

State of Arizona: Chapter 22 - LIFE SETTLEMENTS

Section 20-3201 - Definitions

In this chapter, unless the context otherwise requires:

1. "Advertising" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted by radio, television, the internet or similar communications media, including film strips, motion pictures and videos, that is published, disseminated, circulated or placed directly before an owner in this state for the purpose of creating an interest in or inducing an owner 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.** "Broker": **(a)** Means a person who: **(i)** On behalf of an owner, and for a fee, commission or other valuable consideration, offers or attempts to negotiate life settlement contracts between an owner and providers.**(ii)** Represents only the owner.**(iii)** Owes a fiduciary duty to the owner to act according to the owner's instructions, and in the best interest of the owner, notwithstanding the manner in which the broker is compensated.**(b)** Does not include an attorney, certified public accountant or financial planner who is retained in the type of practice customarily performed in that professional capacity to represent the owner and whose compensation is not paid directly or indirectly by the provider or any other person, except the owner.**3.** "Business of life settlements" includes offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring or tracking of life settlement contracts.**4.** "Chronic illness" means an illness that causes an individual to either:**(a)** Be unable to perform at least two activities of daily living.**(b)** Require substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.**5.** "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a provider, credit enhancer or any entity that has a direct ownership in a policy or certificate that is the subject of a life settlement contract and for which both of the following apply:**(a)** The entity's principal activity related to the transaction is providing monies to effect the life settlement contract or the purchase of one or more policies.**(b)** The entity has an agreement in writing with one or more providers to finance the acquisition of life settlement contracts.**6.** "Financing transaction" means a transaction in which a licensed provider obtains financing from a financing entity, including any secured or unsecured financing, any securitization transaction or any securities offering that either is registered or exempt from registration under federal and state securities law.**7.** "Insured" means the person who is covered under the policy being considered for sale in a life settlement contract.**8.** "Life expectancy" means the arithmetic mean of 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.**9.** "Life insurance producer" means any person who is licensed to transact life insurance business in this state pursuant to chapter 2, article 3 of this title.**10.** "Life settlement contract": **(a)** Means a written agreement between a provider and an owner that establishes 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 insurance policy or

certificate, in return for the owner's assignment, transfer, sale, devise or bequest of the death benefit or any portion of an insurance policy or certificate of insurance for compensation if the minimum value for a life settlement contract is greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract. **(b)** Includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns the policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts that are owned by a person residing in this state. **(c)** Includes a premium finance loan made for a policy on or before the date of issuance of the policy if one or more of the following conditions apply: **(i)** 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. **(ii)** The owner receives on the date of the premium finance loan a guarantee of the future life settlement value of the policy. **(iii)** The owner agrees on the date of the premium finance loan to sell the policy or any portion of the policy's death benefit on any date following the issuance of the policy, not including an agreement to sell the policy in the event of a default, if the default is not pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. **(d)** Does not include any of the following: **(i)** 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. **(ii)** A premium finance loan or any loan made by a bank or other licensed financial institution if the default on the loan or the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. **(iii)** A collateral assignment of a life insurance policy by an owner. **(iv)** A loan made by a lender if the loan is not described in subdivision (c) of this paragraph and is not otherwise within the definition of life settlement contract. **(v)** An agreement where all of the parties are either 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 in trusts established primarily for the benefit of those parties. **(vi)** Any designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer or by a trust established by the employer of life insurance on the life of the employee. **(vii)** A bona fide business succession planning arrangement between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders, between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners or between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members. **(viii)** 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. **(ix)** Any other contract, transaction or arrangement that the director determines is not of the type intended to be regulated by this chapter. **11. "Owner":** **(a)** Means the owner of a policy, with or without a chronic illness or a terminal illness or condition, who enters or seeks to enter into a life settlement contract. **(b)** Is not limited to an owner of a policy that insures the life of an individual with a chronic illness or a terminal illness or condition except where specifically addressed. **(c)** Does not include any of the following: **(i)** Any provider or other licensee under this chapter. **(ii)** A qualified institutional buyer as defined in rule 144A of the federal securities act of 1933, as amended. **(iii)** A financing entity. **(iv)** A special purpose

