROCURING THIS POLICY.

2 (iii) THE BORROWER HAS AN INSURABLE INTEREST IN THE INSURED.

3 SEC. 4327. (1) A PROVIDER ENTERING INTO A LIFE SETTLEMENT
4 CONTRACT WITH ANY OWNER OF A POLICY, WHEREIN THE INSURED IS
5 TERMINALLY OR CHRONICALLY ILL, SHALL FIRST OBTAIN BOTH OF THE
6 FOLLOWING:

7 (A) IF THE OWNER IS THE INSURED, A WRITTEN STATEMENT FROM A
8 LICENSED ATTENDING PHYSICIAN THAT THE OWNER IS OF SOUND MIND AND
9 UNDER NO CONSTRAINT OR UNDUE INFLUENCE TO ENTER INTO A LIFE
10 SETTLEMENT CONTRACT.

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

16 (2) THE INSURER SHALL RESPOND TO A REQUEST FOR VERIFICATION OF
17 COVERAGE SUBMITTED BY A PROVIDER, BROKER, OR LIFE INSURANCE
18 PRODUCER NOT LATER THAN 30 CALENDAR DAYS AFTER THE DATE THE REQUEST
19 IS RECEIVED. THE REQUEST FOR VERIFICATION OF COVERAGE SHALL BE MADE
20 ON A FORM APPROVED BY THE COMMISSIONER. THE INSURER SHALL COMPLETE
21 AND ISSUE THE VERIFICATION OF COVERAGE OR INDICATE IN WHICH
22 RESPECTS IT IS UNABLE TO RESPOND. IN ITS RESPONSE, THE INSURER
23 SHALL INDICATE WHETHER, BASED ON THE MEDICAL EVIDENCE AND DOCUMENTS
24 PROVIDED, THE INSURER INTENDS TO PURSUE AN INVESTIGATION AT THIS
25 TIME REGARDING THE VALIDITY OF THE POLICY.

26 (3) BEFORE OR AT THE TIME OF EXECUTION OF THE LIFE SETTLEMENT
27 CONTRACT, THE PROVIDER SHALL OBTAIN A WITNESSED DOCUMENT IN WHICH

1 THE OWNER CONSENTS TO THE LIFE SETTLEMENT CONTRACT, REPRESENTS THAT
2 THE OWNER HAS A FULL AND COMPLETE UNDERSTANDING OF THE LIFE
3 SETTLEMENT CONTRACT, THAT THE OWNER HAS A FULL AND COMPLETE
4 UNDERSTANDING OF THE BENEFITS OF THE POLICY, ACKNOWLEDGES THAT THE
5 OWNER IS ENTERING INTO THE LIFE SETTLEMENT CONTRACT FREELY AND
6 VOLUNTARILY, AND, FOR PERSONS WITH A TERMINAL OR CHRONIC ILLNESS OR
7 CONDITION, ACKNOWLEDGES THAT THE INSURED HAS A TERMINAL OR CHRONIC
8 ILLNESS AND THAT THE TERMINAL OR CHRONIC ILLNESS OR CONDITION WAS
9 DIAGNOSED AFTER THE POLICY WAS ISSUED.

10 (4) THE INSURER SHALL NOT UNREASONABLY DELAY EFFECTING CHANGE
11 OF OWNERSHIP OR BENEFICIARY WITH ANY LIFE SETTLEMENT CONTRACT
12 LAWFULLY ENTERED INTO IN THIS STATE OR WITH A RESIDENT OF THIS
13 STATE.

14 (5) IF A BROKER OR INSURANCE PRODUCER PERFORMS ANY OF THESE
15 ACTIVITIES REQUIRED OF THE PROVIDER, THE PROVIDER IS CONSIDERED TO
16 HAVE FULFILLED THE REQUIREMENTS OF THIS SECTION.

17 (6) WITHIN 20 DAYS AFTER AN OWNER EXECUTES THE LIFE SETTLEMENT
18 CONTRACT, THE PROVIDER SHALL GIVE WRITTEN NOTICE TO THE INSURER
19 THAT ISSUED THAT POLICY THAT THE POLICY HAS BECOME SUBJECT TO A
20 LIFE SETTLEMENT CONTRACT.

21 (7) ALL MEDICAL INFORMATION SOLICITED OR OBTAINED BY ANY
22 LICENSEE IS SUBJECT TO ALL APPLICABLE PROVISIONS OF STATE LAW
23 RELATING TO CONFIDENTIALITY OF MEDICAL INFORMATION, IF NOT
24 OTHERWISE PROVIDED IN THIS CHAPTER.

25 (8) ALL LIFE SETTLEMENT CONTRACTS ENTERED INTO IN THIS STATE
26 SHALL PROVIDE THAT THE OWNER MAY RESCIND THE CONTRACT ON OR BEFORE
27 15 DAYS AFTER THE DATE IT IS EXECUTED BY ALL PARTIES. RESCISSION,

1 IF EXERCISED BY THE OWNER, IS EFFECTIVE ONLY IF BOTH NOTICE OF THE
2 RESCISSION IS GIVEN AND THE OWNER REPAYS ALL PROCEEDS AND ANY
3 PREMIUMS, LOANS, AND LOAN INTEREST PAID ON ACCOUNT OF THE PROVIDER
4 WITHIN THE RESCISSION PERIOD. IF THE INSURED DIES DURING THE
5 RESCISSION PERIOD, THE CONTRACT SHALL BE CONSIDERED RESCINDED
6 SUBJECT TO REPAYMENT BY THE OWNER OR THE OWNER'S ESTATE OF ALL
7 PROCEEDS AND ANY PREMIUMS, LOANS, AND LOAN INTEREST TO THE
8 PROVIDER.

