

## State of Kentucky: Life Settlement Statutes

Section 304.15-020 - Definitions **(1)** "Advertisement" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communication media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public, for the purpose of creating an interest in or inducing a person to purchase or 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. **(2)** "Business of life settlements" means an activity involved in but not limited to the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner, of life settlement contracts. **(3)** "Chronically ill" means: **(a)** Being unable to perform at least two (2) activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence; **(b)** Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or **(c)** Having a level of disability similar to that described in paragraph (a) of this subsection as determined by the Secretary of Health and Human Services. **(4)** "College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed by a promissory note. **(5)** "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy from a life settlement provider, credit enhancer, or any entity that has a direct ownership in a policy that is the subject of a life settlement contract but: **(a)** Whose principal activity related to the transaction is providing funds to effect the life settlement contract or purchase of one (1) or more policies or to provide credit enhancement; and **(b)** Who has an agreement in writing with one (1) or more licensed life settlement providers to finance the acquisition of life settlement contracts or to provide stop loss insurance.

"Financing entity" does not include a nonaccredited investor or purchaser.

**(6)** "Financing transaction" means a transaction in which a life settlement provider obtains financing from a financing entity, including without limitation any secured or unsecured financing, any securitization transaction, or any securities offering which either is registered or exempt from registration under federal and state securities law. **(7)** "Fraudulent life settlement act" includes: **(a)** Acts or omissions committed by any person who, knowingly or with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits his employees or its agents to engage in acts including: **1.** Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a life settlement provider, life settlement broker, life insurance producer, financing entity, insurer, premium finance lender, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one (1) or more of the following: **a.** An application for the issuance of a life settlement contract or policy; **b.** The underwriting of a life settlement contract or policy; **c.** A claim for payment or benefit pursuant to a life settlement contract or policy; **d.** Premiums paid on a policy; **e.** Payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or policy; **f.** The reinstatement or conversion of a policy; **g.** In the solicitation, offer, effectuation, or sale of a life settlement contract or policy; **h.** The issuance of written evidence of a life settlement contract or policy; **i.** A financing transaction; **j.** Any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a life insurance policy;

ork. Stranger-originated life insurance;**2.** Employing any device, scheme, or artifice to defraud related to policies acquired pursuant to a life settlement contract;**3.** In the solicitation, application, or issuance of a life insurance policy, employing any device, scheme, or artifice in violation of state insurable interest laws;**(b)** Any of the following acts committed by any person or permitted by a person to be committed by the person's employees or agents in the furtherance of a fraud or to prevent detection of a fraud to:**1.** Remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a licensee or other person engaged in the business of life settlements;**2.** Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;**3.** Transact the business of life settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of life settlements;**4.** File with the commissioner or the chief insurance regulatory official of another jurisdiction a document containing false information or which otherwise conceals information about a material fact from the commissioner; or**5.** Misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this section and KRS 304.15-700 to 304.15-720;**(c)** Embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums, credits, or other property of a life settlement provider, life settlement broker, insurer, insured, owner, insurance policyowner, or any other person engaged in the business of life settlements or insurance;**(d)** Recklessly entering into, brokering, or otherwise dealing in a life settlement contract, the subject of which is a policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the owner or the owner's agent intended to defraud the policy issuer. For the purposes of this paragraph, "recklessly" means engaging in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct; or**(e)** Attempting to commit, assisting, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.**(8)** "Industrial life insurance" is that form of life insurance written under policies of face amount of \$3,000 or less issued on the basis of an industrial mortality table, and under which premiums are payable monthly or more often.**(9)** "Life expectancy" means the number of months the insured under the life insurance policy to be settled can be expected to live considering medical records and appropriate experiential data.**(10)** "Premium finance loan" means a loan made primarily for the purposes of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.**(11)** "Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust which is vested with, or for the assignment, transfer, or sale of, an ownership or other interest in a life insurance policy or certificate issued pursuant to a group life insurance policy which has been the subject of a life settlement contract.**(12)** "Related provider trust" means a titling trust or other trust established by a licensed life settlement provider or financing entity for the sole purpose of holding the ownership or beneficial interest in policies. The trust shall have a written agreement with the licensed life settlement provider under which the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to life settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed life settlement provider.**(13)** "Settled policy" means a life insurance policy or certificate that has been acquired by a life settlement provider pursuant to a life settlement contract.**(14)** "Special purpose

entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed life settlement provider.**(15)** "Stranger-originated life insurance" or "STOLI" means the procurement of new life insurance by persons or entities that lack insurable interest on the insured and, at policy inception, such person or entity owns or controls, or has an arrangement or agreement to own or control, the policy or the majority of the death benefit in the policy and the insured or insured's beneficiaries receive little or none of the proceeds of the death benefits of the policy. Trusts that are created to give the appearance of insurable interest and are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. STOLI arrangements do not include those practices set forth in paragraph (b) of subsection (17) of this section.**(16)** "Life settlement broker" or "broker" means an individual, partnership, corporation, or other person who is working exclusively on behalf of an owner and for a fee, commission, or other valuable consideration, offers or advertises the availability of life settlements, introduces an owner to life settlement providers, or offers or attempts to negotiate life settlements between an owner and one (1) or more life settlement providers. "Life settlement broker" does not include an attorney, certified public accountant, or financial planner who is retained to represent the owner and whose compensation is not paid directly or indirectly by the life settlement provider or any other person except the owner.**(17)(a)** "Life settlement contract" means a written agreement entered into between a life settlement provider and an owner owning a policy or who owns or is covered under a group policy insuring the life of a person and the agreement establishes the terms under which the life settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the owner's assignment, transfer, sale, devise or bequest of the death benefit or ownership of any portion of the insurance policy or certificate. A life settlement contract also includes a contract for a loan or other financing transaction with an owner secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy. A life settlement contract includes an agreement with an owner to transfer ownership or change the beneficiary designation of a policy at a later date regardless of the date that compensation is paid to the owner. "Life settlement contract" does not mean a written agreement entered into between an owner and a person having an insurable interest in the insured's life.**(b)** "Life settlement contract" also includes a premium finance loan made for a policy on or before the date of issuance of the policy where:**1.** 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;**2.** The owner receives on the date of the premium finance loan a guarantee of the future life settlement value of the policy; or**3.** The owner agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.**(c)** "Life settlement contract" does not include:**1.** A policy loan by a life insurance company pursuant to the terms of the life insurance policy or accelerated death provisions contained in the life insurance policy, whether issued with the original policy or as a rider;**2.** A premium finance loan or any loan made by a bank or other licensed financial institution, provided that neither default on such loan nor the transfer of the policy in connection with such default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under KRS 304.15-700 to 304.15-720;**3.** A collateral assignment of a life insurance policy by an owner;**4.** A loan made by a lender that does not violate Subtitle 30 of this chapter, if the loan is not described in paragraph (b) of this

subsection and is not otherwise within the definition of life settlement contract;**5.** 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;**6.** 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;**7.** A bona fide business succession planning arrangement:**a.** Between one (1) or more shareholders in a corporation or between a corporation and one (1) or more of its shareholders or one (1) or more trust established by its shareholders;**b.** Between one (1) or more partners in a partnership or between a partnership and one (1) or more of its partners or one (1) or more trust established by its partners; or**c.** Between one (1) or more members in a limited liability company or between a limited liability company and one (1) or more of its members or one (1) or more trust established by its members;**8.** An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or**9.** Any other contract, transaction, or arrangement not included in the definition of life settlement contract as determined by the commissioner by administrative regulation.**(18)** "Life settlement provider" or "provider" means an individual, partnership, corporation, or other person who or that enters into an agreement with a person owning a policy under the terms of which the life settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the policy to the life settlement provider. Life settlement provider does not include:**(a)** Any bank, savings bank, savings and loan association, credit union, or other licensed lending institution or creditor or secured party that takes an assignment of a policy as collateral for a loan;**(b)** The issuer of a policy that provides accelerated benefits that accelerate in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider;**(c)** Any natural person who is not licensed in accordance with KRS 304.15-700 and who enters into no more than one (1) agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;**(d)** A related provider trust;**(e)** An authorized or eligible insurer that provides stop-loss coverage to a life settlement provider, financing entity, special purpose entity, or related provider trust;**(f)** A special purpose entity;**(g)** A related provider trust;**(h)** An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, and who acquires a policy from a life settlement provider;**(i)** A purchaser;**(j)** A financing entity; or**(k)** Broker.**(19)** "Owner" means a resident of this Commonwealth who is the owner of a policy or a certificate holder under a group policy who enters or seeks to enter into a life settlement contract. An owner shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one (1) owner on a single policy and the owners are residents of different states, the transaction shall be governed by the law of 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 (1) owner agreed upon in writing by all owners. "Owner" does not include:**(a)** A life settlement provider licensed pursuant to KRS 304.9-440;**(b)** A qualified institutional buyer as defined in Rule 144A of the Federal Securities Act of 1933, as amended;**(c)** A financing

entity;(d) A special purpose entity; or(e) A related provider trust.(20) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four (24) months or less.(21) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where policies are issued on the lives of not less than four (4) employees at date of issue. Premiums for the policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from the funds and partly from funds contributed by the insured employees.