entity.**(v)** A related provider trust.**12.** "Person" means an individual or business entity.**13.** "Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance owned by a resident of this state regardless of whether delivered or issued for delivery in this state.**14.** "Premium finance loan" means a loan that is made primarily for the purpose of making premium payments on a life insurance policy and that is secured by an interest in the life insurance policy.**15.** "Provider":**(a)** Means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner.**(b)** Does not include any of the following:**(i)** Any bank, savings bank, savings and loan association or credit union.**(ii)** A licensed lending institution or creditor or secured party pursuant to a premium finance loan agreement that takes an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan.**(iii)** The insurer of a life insurance policy or rider to the extent of providing accelerated death benefits or riders or cash surrender value.**(iv)** A purchaser.**(v)** Any authorized or eligible insurer that provides stop loss coverage to a provider, purchaser, financing entity, special purpose entity or related provider trust.**(vi)** A financing entity.**(vii)** A related provider trust.**(viii)** A broker.**(ix)** An accredited investor or qualified institutional buyer, as defined in regulation D, rule 501 or rule 144A of the federal securities act of 1933, as amended, who purchases a life settlement policy from a provider.**16.** "Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust that is vested with, or for the assignment, transfer or sale of, an ownership or other interest in a life insurance policy or a certificate issued pursuant to a group life insurance policy that has been the subject of a life settlement contract.**17.** "Related provider trust" means a titling trust or other trust that is established by a licensed provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction and that has a written agreement with the licensed provider under which the licensed provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files relating to life settlement transactions available to the department as if those records and files were maintained directly by the licensed provider.**18.** "Settled" means a life insurance policy or certificate that has been acquired by a provider pursuant to a life settlement contract.**19.** "Special purpose entity" means a corporation, partnership, trust, limited liability company or other legal entity whose securities pay a fixed rate of return commensurate with established asset-backed capital markets or that has been formed solely to provide either directly or indirectly access to institutional capital markets:**(a)** For a financing entity or provider.**(b)** In connection with a transaction in which the securities in the special purpose entity are acquired by the owner or by a qualified institutional buyer as defined in rule 144 of the federal securities act of 1933, as amended.**20.** "Stranger originated life insurance" means an intentional practice or plan as prescribed in section 20-443.02.**21.** "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

A.R.S. § 20-3201

Section 20-3202 - Licensure; requirements**A.** Except as otherwise provided in this section, a person shall not act as a provider or broker with any owner who is a resident of this state unless the person obtains a certificate of authority or license pursuant to this section.**B.** An applicant for a provider certificate of authority shall submit an application to the director on a form prescribed by the director. The application shall be accompanied by a fee in an amount established by the director.**C.** The applicant for a provider certificate of authority shall provide all of the

information required by the director. The director, at any time, may require an applicant to fully disclose the identity of its partners, officers, employees and stockholders except for stockholders owning less than ten percent of the shares of an applicant whose shares are publicly traded. The director, at the director's sole discretion, may refuse to issue a certificate of authority in the name of any person if the director is not satisfied that any officer, employee, stockholder or partner who may materially influence the applicant's conduct meets the requirements of this chapter.

D. A provider certificate of authority issued to a partnership, corporation or other entity authorizes all members, officers and designated employees to act as a provider under the certificate of authority if those persons are named in the application and any supplements to the application.

E. The director shall require that:

- 1.** A provider submit a detailed plan of operation.
- 2.** If the applicant for a provider certificate of authority is a legal entity, it be formed or organized pursuant to the laws of this state or, if it is a foreign legal entity, it be authorized to transact business in this state or provide a certificate of good standing from the state of its domicile.
- 3.** The applicant for a provider certificate of authority provide an antifraud plan that meets the requirements of section 20-3211 and that includes a description of:
 - (a)** The procedures for detecting and investigating possible fraudulent acts and for resolving material inconsistencies between medical records and insurance applications.
 - (b)** The procedures for reporting fraudulent insurance acts to the director.
 - (c)** The plan for antifraud education and training of its underwriters and other personnel.
 - (d)** A written description or organizational chart of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent insurance acts and the investigation of unresolved material inconsistencies between medical records and insurance applications.

F. A producer that is licensed in this state with a life line of authority shall:

- 1.** Be deemed to meet the licensing requirements of this section and be permitted to operate as a broker.
- 2.** Within the first thirty days of operating as a broker, notify the director, on a form prescribed by the director, that the producer is acting as a broker. Notification shall include an acknowledgement by the life insurance producer that the producer will operate as a broker pursuant to this chapter.
- 3.** Pay any applicable fee as determined by the director.

G. A broker may renew a license by paying the renewal fee in an amount established by the director. The expiration date of the broker authority shall coincide with the expiration date of the life line of authority as set forth in section 20-289.

H. The director may not issue a license to any nonresident applicant unless a written designation of an agent in this state for service of process is filed and maintained with the director or unless the applicant has filed with the director the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the director.

I. A provider may not use any person to perform the function of a broker unless the person holds a valid license as a broker pursuant to this section.

J. A broker may not use any person to perform the functions of a provider unless the person holds a valid license as a provider pursuant to this section.

K. A provider or broker shall submit to the director any new or revised information concerning individuals required to be disclosed pursuant to subsection C of this section within thirty days of any change.

L. A person who is licensed as an attorney or a certified public accountant, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the provider or purchaser may negotiate a life settlement contract on behalf of the owner without having to obtain a license as a broker.