9 (9) NOT LATER THAN 3 BUSINESS DAYS AFTER RECEIPT FROM THE
10 OWNER OF DOCUMENTS TO EFFECT THE TRANSFER OF THE POLICY, THE
11 PROVIDER SHALL PAY THE PROCEEDS OF THE SETTLEMENT TO AN ESCROW OR
12 TRUST ACCOUNT MANAGED BY A TRUSTEE OR ESCROW AGENT IN A STATE OR
13 FEDERALLY CHARTERED FINANCIAL INSTITUTION PENDING ACKNOWLEDGEMENT
14 OF THE TRANSFER BY THE ISSUER OF THE POLICY. THE TRUSTEE OR ESCROW
15 AGENT SHALL BE REQUIRED TO TRANSFER THE PROCEEDS DUE TO THE OWNER
16 WITHIN 3 BUSINESS DAYS OF ACKNOWLEDGEMENT OF THE TRANSFER FROM THE
17 INSURER.

18 (10) FAILURE TO TENDER THE LIFE SETTLEMENT CONTRACT PROCEEDS
19 TO THE OWNER BY THE DATE DISCLOSED TO THE OWNER RENDERS THE
20 CONTRACT VOIDABLE BY THE OWNER FOR LACK OF CONSIDERATION UNTIL THE
21 TIME THE PROCEEDS ARE TENDERED TO AND ACCEPTED BY THE OWNER. A
22 FAILURE TO GIVE WRITTEN NOTICE OF THE RIGHT OF RESCISSION UNDER
23 THIS SECTION TOLLS THE RIGHT OF RESCISSION UNTIL 30 DAYS AFTER THE
24 WRITTEN NOTICE OF THE RIGHT OF RESCISSION HAS BEEN GIVEN.

25 (11) ANY FEE PAID BY A PROVIDER, PARTY, INDIVIDUAL, OR AN
26 OWNER TO A BROKER IN EXCHANGE FOR SERVICES PROVIDED TO THE OWNER
27 PERTAINING TO A LIFE SETTLEMENT CONTRACT SHALL BE COMPUTED AS A

1 PERCENTAGE OF THE OFFER OBTAINED, NOT THE FACE VALUE OF THE POLICY.
2 NOTHING IN THIS SECTION PROHIBITS A BROKER FROM REDUCING HIS OR HER
3 FEE TO BELOW THIS PERCENTAGE.

4 (12) THE BROKER SHALL DISCLOSE TO THE OWNER ANYTHING OF VALUE
5 PAID OR GIVEN TO A BROKER, WHICH RELATES TO A LIFE SETTLEMENT
6 CONTRACT.

7 (13) AT ANY TIME PRIOR TO OR AT THE TIME OF THE APPLICATION
8 FOR OR ISSUANCE OF A POLICY, OR DURING A 2-YEAR PERIOD BEGINNING
9 WITH THE DATE OF ISSUANCE OF THE POLICY, A PERSON SHALL NOT ENTER
10 INTO A LIFE SETTLEMENT CONTRACT REGARDLESS OF THE DATE THE
11 COMPENSATION IS TO BE PROVIDED AND REGARDLESS OF THE DATE THE
12 ASSIGNMENT, TRANSFER, SALE, DEVISE, BEQUEST, OR SURRENDER OF THE
13 POLICY IS TO OCCUR. THIS PROHIBITION DOES NOT APPLY IF THE OWNER
14 DOES 1 OF THE FOLLOWING:

15 (A) CERTIFIES TO THE PROVIDER THAT THE POLICY WAS ISSUED UPON
16 THE OWNER'S EXERCISE OF CONVERSION RIGHTS ARISING OUT OF A GROUP OR
17 INDIVIDUAL POLICY, PROVIDED THE TOTAL OF THE TIME COVERED UNDER THE
18 CONVERSION POLICY PLUS THE TIME COVERED UNDER THE PRIOR POLICY IS
19 AT LEAST 24 MONTHS. THE TIME COVERED UNDER A GROUP POLICY SHALL BE
20 CALCULATED WITHOUT REGARD TO A CHANGE IN INSURANCE CARRIERS,
21 PROVIDED THE COVERAGE HAS BEEN CONTINUOUS AND UNDER THE SAME GROUP
22 SPONSORSHIP.

23 (B) SUBMITS INDEPENDENT EVIDENCE TO THE PROVIDER THAT 1 OR
24 MORE OF THE FOLLOWING CONDITIONS HAVE BEEN MET WITHIN THE 2-YEAR
25 PERIOD:

26 (i) THE OWNER OR INSURED IS TERMINALLY OR CHRONICALLY ILL.

27 (ii) THE OWNER OR INSURED DISPOSES OF HIS OR HER OWNERSHIP

1 INTERESTS IN A CLOSELY HELD CORPORATION, PURSUANT TO THE TERMS OF A
2 BUYOUT OR OTHER SIMILAR AGREEMENT IN EFFECT AT THE TIME THE POLICY
3 WAS INITIALLY ISSUED.

4 (iii) THE OWNER'S SPOUSE DIES.

5 (iv) THE OWNER DIVORCES HIS OR HER SPOUSE.