*KRS 304.15-020*

Section 304.15-700 - Licensing requirements governing life settlement providers and brokers - Contracts - Commissioner's approval required - Forms(1) No person may act as a life settlement provider without first having obtained a license as a life settlement provider from the commissioner.(2) Except as provided in paragraph (b) or (c) of this subsection, no person may broker, solicit, or negotiate life settlement contracts between an owner and one (1) or more life settlement providers or otherwise act on behalf of an owner without first having obtained a license as a life settlement broker from the commissioner as follows:(a) All applicants for a life settlement broker license shall attend the required life broker training and pass a life broker examination designated by the commissioner through administrative regulation;(b) A person licensed as a resident or nonresident insurance agent with a life line of authority, as set forth in KRS 304.9-030(2)(a), shall be deemed to meet the licensing requirements of a life settlement broker and shall be permitted to operate as a life settlement broker without obtaining a license as a life settlement broker as set forth in this subtitle if:1. That person has been licensed as a resident insurance agent with a life line of authority in his home state for at least one (1) year;2. Not later than thirty (30) days from the first day of operating as a life settlement broker, the agent notifies the commissioner, on a notification form prescribed by the commissioner, that he is acting as a life settlement broker and pays any applicable fees to be determined by the commissioner. The notification shall include an acknowledgment by the agent that he will operate as a life settlement broker in accordance with this subtitle; and3. Irrespective of the manner in which a life settlement broker or life insurance agent is compensated, the life settlement broker or life insurance agent is deemed to represent only the owner and owes a fiduciary duty to the owner to act according to the owner's instructions and in the best interests of the owner;(c) Notwithstanding this subsection, a person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner, whose compensation is not paid directly or indirectly by the life settlement provider, may negotiate life settlement contracts without having to obtain a license as a life settlement broker; and(d) A life insurance agent operating as a life settlement broker in accordance with paragraph (b) of this subsection, prior to the execution of the life settlement contract by all the parties for which such agent is operating as a life settlement broker, shall have in force evidence of financial responsibility as follows:1. A policy of insurance covering the legal liability of the agent as the result of erroneous acts or failure to act in his or her capacity as a life settlement broker, and inuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars (\$20,000) and one hundred thousand dollars (\$100,000) in the aggregate for all occurrences within one (1) year; or2. An agreement with a licensed life settlement provider whereby the agent is an additional insured on the policy of insurance covering the legal liability of both the life settlement provider

and the agent as the result of erroneous acts or failure to act in his or her capacity as a life settlement broker on a life settlement contract to which the life settlement provider is a party, in the sum of twenty thousand dollars (\$20,000) for any single occurrence; or **3.** A cash surety bond, executed by an insurer authorized to write business in this Commonwealth, in the sum of twenty thousand dollars (\$20,000), which shall be subject to lawful levy of execution by any party to whom the agent has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as a life settlement broker. **(3)** Application for a life settlement provider license or a life settlement broker license shall be made in accordance with KRS 304.9-150. **(4)** Licenses for life settlement providers and life settlement brokers shall be in accordance with Subtitle 9 of KRS Chapter 304. A business entity licensed as a life settlement broker or life settlement provider shall designate individuals to act under its license in accordance with KRS 304.9-133. **(5)** Prior to issuance of a license as a life settlement broker or life settlement provider, except as provided in subsection (2)(d) of this section, the applicant shall obtain, and thereafter for as long as the license remains in effect shall keep in force, evidence of financial responsibility in the sum of not less than twenty thousand dollars (\$20,000) per occurrence, and the sum of one hundred thousand dollars (\$100,000) in the aggregate, for all occurrences within one (1) year. This evidence shall be in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. The policy, bond, deposit, or combination thereof shall not be terminated without thirty (30) days' prior written notice to the licensee. This subsection shall not apply to a life insurance agent operating as a life settlement broker in accordance with subsection (2) of this section. **(6)** No person shall use a life settlement contract form or provide to an owner a disclosure statement form in this Commonwealth unless it has been filed with and approved by the commissioner in the following manner: **(a)** At the expiration of sixty (60) days from the date the filing is complete, the form filed shall be deemed approved unless the commissioner has by order given prior approval or disapproval. Approval of a form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than thirty (30) days the time period in which he or she may approve or disapprove the form. The commissioner shall give notice to the licensee of the extension before expiration of the initial sixty (60) day period. At the expiration of the extended period, and in the absence of the prior approval or disapproval, the form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any approval. The commissioner shall disapprove a life settlement contract form or disclosure statement form if, in the determination of the commissioner, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise are misleading or unfair to the owner. Upon notice and hearing the commissioner shall withdraw approval of any contract later determined to be unreasonable, misleading, unfair, or contrary to the interest of the public; and **(b)** Forms may be submitted simultaneously with an application or at any time during the process of approving an application for a license pursuant to this subtitle or at any other time. **(7)** A licensed life settlement provider shall not use any person to perform the functions of a life settlement broker as defined in KRS 304.15-020 unless the person holds a current and valid license or is a licensed insurance agent authorized pursuant to this subtitle to operate as a life settlement broker. A licensed life settlement broker shall not use any person to perform the functions of a life settlement provider as defined in KRS 304.15-020 unless the person holds a current and valid license as a life settlement provider. **(8)** If any employee of a licensee violates any provision of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190,

and 304.99-126, the department may take disciplinary action against the employer licensee.**(9)** When a life settlement provider elects to use a related provider trust, the life settlement provider shall file notice of its intention to use that trust with the department with a copy of the trust agreement. Any change in the trust agreement shall be filed with the commissioner prior to its effect.**(10)** Any additional death benefit payment on a life insurance policy that is the subject of a life settlement contract with a double or additional indemnity for accidental death shall be payable to the following:**(a)** The beneficiary last named by the policy owner prior to entering into the life settlement contract; or**(b)** To the estate of the owner in the absence of a beneficiary.**(11)** An insurer that issued a policy that is the subject of a life settlement contract shall not be responsible for any act or omission of a broker, provider, or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of the life settlement contract from the provider, purchaser, or broker in connection with the life settlement contract.**(12)** No insurer may, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, provider, or broker sign any form, disclosure, consent, waiver, or acknowledgment that has not been expressly approved by the commissioner for use in connection with life settlement contracts in the Commonwealth.  
*KRS 304.15-700*