M. The insurer that issued the policy and that is the subject of a life settlement contract is not responsible for any act or omission of a broker or provider or a purchaser arising out of or in connection with the life settlement transaction unless the insurer receives

compensation for the placement of a life settlement contract from the provider, broker or purchaser in connection with the life settlement contract.

A.R.S. § 20-3202

Section 20-3203 - Contract requirements**A.** A person may not use any form of life settlement contract in this state unless it is filed with and, if required, approved by the director in a manner that conforms with the filing procedures and any time restrictions or deeming provisions for life insurance forms, policies or contracts.**B.** 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, an insurer may not require that the owner, insured, provider or broker sign any form, disclosure, consent, waiver or acknowledgment that has not been expressly approved by the director for use in connection with life settlement contracts in this state.**C.** A person may not use a life settlement contract form or provide to an owner a disclosure statement form in this state unless the form is first filed with and approved by the director. The director may not approve a life settlement contract form or disclosure statement form if, in the director's opinion, the contract or provisions of the contract fail to meet the requirements of this chapter or are unreasonable, contrary to the public interest or otherwise misleading or unfair to the owner.

A.R.S. § 20-3203

Section 20-3204 - Provider and broker disclosures to owners; violation; classification**A.** The provider or broker shall provide in writing the following information, in a separate document that is signed by the owner and provider, to the owner no later than the date of application for the life settlement contract: **1.** That there are possible alternatives to life settlements, including accelerated benefits options that may be offered by the life insurer or policy loans.**2.** That some or all of the proceeds of a life settlement may be taxable and that assistance should be sought from a professional tax adviser.**3.** That the proceeds from a life settlement could be subject to the claims of creditors.**4.** That receipt of proceeds from a life settlement contract may adversely affect the recipient's eligibility for public assistance or other government benefits or entitlements and that advice should be obtained from the appropriate agencies.**5.** That entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate of a group policy, to be forfeited by the owner and that assistance should be sought from a professional financial adviser.**6.** That the owner has a right to rescind a life settlement contract within fifteen days after the date it is executed by all parties and the owner has received all required disclosures. Rescission, if exercised by the owner, is effective only if both notice of rescission is given and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the provider within the rescission period. If the insured dies during the rescission period, the contract is deemed to have been rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans and loan interest to the provider.**7.** That proceeds will be sent to the owner within three business days after the provider has received the insurer or group administrator's acknowledgment that ownership of the policy or the interest in the certificate has been transferred and the beneficiary has been designated according to the terms of the life settlement contract.**8.** The date by which the monies will be available to the owner and the transmitter of the monies.**9.** That the insured may be contacted by either the provider or the broker or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address. This contact is limited to once every three months if the

insured has a life expectancy of more than one year and not more than once per month if the insured has a life expectancy of one year or less.**10.** Any affiliations or contractual relations between the provider and the broker and the affiliation, if any, between the provider and the issuer of the policy to be settled.**11.** 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 interest of the owner.**12.** The name, business address and telephone number of the broker.**B.** The disclosure required under subsection A shall also include the following statements:

All medical, financial or personal information solicited or obtained by a provider or 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 contract between the owner and 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 monies for the purchase. You may be asked to renew your permission to share information every two years.

Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a class 1 misdemeanor and may be subject to fines and confinement in jail.

C. The broker shall provide the owner and the provider with at least all of the following disclosures in writing before all parties sign the life settlement contract. The disclosures shall be clearly displayed in the life settlement contract or in a separate document signed by the owner:**1.** The name, business address and telephone number of the broker.**2.** A full, complete and accurate description of all of the offers, counteroffers, acceptances and rejections relating to the proposed life settlement contract.**3.** A disclosure of any affiliations or contractual arrangements between the broker and any person making an offer in connection with the proposed life settlement contract.**4.** The name of each broker who receives compensation and the amount of compensation received by that broker including anything of value paid or given to the broker in connection with the life settlement contract.**5.** 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 or more life insurance policies including commissions and fees.
A.R.S. § 20-3204

Section 20-3205 - Privacy

Except as otherwise provided by law, a provider, broker, insurance company, insurance producer or any other person with actual knowledge of an insured's identity shall not disclose the identity of an insured or any information that there is a reasonable basis to believe could be used to identify the insured or the insured's financial or medical information to any other person unless the disclosure is one of the following:

1. Necessary to effect a life settlement contract between the owner and a provider and the owner and insured have provided prior written consent to the disclosure.**2.** Necessary to effect the sale of life settlement contracts or interests in life settlement contracts as investments if the sale is conducted pursuant to applicable state and federal securities law and the owner and the insured

have both provided prior written consent to the disclosure.**3.** Provided in response to an investigation or examination by the director or any other state or federal agency.**4.** A term or condition to the transfer of a policy by one provider to another provider, in which case the receiving provider shall be required to comply with all applicable laws regarding the confidentiality of medical information.**5.** Necessary to allow the provider or broker or the provider's or broker's authorized representatives to make contacts for the purpose of determining health status. For the purposes of this paragraph, authorized representative does not include any person who has or may have any financial interest in the settlement contract other than a provider or licensed broker. Authorized representatives shall agree in writing to adhere to all applicable confidentiality and privacy laws.**6.** Required to purchase stop loss coverage.