6 (v) THE OWNER RETIRES FROM FULL-TIME EMPLOYMENT.

7 (vi) THE OWNER BECOMES PHYSICALLY OR MENTALLY DISABLED AND A
8 PHYSICIAN DETERMINES THAT THE DISABILITY PREVENTS THE OWNER FROM
9 MAINTAINING FULL-TIME EMPLOYMENT.

10 (vii) A FINAL ORDER, JUDGMENT, OR DECREE IS ENTERED BY A COURT
11 OF COMPETENT JURISDICTION, ON THE APPLICATION OF A CREDITOR OF THE
12 OWNER, ADJUDICATING THE OWNER BANKRUPT OR INSOLVENT, OR APPROVING A
13 PETITION SEEKING REORGANIZATION OF THE OWNER OR APPOINTING A
14 RECEIVER, TRUSTEE, OR LIQUIDATOR TO ALL OR A SUBSTANTIAL PART OF
15 THE OWNER'S ASSETS.

16 (14) COPIES OF THE INDEPENDENT EVIDENCE REQUIRED BY SUBSECTION
17 (13) (B) SHALL BE SUBMITTED TO THE INSURER WHEN THE PROVIDER SUBMITS
18 A REQUEST TO THE INSURER FOR VERIFICATION OF COVERAGE. THE COPIES
19 SHALL BE ACCOMPANIED BY A LETTER OF ATTESTATION FROM THE PROVIDER
20 THAT THE COPIES ARE TRUE AND CORRECT COPIES OF THE DOCUMENTS
21 RECEIVED BY THE PROVIDER. NOTHING IN THIS SECTION PROHIBITS AN
22 INSURER FROM EXERCISING ITS RIGHT TO CONTEST THE VALIDITY OF ANY
23 POLICY. IF THE PROVIDER SUBMITS TO THE INSURER A COPY OF THE
24 INDEPENDENT EVIDENCE WHEN THE PROVIDER SUBMITS A REQUEST TO THE
25 INSURER TO EFFECT THE TRANSFER OF THE POLICY TO THE PROVIDER, THE
26 REQUIREMENTS OF SUBSECTION (13) (B) ARE SATISFIED.

27 SEC. 4329. (1) IF THERE ARE MORE THAN 2 OWNERS ON A SINGLE

1 POLICY, AND THE OWNERS ARE RESIDENTS OF DIFFERENT STATES, THE LIFE
2 SETTLEMENT CONTRACT SHALL BE GOVERNED BY THE LAW OF THE STATE IN
3 WHICH THE OWNER HAVING THE LARGEST PERCENTAGE OWNERSHIP RESIDES OR,
4 IF THE OWNERS HOLD EQUAL OWNERSHIP, THE STATE OF RESIDENCE OF 1
5 OWNER AGREED UPON IN WRITING BY ALL OF THE OWNERS. THE LAW OF THE
6 STATE OF THE INSURED SHALL GOVERN IF EQUAL OWNERS FAIL TO AGREE IN
7 WRITING UPON A STATE OF RESIDENCE FOR JURISDICTIONAL PURPOSES.

8 (2) A PROVIDER FROM THIS STATE WHO ENTERS INTO A LIFE
9 SETTLEMENT CONTRACT WITH AN OWNER WHO IS A RESIDENT OF ANOTHER
10 STATE THAT HAS ENACTED STATUTES OR ADOPTED REGULATIONS GOVERNING
11 LIFE SETTLEMENT CONTRACTS SHALL BE GOVERNED IN THE EFFECTUATION OF
12 THAT LIFE SETTLEMENT CONTRACT BY THE STATUTES AND REGULATIONS OF
13 THE OWNER'S STATE OF RESIDENCE. IF THE STATE IN WHICH THE OWNER IS
14 A RESIDENT HAS NOT ENACTED STATUTES OR REGULATIONS GOVERNING LIFE
15 SETTLEMENT CONTRACTS, THE PROVIDER SHALL GIVE THE OWNER NOTICE THAT
16 NEITHER STATE REGULATES THE TRANSACTION UPON WHICH HE OR SHE IS
17 ENTERING. FOR TRANSACTIONS IN THOSE STATES, HOWEVER, THE PROVIDER
18 IS TO MAINTAIN ALL RECORDS REQUIRED IF THE TRANSACTIONS WERE
19 EXECUTED IN THE OWNER'S STATE OF RESIDENCE. THE FORMS USED IN THOSE
20 STATES NEED NOT BE APPROVED BY THE COMMISSIONER.

21 (3) IF THERE IS A CONFLICT IN THE LAWS THAT APPLY TO AN OWNER
22 AND A PURCHASER IN ANY INDIVIDUAL TRANSACTION, THE LAWS OF THE
23 STATE THAT APPLY TO THE OWNER SHALL TAKE PRECEDENCE AND THE
24 PROVIDER SHALL COMPLY WITH THOSE LAWS.

25 SEC. 4331. (1) IT IS UNLAWFUL FOR ANY PERSON TO DO ANY OF THE
26 FOLLOWING:

27 (A) ENTER INTO A LIFE SETTLEMENT CONTRACT IF SUCH PERSON KNOWS

1 OR REASONABLY SHOULD HAVE KNOWN THAT THE POLICY WAS OBTAINED BY
2 MEANS OF A FALSE, DECEPTIVE, OR MISLEADING APPLICATION FOR THE
3 POLICY.