Section 304.15-702 - Permitted questioning of life insurance applicant concerning financing of premium payments**(1)** In addition to other questions an insurer may lawfully pose to a life insurance applicant, insurers may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.**(a)** If, as described in KRS 304.15-020(17), the loan provides funds which can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan, the application shall be rejected as a violation of the prohibited practices in KRS 304.15-717.**(b)** If the financing does not violate KRS 304.15-717 in this manner, the insurer:**1.** May make disclosures to the applicant and the insured, either on the application or an amendment to the application to be completed no later than the delivery of the policy, which shall include but not be limited to the following statement or a substantially similar statement:  
"If you have entered into a loan arrangement where the policy is used as collateral, and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true:

**a.** A change of ownership could lead to a stranger owning an interest in the insured's life;**b.** A change of ownership could in the future limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one (1) life;**c.** Should there be a change of ownership and you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status, or other factors may reduce the ability to obtain coverage and may result in significantly higher premiums; and**d.** You should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan."; and**2.** May require certifications from the applicant or the insured or both which shall include but not be limited to the following statement or a substantially similar statement:  
"I certify that:

**a.** I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy;**b.** My loan arrangement for this policy provides funds sufficient to pay for some or all of the premiums, costs, and expenses associated with obtaining and maintaining my life insurance policy, but I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy; and**c.** The borrower has an insurable interest in the insured."

*KRS 304.15-702*

Section 304.15-705 - Commissioner's authority to examine - Retention and inspection of records**(1)** The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interest of the public. The reasonable expenses incurred in conducting any examination shall be paid by the licensee or applicant.**(2)** Records of all transactions of life settlement contracts shall be subject to the following:**(a)** The following records of all transactions of life settlement contracts shall be maintained by the licensee for five (5) years after the death of the owner, and shall be available to the commissioner for inspection during reasonable business hours:**1.** Proposed, offered, or executed settlement contracts, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the settlement contract, whichever is later; and**2.** All checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction.**(b)** All other business records shall be kept for a period of five (5) years following creation of records, or the completion of the purpose for which records were created, whichever shall occur last.**(c)** This section shall not relieve a licensed settlement provider of the obligation to produce these documents to the commissioner after the retention period has expired if the settlement provider has retained the documents.**(d)** Records required to be retained by this section shall be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of the record.

*KRS 304.15-705*

Section 304.15-708 - Emergency cease and desist order when public health, safety, or welfare is endangered - Fee**(1)** When the department finds that a violation presents an immediate danger to the public health, safety, or welfare that requires an immediate final order, it shall issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent.**(2)** The department may impose and collect an administrative fine not to exceed ten thousand dollars (\$10,000) for each violation of a cease and desist order issued in accordance with this section.

*KRS 304.15-708*

Section 304.15-709 - Remedies of department and of persons damaged by life settlement violations**(1)** In addition to the penalties and other enforcement provisions of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126, if any person violates any provision of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126, or any



administrative regulations promulgated under KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126, the department may seek an injunction in Franklin Circuit Court or in the Circuit Court of the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the department determines necessary to restrain the person from committing the violation.(2) Any person damaged by the acts of a person in violation of any provision of KRS 304.15-020, 304.15-700 to 304.15-720, 304.42-190, and 304.99-126 may bring a civil action against the person in the Circuit Court of the county in which the alleged violator resides, or has a principal place of business, or in the county where the alleged violation occurred.

*KRS 304.15-709*

Section 304.15-710 - Life settlement provider's duties of disclosure to owner(1) With each application for a life settlement contract, a life settlement provider or life settlement broker shall provide the owner a copy of the department's consumer guide relating to life settlements. The provider shall provide in writing, in a separate document that is signed by the owner and provide the information in this subsection to the owner no later than the date the life settlement contract is signed by all parties. The written disclosures shall be conspicuously displayed in any life settlement contract or in a separate document furnished to the owner by a provider including any affiliations or contractual arrangements between the provider and the broker and shall provide the following information:(a) That there are possible alternatives to life settlement contracts including but not limited to accelerated benefits or policy loans offered under the owner's policy;(b) That some or all of the proceeds of the life settlement may be taxable under federal income tax laws and state franchise and income tax laws, and that assistance should be sought from a personal tax advisor;(c) That proceeds of the life settlement contract could be subject to the claims of creditors;(d) That receipt of the proceeds of a life settlement contract may adversely affect the owner's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate government agencies;(e) That the owner has a right to rescind a life settlement contract before the earlier of thirty (30) calendar days of the date it is executed by all parties or fifteen (15) calendar days after the receipt of the proceeds of the life settlement contract by the owner. If exercised by the owner, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the settlement provider. If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all life settlement proceeds and any premiums, loans, and loan interest to the life settlement provider. The life settlement provider shall effectuate the change of ownership of the policy or certificate to the owner immediately upon effective rescission by the owner;(f) 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, to be forfeited by the owner and that assistance should be sought from a financial adviser;(g) That funds will be sent to the owner within three (3) business days after the life settlement provider has received the insurer's or group administrator's acknowledgment that ownership of the policy has been transferred and the beneficiary has been designated pursuant to the life settlement contract;(h) That the disclosure document shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of

family members, a spouse, or a significant other may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two (2) years."; and