4 (B) ENGAGE IN ANY TRANSACTION, PRACTICE, OR COURSE OF BUSINESS
5 IF THE PERSON KNOWS OR REASONABLY SHOULD HAVE KNOWN THAT THE INTENT
6 WAS TO AVOID THE NOTICE REQUIREMENTS OF THIS CHAPTER.

7 (C) ENGAGE IN ANY FRAUDULENT ACT OR PRACTICE IN CONNECTION
8 WITH ANY TRANSACTION RELATING TO ANY LIFE SETTLEMENT CONTRACT
9 INVOLVING AN OWNER WHO IS A RESIDENT OF THIS STATE.

10 (D) ISSUE, SOLICIT, MARKET, OR OTHERWISE PROMOTE THE PURCHASE
11 OF A POLICY FOR THE PURPOSE OF OR WITH AN EMPHASIS ON SETTLING THE
12 POLICY.

13 (E) ENTER INTO A PREMIUM FINANCE LOAN WITH ANY PERSON OR
14 AGENCY, OR ANY PERSON AFFILIATED WITH SUCH PERSON OR AGENCY,
15 PURSUANT TO WHICH THE PERSON SHALL RECEIVE ANY PROCEEDS, FEES, OR
16 OTHER CONSIDERATION, DIRECTLY OR INDIRECTLY, FROM THE POLICY OR
17 OWNER OF THE POLICY OR ANY OTHER PERSON WITH RESPECT TO THE PREMIUM
18 FINANCE AGREEMENT OR ANY LIFE SETTLEMENT CONTRACT OR OTHER
19 TRANSACTION RELATED TO THAT POLICY THAT ARE IN ADDITION TO THE
20 AMOUNTS REQUIRED TO PAY THE PRINCIPAL, INTEREST, AND SERVICE
21 CHARGES RELATED TO POLICY PREMIUMS PURSUANT TO THE PREMIUM FINANCE
22 AGREEMENT OR SUBSEQUENT SALE OF THE AGREEMENT; PROVIDED, FURTHER,
23 THAT ANY PAYMENTS, CHARGES, FEES, OR OTHER AMOUNTS IN ADDITION TO
24 THE AMOUNTS REQUIRED TO PAY THE PRINCIPAL, INTEREST, AND SERVICE
25 CHARGES RELATED TO POLICY PREMIUMS PAID UNDER THE PREMIUM FINANCE
26 AGREEMENT SHALL BE REMITTED TO THE ORIGINAL OWNER OF THE POLICY OR
27 TO HIS OR HER ESTATE IF HE OR SHE IS NOT LIVING AT THE TIME OF THE

1 DETERMINATION OF THE OVERPAYMENT.

2 (F) WITH RESPECT TO A BROKER AND ANY LIFE SETTLEMENT CONTRACT
3 OR POLICY, KNOWINGLY SOLICIT AN OFFER FROM, EFFECTUATE A SETTLEMENT
4 WITH OR MAKE A SALE TO ANY PROVIDER, FINANCING ENTITY, OR RELATED
5 PROVIDER TRUST THAT IS CONTROLLING, CONTROLLED BY, OR UNDER COMMON
6 CONTROL WITH THAT BROKER.

7 (G) WITH RESPECT TO A PROVIDER AND ANY LIFE SETTLEMENT
8 CONTRACT OR POLICY, KNOWINGLY ENTER INTO A LIFE SETTLEMENT CONTRACT
9 WITH AN OWNER, IF, IN CONNECTION WITH THE LIFE SETTLEMENT CONTRACT,
10 ANYTHING OF VALUE WILL BE PAID TO A BROKER THAT IS CONTROLLING,
11 CONTROLLED BY, OR UNDER COMMON CONTROL WITH THE PROVIDER OR THE
12 FINANCING ENTITY OR RELATED PROVIDER TRUST THAT IS INVOLVED IN THE
13 LIFE SETTLEMENT CONTRACT.

14 (H) WITH RESPECT TO A PROVIDER, ENTER INTO A LIFE SETTLEMENT
15 CONTRACT USING LIFE SETTLEMENT PROMOTIONAL, ADVERTISING, AND
16 MARKETING MATERIALS, THAT HAVE BEEN REQUESTED BY, BUT NOT SUPPLIED
17 TO, THE COMMISSIONER OR THAT HAVE BEEN DISAPPROVED BY THE
18 COMMISSIONER. IN NO EVENT SHALL ANY MARKETING MATERIALS EXPRESSLY
19 REFERENCE THAT THE INSURANCE IS FREE FOR ANY PERIOD OF TIME. THE
20 INCLUSION OF ANY REFERENCE IN THE MARKETING MATERIALS THAT WOULD
21 CAUSE AN OWNER TO REASONABLY BELIEVE THAT THE INSURANCE IS FREE FOR
22 ANY PERIOD OF TIME IS A VIOLATION OF THIS CHAPTER.

23 (I) WITH RESPECT TO ANY LIFE INSURANCE PRODUCER, INSURER,
24 BROKER, OR PROVIDER, MAKE ANY STATEMENT OR REPRESENTATION TO THE
25 APPLICANT OR POLICYHOLDER IN CONNECTION WITH THE SALE OR FINANCING
26 OF A POLICY TO THE EFFECT THAT THE INSURANCE IS FREE OR WITHOUT
27 COST TO THE POLICYHOLDER FOR ANY PERIOD OF TIME UNLESS PROVIDED IN

1 THE POLICY.

2 (2) A VIOLATION OF THIS SECTION IS A FRAUDULENT LIFE
3 SETTLEMENT ACT.

4 SEC. 4333. (1) A PERSON SHALL NOT COMMIT A FRAUDULENT LIFE
5 SETTLEMENT ACT.

6 (2) A PERSON SHALL NOT KNOWINGLY OR INTENTIONALLY INTERFERE
7 WITH THE ENFORCEMENT OF THIS CHAPTER OR WITH INVESTIGATIONS OF
8 SUSPECTED OR ACTUAL VIOLATIONS OF THIS CHAPTER.

9 (3) A PERSON IN THE BUSINESS OF LIFE SETTLEMENTS SHALL NOT
10 KNOWINGLY OR INTENTIONALLY PERMIT ANY PERSON CONVICTED OF A FELONY
11 INVOLVING DISHONESTY OR BREACH OF TRUST TO PARTICIPATE IN THE
12 BUSINESS OF LIFE SETTLEMENTS.

13 (4) EACH LIFE SETTLEMENT CONTRACT AND EACH APPLICATION FOR A
14 LIFE SETTLEMENT CONTRACT, REGARDLESS OF THE FORM OF TRANSMISSION,
15 SHALL CONTAIN THE FOLLOWING STATEMENT OR A SUBSTANTIALLY SIMILAR
16 STATEMENT:

17 "ANY PERSON WHO KNOWINGLY PRESENTS FALSE INFORMATION IN AN
18 APPLICATION FOR INSURANCE OR LIFE SETTLEMENT CONTRACT IS GUILTY OF
19 A CRIME AND MAY BE SUBJECT TO FINES AND IMPRISONMENT.".

20 (5) THE LACK OF A STATEMENT DESCRIBED IN SUBSECTION (4) DOES
21 NOT CONSTITUTE A DEFENSE IN ANY PROSECUTION FOR A FRAUDULENT LIFE
22 SETTLEMENT ACT.

23 (6) EVERY PERSON ENGAGED IN THE BUSINESS OF LIFE SETTLEMENTS
24 HAVING KNOWLEDGE OR A REASONABLE BELIEF THAT A FRAUDULENT LIFE
25 SETTLEMENT ACT IS BEING, WILL BE, OR HAS BEEN COMMITTED SHALL
26 PROVIDE TO THE COMMISSIONER THE INFORMATION REQUIRED BY THE
27 COMMISSIONER. THE PERSON SHALL PROVIDE THE INFORMATION IN A MANNER

1 PRESCRIBED BY THE COMMISSIONER.

2 (7) EVERY PERSON HAVING KNOWLEDGE OR A REASON TO BELIEVE THAT
3 A FRAUDULENT LIFE SETTLEMENT ACT IS BEING, WILL BE, OR HAS BEEN
4 COMMITTED MAY PROVIDE TO THE COMMISSIONER THE INFORMATION REQUIRED
5 BY THE COMMISSIONER. THE PERSON SHALL PROVIDE THE INFORMATION IN A
6 MANNER PRESCRIBED BY THE COMMISSIONER.

7 SEC. 4335. (1) CIVIL LIABILITY SHALL NOT BE IMPOSED ON, AND NO
8 CAUSE OF ACTION SHALL ARISE FROM, A PERSON'S FURNISHING INFORMATION
9 CONCERNING SUSPECTED, ANTICIPATED, OR COMPLETED FRAUDULENT LIFE
10 SETTLEMENT ACTS, OR SUSPECTED OR COMPLETED FRAUDULENT INSURANCE
11 ACTS, IF THE INFORMATION IS PROVIDED TO OR RECEIVED FROM ANY OF THE
12 FOLLOWING:

13 (A) THE COMMISSIONER, OR THE COMMISSIONER'S EMPLOYEES, AGENTS,
14 OR REPRESENTATIVES.

15 (B) LAW ENFORCEMENT OR REGULATORY OFFICIALS OF THIS STATE,
16 ANOTHER STATE, THE UNITED STATES, OR A POLITICAL SUBDIVISION OF
17 THIS STATE OR ANOTHER STATE, OR ANY EMPLOYEE, AGENT, OR
18 REPRESENTATIVE OF ANY OF THOSE OFFICIALS.

19 (C) A PERSON INVOLVED IN THE PREVENTION AND DETECTION OF
20 FRAUDULENT LIFE SETTLEMENT ACTS OR ANY AGENT, EMPLOYEE, OR
21 REPRESENTATIVE OF ANY PERSON SO INVOLVED.

22 (D) ANY REGULATORY BODY AND ITS EMPLOYEES, AGENTS, OR
23 REPRESENTATIVES OVERSEEING LIFE INSURANCE, LIFE SETTLEMENTS,
24 SECURITIES, OR INVESTMENT FRAUD.

25 (E) THE INSURER THAT ISSUED THE POLICY COVERING THE LIFE OF
26 THE INSURED.

27 (F) THE LICENSEE AND ANY AGENTS, EMPLOYEES, OR REPRESENTATIVES

1 OF THE LICENSEE.

2 (2) THE IMMUNITY PROVIDED IN SUBSECTION (1) SHALL NOT APPLY TO
3 ANY STATEMENT MADE WITH ACTUAL MALICE. IN AN ACTION BROUGHT AGAINST
4 A PERSON FOR FILING A REPORT OR FURNISHING OTHER INFORMATION
5 CONCERNING A FRAUDULENT LIFE SETTLEMENT ACT, THE PARTY BRINGING THE
6 ACTION SHALL PLEAD SPECIFICALLY ANY ALLEGATION THAT THE IMMUNITY
7 PROVIDED IN SUBSECTION (1) DOES NOT APPLY BECAUSE THE PERSON FILING
8 THE REPORT OR FURNISHING THE INFORMATION DID SO WITH ACTUAL MALICE.