**(i)** That the insured may be contacted by the life settlement provider or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address. This contact shall be limited to once every three (3) months if the insured has a life expectancy of more than one (1) year, and no more than once per month if the insured has a life expectancy of one (1) year or less.**(2)** A life settlement provider shall provide the owner with at least the following disclosures no later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and the life settlement provider and provide the following information:**(a)** State the affiliation, if any, between the life settlement provider and the issuer of the policy to be acquired pursuant to a settlement contract;**(b)** State the name, address and telephone number of the life settlement provider;**(c)** If a policy to be acquired pursuant to a life settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be acquired pursuant to a settlement contract, the owner shall be informed of the possible loss of coverage on the other lives and shall be advised to consult with his insurance producer or the company issuing the policy for advice on the proposed life settlement contract;**(d)** State the dollar amount of the current death benefit payable to the life settlement provider under the policy. The life settlement provider shall, if known, also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy, and the life settlement provider's interest in those benefits;**(e)** State the name, business address, and telephone number of the independent third party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents;**(f)** The date by which the funds will be available to the owner and the transmitter of the funds;**(g)** That a consumer guide shall be delivered to owners with each application as required in this subsection;**(h)** That applications and life settlement contracts shall contain the statement as required in KRS 304.15-717(2);**(i)** That a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interests of the owner; and**(j)** The fact that a change in ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one (1) life.**(3)** If the life settlement provider transfers ownership or changes the beneficiary of the policy, the life settlement provider shall communicate the change in ownership or beneficiary to the insured within twenty (20) days after the change.**(4)** A broker shall provide the owner and the provider with at least the following disclosures no later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and provide the following information:**(a)** The name, business address, and telephone number of the broker;**(b)** A full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;**(c)** The name of each broker who receives compensation and the amount of compensation received by the broker,

which compensation includes anything of value paid or given to the broker in connection with the life settlement contract;(d) A complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner. For the purposes of this paragraph, "gross offer or bid" means the total amount or value offered by the provider for the purchase of one (1) or more life insurance policies, inclusive of the commissions and fees; and(e) The failure to provide the disclosures or rights described in this section shall be deemed an unfair trade practice.

*KRS 304.15-710*

Section 304.15-712 - Permitted and prohibited life insurance advertising and marketing(1) A broker or provider licensed pursuant to KRS 304.15-700 to 304.15-720 may conduct or participate in advertisements within this state. Such advertisements shall comply with all advertising and marketing laws of this chapter or rules and administrative regulations promulgated by the commissioner that are applicable to life insurers or to brokers, and providers licensed pursuant to this chapter.(2) Advertisements shall be accurate, truthful, and not misleading in fact or by implication.(3) No person or trust shall:(a) Directly or indirectly market, advertise, solicit, or otherwise promote the purchase of a life insurance policy for the sole purpose of, or with a primary emphasis on, settling the policy; or(b) Except as provided in KRS 304.12-092, use the words "free," "no cost," or words of similar import in the marketing, advertising, soliciting, or otherwise promoting the purchase of a life insurance policy.

*KRS 304.15-712*

Section 304.15-715 - Requirements for life settlement contracts(1) A life settlement provider entering into a life settlement contract with any person shall first obtain:(a) If the owner is insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a life settlement contract; and(b) A document in which the insured consents to the release of his or her medical records to a life settlement provider, life insurance agent, or life settlement broker and, if the policy was issued less than two (2) years from the date of application for a life settlement contract, to the insurance company that issued the policy.(2) The insurer shall respond to a request for verification of coverage submitted by a life settlement provider or life settlement broker not later than thirty (30) calendar days after the date the request is received. The request for verification of coverage shall be made on a form approved by the commissioner. The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding the validity of the insurance contract or possible fraud, and shall provide sufficient detail of all reasons for the investigation to the life settlement provider or life settlement broker.(3) Prior to or at the time of execution of the life settlement contract, the life settlement provider shall obtain a witnessed document in which the owner consents to the life settlement contract, represents that he or she has a full and complete understanding of the life settlement contract and a full and complete understanding of the benefits of the policy, and acknowledges that he or she has entered into the life settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, that the terminal or chronic illness or condition was diagnosed after the policy was issued.(4) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.(5) All life settlement