9 (3) IF A PERSON IS THE PREVAILING PARTY IN A CIVIL ACTION FOR
10 LIBEL, SLANDER, OR ANY OTHER RELEVANT TORT ARISING OUT OF
11 ACTIVITIES IN CARRYING OUT THE PROVISIONS OF THIS CHAPTER, IF THE
12 PREVAILING PARTY IS A PERSON IDENTIFIED IN SUBSECTION (1) AND THE
13 IMMUNITY DESCRIBED IN SUBSECTION (1) APPLIES TO THE PERSON, AND IF
14 THE PARTY WHO BROUGHT THE ACTION WAS NOT SUBSTANTIALLY JUSTIFIED IN
15 DOING SO, THE PERSON WHO IS THE PREVAILING PARTY IS ENTITLED TO AN
16 AWARD OF ATTORNEY FEES AND COSTS ARISING OUT OF THE ACTION. FOR
17 PURPOSES OF THIS SUBSECTION, AN ACTION IS "SUBSTANTIALLY JUSTIFIED"
18 IF IT HAD A REASONABLE BASIS IN LAW OR FACT AT THE TIME THAT IT WAS
19 INITIATED.

20 (4) THIS SECTION DOES NOT ABROGATE OR MODIFY ANY COMMON LAW OR
21 STATUTORY PRIVILEGE OR IMMUNITY ENJOYED BY A PERSON DESCRIBED IN
22 SUBSECTION (1).

23 (5) THE DOCUMENTS AND EVIDENCE PROVIDED PURSUANT TO
24 SUBSECTIONS (1) TO (4) OR OBTAINED BY THE COMMISSIONER IN AN
25 INVESTIGATION OF ANY SUSPECTED OR ACTUAL FRAUDULENT LIFE SETTLEMENT
26 ACT IS PRIVILEGED AND CONFIDENTIAL, IS NOT A PUBLIC RECORD OPEN FOR
27 INSPECTION UNDER THE FREEDOM OF INFORMATION ACT, AND IS NOT SUBJECT

1 TO DISCOVERY OR SUBPOENA IN A CIVIL OR CRIMINAL ACTION.

2 (6) SUBSECTION (5) DOES NOT PROHIBIT RELEASE BY THE
3 COMMISSIONER OF ANY DOCUMENT OR EVIDENCE OBTAINED IN AN
4 INVESTIGATION OF SUSPECTED OR ACTUAL FRAUDULENT LIFE SETTLEMENT
5 ACTS, IN ANY OF THE FOLLOWING MANNERS OR CIRCUMSTANCES:

6 (A) IN ANY ADMINISTRATIVE OR JUDICIAL PROCEEDING TO ENFORCE
7 ANY LAWS ADMINISTERED BY THE COMMISSIONER.

8 (B) TO ANY LAW ENFORCEMENT OR REGULATORY AGENCY OF THIS STATE,
9 ANOTHER STATE, THE UNITED STATES, OR A POLITICAL SUBDIVISION OF
10 THIS STATE OR ANOTHER STATE, TO AN ORGANIZATION ESTABLISHED FOR THE
11 PURPOSE OF DETECTING AND PREVENTING FRAUDULENT LIFE SETTLEMENT
12 ACTS, OR TO THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

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

16 (7) RELEASE OF DOCUMENTS AND EVIDENCE UNDER SUBSECTION (6)
17 DOES NOT ABROGATE OR MODIFY THE PRIVILEGE GRANTED IN SUBSECTION
18 (5).

19 SEC. 4337. THIS CHAPTER DOES NOT DO ANY OF THE FOLLOWING:

20 (A) PREEMPT THE AUTHORITY OR RELIEVE THE DUTY OF ANY OTHER LAW
21 ENFORCEMENT OR REGULATORY AGENCIES TO INVESTIGATE, EXAMINE, OR
22 PROSECUTE SUSPECTED VIOLATIONS OF LAW.

23 (B) PREEMPT, SUPERSEDE, OR LIMIT ANY PROVISION OF ANY STATE
24 SECURITIES LAW OR ANY RULE, ORDER, OR NOTICE ISSUED THEREUNDER.

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

1 AND INSURANCE REGULATION.

2 (D) LIMIT ANY POWER GRANTED ELSEWHERE BY THE LAW OF THIS STATE
3 TO THE COMMISSIONER OR AN INSURANCE FRAUD UNIT TO INVESTIGATE AND
4 EXAMINE POSSIBLE VIOLATIONS OF LAW AND TO TAKE APPROPRIATE ACTION
5 AGAINST WRONGDOERS.

6 SEC. 4339. PROVIDERS AND BROKERS SHALL ADOPT AND HAVE IN PLACE
7 ANTIFRAUD INITIATIVES REASONABLY CALCULATED TO DETECT, PROSECUTE,
8 AND PREVENT FRAUDULENT LIFE SETTLEMENT ACTS. AT THE DISCRETION OF
9 THE COMMISSIONER, THE COMMISSIONER MAY ORDER, OR A PROVIDER OR
10 BROKER MAY REQUEST AND THE COMMISSIONER MAY GRANT, ANY
11 MODIFICATIONS OF THE FOLLOWING REQUIRED INITIATIVES DESCRIBED IN
12 THIS SECTION THAT ARE NECESSARY TO ENSURE AN EFFECTIVE ANTIFRAUD
13 PROGRAM. THE MODIFICATIONS MAY BE MORE OR LESS RESTRICTIVE THAN THE
14 REQUIRED INITIATIVES SO LONG AS THE MODIFICATIONS MAY REASONABLY BE
15 EXPECTED TO ACCOMPLISH THE PURPOSE OF THIS SECTION. ANTIFRAUD
16 INITIATIVES UNDER THIS SECTION SHALL INCLUDE ALL OF THE FOLLOWING:

17 (A) FRAUD INVESTIGATORS, WHO MAY BE PROVIDER OR BROKER
18 EMPLOYEES OR INDEPENDENT CONTRACTORS.

19 (B) AN ANTIFRAUD PLAN SUBMITTED TO THE COMMISSIONER THAT
20 INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

21 (i) A DESCRIPTION OF THE PROCEDURES FOR DETECTING AND
22 INVESTIGATING POSSIBLE FRAUDULENT LIFE SETTLEMENT ACTS AND
23 PROCEDURES FOR RESOLVING MATERIAL INCONSISTENCIES BETWEEN MEDICAL
24 RECORDS AND INSURANCE APPLICATIONS.

25 (ii) A DESCRIPTION OF THE PROCEDURES FOR REPORTING POSSIBLE
26 FRAUDULENT LIFE SETTLEMENT ACTS TO THE COMMISSIONER.

27 (iii) A DESCRIPTION OF THE PLAN FOR ANTIFRAUD EDUCATION AND

1 TRAINING OF UNDERWRITERS AND OTHER PERSONNEL.

2 (iv) A DESCRIPTION OR CHART OUTLINING THE ORGANIZATIONAL
3 ARRANGEMENT OF THE ANTIFRAUD PERSONNEL WHO ARE RESPONSIBLE FOR THE
4 INVESTIGATION AND REPORTING OF POSSIBLE FRAUDULENT LIFE SETTLEMENT
5 ACTS AND INVESTIGATING UNRESOLVED MATERIAL INCONSISTENCIES BETWEEN
6 MEDICAL RECORDS AND INSURANCE APPLICATIONS.

7 SEC. 4341. (1) IN ADDITION TO THE PENALTIES AND OTHER
8 ENFORCEMENT PROVISIONS CONTAINED IN THIS CHAPTER, IF ANY PERSON
9 VIOLATES ANY PROVISION OF THIS CHAPTER OR ANY RULE OR REGULATION
10 IMPLEMENTING ANY PROVISION OF THIS CHAPTER, THE COMMISSIONER MAY
11 SEEK AN INJUNCTION IN A COURT OF COMPETENT JURISDICTION AND MAY
12 APPLY FOR ANY TEMPORARY OR PERMANENT ORDER THAT THE COMMISSIONER
13 DETERMINES IS NECESSARY TO RESTRAIN THE PERSON FROM COMMITTING THE
14 VIOLATION.

15 (2) ANY PERSON DAMAGED BY ANY ACT OF A PERSON IN VIOLATION OF
16 THIS CHAPTER OR ANY RULE OR REGULATION IMPLEMENTING ANY PROVISION
17 OF THIS CHAPTER MAY BRING A CIVIL ACTION AGAINST THE PERSON
18 COMMITTING THE VIOLATION IN A COURT OF COMPETENT JURISDICTION.

19 (3) THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER UPON A
20 PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER OR ANY RULE,
21 REGULATION, OR ORDER ADOPTED BY THE COMMISSIONER, OR ANY WRITTEN
22 AGREEMENT ENTERED INTO WITH THE COMMISSIONER.

23 (4) IF THE COMMISSIONER FINDS THAT AN ACTION PRESENTS AN
24 IMMEDIATE DANGER TO THE PUBLIC AND REQUIRES AN IMMEDIATE FINAL
25 ORDER, HE OR SHE MAY ISSUE AN EMERGENCY CEASE AND DESIST ORDER
26 RECITING WITH PARTICULARITY THE FACTS UNDERLYING SUCH FINDINGS. THE
27 EMERGENCY CEASE AND DESIST ORDER IS EFFECTIVE IMMEDIATELY UPON

SERVICE OF A COPY OF THE ORDER ON THE RESPONDENT AND REMAINS EFFECTIVE FOR 90 DAYS. IF NONEMERGENCY CEASE AND DESIST PROCEEDINGS ARE BEGUN, THE EMERGENCY CEASE AND DESIST ORDER REMAINS EFFECTIVE, ABSENT AN ORDER BY AN APPELLATE COURT OF COMPETENT JURISDICTION. IN THE EVENT OF A WILLFUL VIOLATION OF THIS CHAPTER, THE TRIAL COURT MAY AWARD STATUTORY DAMAGES IN ADDITION TO ACTUAL DAMAGES IN AN ADDITIONAL AMOUNT UP TO 3 TIMES THE ACTUAL DAMAGE AWARD. THE PROVISIONS OF THIS CHAPTER SHALL NOT BE WAIVED BY AGREEMENT. A CHOICE OF LAW PROVISION SHALL NOT BE USED TO PREVENT THE APPLICATION OF THIS CHAPTER TO ANY SETTLEMENT IN WHICH A PARTY TO THE SETTLEMENT IS A RESIDENT OF THIS STATE.