contracts entered into in this state shall contain an unconditional right to rescind a life settlement contract before the earlier of thirty (30) calendar days after the date it is executed or fifteen (15) calendar days after the date of receipt of the proceeds of the life settlement contract by the owner. If exercised by the owner, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the life settlement provider. If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded subject to repayment of all proceeds and any premiums, loans, and loan interest to the life settlement provider. The life settlement provider shall effectuate the change of ownership of the policy or certificate to the owner immediately upon effective rescission by the owner.(6) The independent third-party trustee shall transfer the proceeds that are due to the owner within two (2) business days upon receipt of acknowledgment of the transfer of ownership from the insurer.(7) Failure to tender consideration to the owner for the life settlement contract by the date disclosed renders the life settlement contract voidable by the owner for lack of consideration until the time consideration is tendered to and accepted by the owner.(8) Contacts with the insured for the purpose of determining the health status of the insured after the execution of the life settlement contract shall only be made by the life settlement provider or its authorized representative and shall be limited to once every three (3) months for an insured with a life expectancy of more than one (1) year, and to no more than once per month for an insured with a life expectancy of one (1) year or less. The life settlement provider shall explain the procedure for these contacts at the time the life settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Life settlement providers shall be responsible for the actions of their authorized representatives.(9) The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in the Commonwealth or with a resident of the Commonwealth.(10) If a life settlement broker performs any activities required of the provider under this section, the provider is deemed to have fulfilled those requirements of this section that have been properly performed by the broker.(11) If a life settlement broker performs any of the disclosure activities required of the provider under KRS 304.15-710, the provider is deemed to have fulfilled those requirements of KRS 304.15-710 that have been properly performed by the broker.(12) Within twenty (20) days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued that insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required by KRS 304.15-702(1)(b).(13) Any fee paid by a provider, party, individual, or an owner to a broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained, not the face value of the policy. Nothing in this section shall be construed as prohibiting a broker from reducing such broker's fee below this percentage if the broker so chooses.(14) The broker shall disclose to the owner anything of value paid or given to a broker which relates to a life settlement contract.

*KRS 304.15-715*

Section 304.15-716 - Violation due to time of contract - Conditions - Procedure - Satisfaction of requirements(1) It is a violation of this subtitle for a person to enter into a life settlement contract at any time prior to, or at the time of application for, issuance of a policy, or within a two (2) year period commencing with the date of issuance of the policy unless the owner certifies to the life settlement provider that one (1) or more of the following conditions has been met within the

two (2) year period:(a) The policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy, if the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four (24) months. The time covered under a group policy shall be calculated without regard to a change in insurance carriers, if the coverage has been continuous and under the same group sponsorship; or(b) The owner submits independent evidence to the life settlement provider that one (1) or more of the following conditions has been met within the two (2) year period:1. The owner or insured is terminally or chronically ill;2. The owner or insured disposes of his ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;3. The owner's spouse dies;4. The owner divorces his or her spouse;5. The owner retires from full-time employment;6. The owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or7. A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of the creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee, or liquidator to all or a substantial part of the owner's assets.(2) Copies of the independent evidence described in subsection (1) of this section and the documents required by KRS 304.15-710 shall be submitted to the insurer when the life settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider.(3) If the life settlement provider submits to the insurer a copy of independent evidence provided for in subsection (2) of this section when the life settlement provider submits a request to the insurer to effect the transfer of the policy to the life settlement provider, the copy shall be deemed to conclusively establish that the life settlement contract satisfies the requirements of this section and the insurer shall respond timely to the request.

*KRS 304.15-716*

Section 304.15-717 - Circumstances under which life settlement transactions are unlawful - Required statement regarding false information - Furnishing information regarding fraudulent life settlement acts(1) It is unlawful for any person:(a) To knowingly or intentionally enter into a life settlement contract when the subject life insurance policy was obtained by means of a false, deceptive, or misleading application for the life insurance policy;(b) To knowingly or intentionally interfere with the enforcement of the provisions of this subtitle or investigations of suspected or actual violations of this subtitle;(c) To knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements as defined in KRS 304.15-020(5);(d) To commit a fraudulent life settlement act;(e) To misrepresent that the life settlement provider, life settlement broker, other licensee, or any other person has been guaranteed, sponsored, recommended, or approved by the state, or by any local, state, or federal agency or officer thereof;(f) To act as a life settlement broker if the person is acting as a life settlement provider in the same life settlement contract;(g) For any person to pay any compensation or provide anything of value to an insured's physician, attorney, accountant, or any other person who provides medical, legal, or financial advice to the insured as a finder's or referral fee;(h) To engage in any transaction, practice, or course of business if such person knows or reasonably should have known that the intent was to avoid the notice requirements of KRS 304.15-020 and 304.15-700 to 304.15-720;(i) To engage in any fraudulent

act or practice in connection with any transaction relating to any settlement involving an owner who is a resident of this state;**(j)** To issue, solicit, market, or otherwise promote the purchase of a life insurance policy for the sole purpose of or with a primary emphasis on settling the policy;**(k)** To enter into a life settlement contract on a policy that was the subject of a premium finance agreement as described in KRS 304.15-020(17)(b) 2.;**(l)** With respect to any life settlement contract or life insurance policy and a broker, to knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to any provider, financing entity, or related provider trust, or any insurer that is controlling, controlled by, or under common control with such broker unless disclosed to the owner;**(m)** With respect to any life settlement contract or life insurance policy and a provider, to knowingly enter into a life settlement contract with an owner if, in connection with such life settlement contract, anything of value will be paid to a broker or provider that is controlling, controlled by, or under common control with such provider, the financing entity, or related provider trust that is involved in such life settlement, or any insurer unless disclosed to the owner;**(n)** With respect to a provider, to enter into a life settlement contract unless the life settlement promotional, advertising, and marketing materials, as may be prescribed by administrative regulation, have been filed with the commissioner. Marketing materials shall not expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause an owner to reasonably believe that the insurance is free for any period of time shall be considered a violation of KRS 304.15-700 to 304.15-720;**(o)** With respect to any insurance company, insurance producer, broker, or provider, or any other person, to make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy; or**(p)** If an insurer, to:**1.** Engage in or permit any discrimination between individuals of the same class, same policy amount, and equal expectation of life in the rates charged for any life insurance policy or annuity contract based upon an individual's having entered into a life settlement contract or being insured under a settled policy;**2.** Make any false or misleading statement as to the business of life settlements or financing premiums due for a policy or to any owner or insured for the purpose of inducing or tending to induce the owner or insured not to enter into a life settlement contract; or**3.** Engage in any transaction, act, practice, or course of business, or dealing which restricts, limits, or impairs in any way the lawful transfer of ownership, change of beneficiary, or assignment of a policy. This subsection shall not prohibit a statement that the person is licensed, if that statement is true and the effect of the statement is not misrepresented.

**(2)** A life settlement contract and an application for a life settlement contract, regardless of the form of transmission, shall contain the following statement or a substantially similar statement: "Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a crime and upon conviction may be subject to fines or confinement in prison, or both."

The lack of a statement required by this section does not constitute a defense in any prosecution for a fraudulent life settlement act.

**(3)(a)** A person engaged in the business of life settlements who has knowledge or a reasonable belief that a fraudulent life settlement act is being, will be, or has been committed shall provide

the information required to the commissioner, in a manner prescribed by the commissioner.

**(b)** Any person who has knowledge or a reasonable belief that a fraudulent life settlement act is being, will be, or has been committed may provide the information required to the commissioner, in a manner prescribed by the commissioner in administrative regulations.

**(4)(a)** Civil liability may not be imposed on and a cause of action may not arise from a person's furnishing information concerning suspected, anticipated, or completed fraudulent life settlement acts, or suspected or completed fraudulent insurance acts, if the information is provided to or received from:

- 1.** The commissioner or the commissioner's employees, agents, or representatives;
- 2.** Federal, state, or local law enforcement or regulatory officials, or their employees, agents, or representatives;
- 3.** A person involved in the prevention and detection of fraudulent life settlement acts or that person's agents, employees, or representatives;
- 4.** The National Association of Insurance Commissioners (NAIC), the National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA), or their employees, agents, or representatives, or any other regulatory body overseeing life insurance or life settlement contracts;
- 5.** The insurer that issued the policy covering the life of the insured; or
- 6.** The licensee and any agents, employees, or representatives.

**(b)** This subsection shall not apply to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent life settlement act or a fraudulent insurance act, the party bringing the action shall plead specifically any allegation that this subsection shall not apply because the person filing the report or furnishing the information did so with actual malice.

**(c)** A person who furnishes information concerning fraudulent life settlement acts and who is a party in a civil cause of action for libel, slander, or another relevant tort arising out of activities in carrying out the provisions of this chapter shall be entitled to an award of attorney's fees and court costs if he is the prevailing party in the suit and the party bringing the action was not substantially justified in filing the cause of action. For purposes of this paragraph, a proceeding is "substantially justified" if a person had a reasonable basis in law or fact at the time the cause of action was initiated.

**(d)** This subsection shall not abrogate or modify common law or statutory privileges or immunities enjoyed by a person.

**(e)** This subsection shall not apply to a person who furnishes information concerning his own suspected, anticipated, or completed fraudulent life settlement acts or suspected, anticipated, or completed fraudulent insurance acts.

**(5)** The documents and evidence provided pursuant to subsection (4) of this section or obtained by the commissioner in an investigation of suspected or actual fraudulent life settlement acts shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action, except that:

**(a)** This subsection shall not prohibit release by the commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent life settlement acts:

- 1.** In administrative or judicial proceedings to enforce laws administered by the commissioner;
- 2.** To federal, state, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent life settlement acts, or to the National Association of Insurance Commissioners (NAIC); or
- 3.** At the discretion of the commissioner, to a person in the business of life settlements that is aggrieved by a fraudulent life settlement act; and

**(b)** The release of documents and evidence provided by paragraph (a) of this subsection shall not abrogate or modify the privilege granted by this subsection.

**(6)** This section shall not:

**(a)** Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;

**(b)** Prevent or prohibit a person from voluntarily disclosing information

concerning fraudulent life settlement acts to a law enforcement or regulatory agency other than the Department of Insurance; **(c)** Limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers; or **(d)** Preempt, supersede, or limit any provision of any state securities law or any rule, order, administrative regulation, or notice issued thereunder. **(7)** A life settlement provider shall adopt antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent life settlement acts. The commissioner may order or, if a licensee requests, may grant modifications of the required initiatives listed in this subsection as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications reasonably may be expected to accomplish the purpose of this section. Antifraud initiatives shall include the following: **(a)** Fraud investigators, who may be life settlement providers or employees or independent contractors of those life settlement providers; and **(b)** An antifraud plan that shall be filed with the commissioner and that shall include but is not limited to the following: **1.** The procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications; **2.** The procedures for reporting possible fraudulent life settlement acts to the commissioner; **3.** The plan for antifraud education and training of underwriters and other personnel; and **4.** A chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent life settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications. Antifraud plans filed with the commissioner shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.

#### *KRS 304.15-717*

##### Section 304.15-718 - Requirements governing execution of life settlement contracts

The life settlement provider shall instruct the owner to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three (3) business days after the date the escrow agent receives the document, or from the date the life settlement provider receives the documents, if the owner erroneously sends the documents directly to the provider, the life settlement provider shall pay the proceeds due to the owner to an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the life settlement provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the owner.