SEC. 4343. (1) A PERSON WHO COMMITS A FRAUDULENT LIFE SETTLEMENT ACT OR VIOLATES THIS CHAPTER IS SUBJECT TO A CIVIL FINE NOT EXCEEDING \$2,500.00 AND THE AMOUNT OF THE CLAIM FOR EACH VIOLATION UPON ANY PERSON, INCLUDING THOSE PERSONS AND THEIR EMPLOYEES LICENSED PURSUANT TO THIS CHAPTER.

(2) THE LICENSE OF A PERSON LICENSED OR PERMITTED TO OPERATE UNDER THIS CHAPTER THAT COMMITS A FRAUDULENT LIFE SETTLEMENT ACT SHALL BE REVOKED FOR A PERIOD OF NOT LESS THAN 5 YEARS.

SEC. 4345. A VIOLATION OF THIS CHAPTER IS AN UNFAIR TRADE PRACTICE UNDER CHAPTER 20.

SEC. 4347. THE COMMISSIONER MAY PROMULGATE RULES IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF 1969 FOR PURPOSES OF IMPLEMENTING THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, RULES THAT DO THE FOLLOWING:

(A) GOVERN THE RELATIONSHIP AND RESPONSIBILITIES OF INSURERS, PROVIDERS, AND BROKERS DURING THE SETTLEMENT OF A POLICY.

1 (B) ESTABLISH STANDARDS FOR EVALUATING THE REASONABLENESS OF
2 PAYMENTS UNDER LIFE SETTLEMENT CONTRACTS FOR PERSONS WHO ARE
3 TERMINALLY OR CHRONICALLY ILL. THIS AUTHORITY INCLUDES, BUT IS NOT
4 LIMITED TO, THE REGULATION OF DISCOUNT RATES USED TO DETERMINE THE
5 AMOUNT PAID IN EXCHANGE FOR THE ASSIGNMENT, RELEASE, TRANSFER,
6 SALE, DEVISE, OR BEQUEST OF A BENEFIT UNDER A POLICY INSURING
7 PERSONS WHO ARE TERMINALLY OR CHRONICALLY ILL.

8 (C) ESTABLISH APPROPRIATE LICENSING REQUIREMENTS, FEES, AND
9 STANDARDS FOR CONTINUED LICENSURE FOR PROVIDERS AND BROKERS.

10 SEC. 4349. (1) A PROVIDER LAWFULLY TRANSACTING BUSINESS IN
11 THIS STATE PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER MAY CONTINUE
12 TO DO SO PENDING APPROVAL OR DISAPPROVAL OF THAT PERSON'S
13 APPLICATION FOR A LICENSE AS LONG AS THE APPLICATION IS FILED WITH
14 THE COMMISSIONER NOT LATER THAN 30 DAYS AFTER PUBLICATION BY THE
15 COMMISSIONER OF AN APPLICATION FORM AND INSTRUCTIONS FOR LICENSURE
16 OF PROVIDERS. IF THE PUBLICATION OF THE APPLICATION FORM AND
17 INSTRUCTIONS IS PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER, THEN
18 THE FILING OF THE APPLICATION SHALL NOT BE LATER THAN 30 DAYS AFTER
19 THE EFFECTIVE DATE OF THIS CHAPTER. DURING THE TIME THAT THE
20 APPLICATION IS PENDING WITH THE COMMISSIONER, THE APPLICANT MAY USE
21 ANY FORM OF LIFE SETTLEMENT CONTRACT THAT HAS BEEN FILED WITH THE
22 COMMISSIONER SO LONG AS THE FORM IS OTHERWISE IN COMPLIANCE WITH
23 THIS CHAPTER. ANY PERSON TRANSACTING BUSINESS IN THIS STATE UNDER
24 THIS SUBSECTION SHALL COMPLY WITH ALL OTHER REQUIREMENTS OF THIS
25 CHAPTER.

26 (2) A PERSON WHO HAS LAWFULLY NEGOTIATED LIFE SETTLEMENT
27 CONTRACTS BETWEEN ANY OWNER RESIDING IN THIS STATE AND 1 OR MORE

1 PROVIDERS FOR AT LEAST 1 YEAR IMMEDIATELY PRIOR TO THE EFFECTIVE
2 DATE OF THIS CHAPTER MAY CONTINUE TO DO SO PENDING APPROVAL OR
3 DISAPPROVAL OF THAT PERSON'S APPLICATION FOR A LICENSE AS LONG AS
4 THE APPLICATION IS FILED WITH THE COMMISSIONER NOT LATER THAN 30
5 DAYS AFTER PUBLICATION BY THE COMMISSIONER OF AN APPLICATION FORM
6 AND INSTRUCTIONS FOR LICENSURE OF BROKERS. IF THE PUBLICATION OF
7 THE APPLICATION FORM AND INSTRUCTIONS IS PRIOR TO THE EFFECTIVE
8 DATE OF THIS CHAPTER, THEN THE FILING OF THE APPLICATION SHALL NOT
9 BE LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS CHAPTER. ANY
10 PERSON TRANSACTING BUSINESS IN THIS STATE UNDER THIS SUBSECTION
11 SHALL COMPLY WITH ALL OTHER REQUIREMENTS OF THIS CHAPTER.

12 Enacting section 1. 1996 PA 386, MCL 550.521 to 550.528, is
13 repealed.