#### *KRS 304.15-718*

##### Section 304.15-719 - Annual statement to be filed with commissioner - Administrative regulations



Each provider shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner may prescribe by administrative regulation. In addition to any other requirements, the annual statement of each provider shall also include the names of the insurance companies whose policies have been settled.

*KRS 304.15-719*

Section 304.15-720 - Powers of commissioner  
The commissioner shall have the authority to:

(1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing KRS 304.15-020 and 304.15-700 to 304.15-720;(2) Establish standards for evaluating reasonableness of payments under life settlement contracts where the insured under the policy which is the subject of a life settlement contract is terminally or chronically ill. This authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy. A life settlement provider, where the insured is not terminally or chronically ill, shall pay an amount greater than the cash surrender value or accelerated death benefit then available;(3) Establish appropriate licensing requirements and fees for agents and brokers; and(4) Promulgate administrative regulations governing the relationship and responsibilities of an insurer and a life settlement provider, life insurance producer, and others in the business of life settlements during the period of consideration or effectuation of a life settlement contract.

*KRS 304.15-720*

Section 304.15-725 - KRS 304.15-020 and KRS 304.15-700 to 304.15-720 subject to Subtitle 12 of this chapter

The activities regulated by KRS 304.15-020 and KRS 304.15-700 to 304.15-720 shall be deemed the business of insurance and subject to Subtitle 12 of this chapter.

Section 304.15-726 - Life settlement contracts for payments directly to long-term care services providers - Administrative regulations(1) For purposes of this section:(a) "Long-term care services" means:1. Home health care;2. Assisted living;3. Nursing home care; and4. Any other service or support deemed a long-term care service pursuant to administrative regulations promulgated by the Department for Medicaid Services; and(b) "Recipient" means the recipient of the long-term care services that are being paid for from the proceeds of the life settlement contract entered into pursuant to this section.(2) The owner of a life insurance policy with a face value in excess of ten thousand dollars (\$10,000) may enter into a life settlement contract pursuant to KRS 304.15-700 to 304.15-720, in exchange for payments directly to a long-term care services provider as of the effective date of the life settlement contract in accordance with this section.(3)(a) All proceeds of the life settlement contract entered into pursuant to this section shall:1. Not be subject to any statute or administrative regulation relating to minimum payments for a life settlement which conflict with the provisions of this section; and2. Be held in an irrevocable state or federally insured account for the benefit of the recipient of the long-term care services and administered in accordance with this section.(b) The type of long-term care services payable from the irrevocable account shall be chosen only by the recipient of the services. Any

attempt by any person to require the use of a long-term care services provider to obtain long-term care services pursuant to this section is prohibited and shall constitute an unfair or deceptive act or practice in violation of KRS 304.12-010.(c) In addition to the requirements in KRS 304.15-700 to 304.15-720, any life settlement contract entered into pursuant to this section shall include the following:**1.** A provision in the contract that five percent (5%) of the face amount of the life insurance policy, not to exceed seven thousand five hundred dollars (\$7,500), or five thousand dollars (\$5,000), whichever is greater, may be reserved and if reserved shall be payable to the owner's estate or a named beneficiary of the irrevocable account upon the death of the insured under the policy that is the subject of the life settlement contract for final expenses; and**2.** The balance of proceeds of the life settlement contract that are unpaid at the death of the owner shall be paid to the owner's estate or a named beneficiary of the irrevocable account.(d) Any life settlement provider entering into a life settlement contract pursuant to this section shall maintain one (1) of the following:**1.** A surety bond executed and issued by an insurer authorized to issue bonds in this state in the amount of five hundred thousand dollars (\$500,000). Any surety bond issued shall be in favor of this state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the life settlement provider; or**2.** A policy of errors and omissions insurance covering legal liability resulting from erroneous acts or failure to act in their capacity as a life settlement provider in the sum of no less than five hundred thousand dollars (\$500,000) per occurrence and in the aggregate.(e) For purposes of this section, in addition to any requirements of KRS 304.15-700 to 304.15-720:**1.** Life settlement contract forms entered into pursuant to this section shall be filed and approved by the department; and**2.** Advertising and marketing materials used by a life settlement provider pursuant to this section shall be filed with the department.(f) Any claim against a life settlement provider from an owner of a policy, the owner's estate, any beneficiary, or any other person with respect to the life settlement contract shall not exceed the face amount of the policy, less the proceeds paid under the life settlement contract, the total amount of premiums paid subsequent to entering into the life settlement contract, and any other reasonable costs or expenses associated with the acquisition or maintenance of the policy that is the subject of a life settlement contract. Any payment of a claim by a life settlement provider shall be made from the funds established pursuant to paragraph (a)2. of this subsection.(g) The department shall conduct periodic market examinations of each life settlement provider regarding the life settlement contracts entered into pursuant to this section in accordance with KRS 304.15-705.(4) Nothing in this section shall be the exclusive method for a life insurance policy to be excluded as a resource or asset in determining the applicant's or recipient's eligibility for Medicaid.(5) The commissioner may promulgate administrative regulations to implement this section.

*KRS 304.15-726*