A.R.S. § 20-3205

Section 20-3206 - Rule making; examinations**A.** The director may adopt rules reasonably necessary to regulate life settlements and transactions consistent with the provisions of this chapter.**B.** The director, whenever the director deems it reasonably necessary to protect the interests of the public, may examine the business and affairs of any licensee or applicant for a license. The director may order any licensee or applicant to produce any records, books, files or other information to ascertain whether or not the licensee or applicant is acting or has acted in violation of this title or otherwise contrary to the interests of the public. The licensee or applicant shall pay any expenses incurred in conducting any examination.**C.** In lieu of an examination of any foreign or alien licensee licensed in this state, the director, at the director's discretion, may accept an examination report on the licensee prepared by the director for the licensee's state of domicile or port-of-entry state.**D.** Names of and individual identification data for all owners and insureds is private and confidential information and shall not be disclosed by the director unless required by law.**E.** The provider shall maintain records of all consummated transactions and life settlement contracts for three years after the death of the insured. The director may inspect these records during reasonable business hours.

A.R.S. § 20-3206

Section 20-3207 - Conduct of examinations; examination reports; confidentiality**A.** The director may investigate suspected fraudulent life settlement acts and persons engaged in the business of life settlements.**B.** After determining that an examination should be conducted, the director shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall use methods common to the examination of any life settlement licensee and should use those guidelines and procedures set forth in an examiners' handbook adopted by a national organization.**C.** Every licensee or person from whom information is sought and the officers, directors and agents of the licensee or person shall provide to the examiners timely, convenient and free access during reasonable hours at its offices to all examined licensee's books, records, accounts, papers, documents, assets and computer or other records relating to the property, assets, business and affairs. The officers, directors, employees and agents of the licensee or person shall facilitate and aid in the examination. The director may suspend, revoke or nonrenew a licensee's license or authority to engage in the life settlement business or other business that is subject to the director's jurisdiction if the licensee, by its officers, directors, employees or agents, fails to submit to an examination or to comply with any reasonable written request of the director.**D.** The director may issue subpoenas, administer oaths and examine under oath any

person as to any matter pertinent to the examination. If a person fails or refuses to obey a subpoena, the director may petition a court of competent jurisdiction and, on proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence.**E.** When making an examination under this chapter, the director may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.**F.** The provisions of this section do not limit the director's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination constitute prima facie evidence in any legal or regulatory action.**G.** The provisions of this section do not limit the director's authority to use and, if appropriate, make public any final or preliminary examination report, any examiner or licensee work papers or other documents or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the director deems appropriate.**H.** Examination reports shall include only the facts appearing on the licensee's books or from the testimony of the licensee's officers or agents or other persons examined concerning the licensee's affairs and the conclusions and recommendations the examiner finds reasonably warranted from the facts.**I.** Within sixty days after the examination is completed, the examiner in charge shall file with the director a verified written report of examination under oath. On receipt of the verified report, the director shall transmit the report to the examined licensee together with a notice that gives the examined licensee a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report, and that shall become part of the report, or to request a hearing on any matter in dispute.**J.** On finding that a person has violated this chapter or a rule adopted pursuant to this chapter, the director may issue an order directing that the person cease and desist from committing the violation. On the issuance of an order to cease and desist, the person may request a hearing pursuant to section 20-161 and title 41, chapter 6, article 10.**K.** The names and individual identification data for all owners, purchasers and insureds is confidential information and shall not be disclosed by the director unless the disclosure is to another regulator or is required by law.**L.** Except as otherwise provided in this chapter, all examination reports, working papers, recorded information, documents and copies produced by, obtained by or disclosed to the director or any other person in the course of an examination made under this chapter, or in the course of an analysis or investigation by the director of the licensee's financial condition or market conduct are confidential and privileged and are not public records. This information is not subject to subpoena or discovery and is not admissible in evidence in any private civil action. The director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the director's official duties. The examined licensee may access all documents used to make the report.**M.** All examination and examination related expenses shall be borne by the provider and shall be paid by the insurance examiners' revolving fund pursuant to section 20-159.

A.R.S. § 20-3207

Section 20-3208 - Conflict of interest; examiners**A.** The director may not appoint an examiner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section does not automatically preclude an examiner from being an owner, an

insured in a life settlement contract or insurance policy or a beneficiary in an insurance policy that is proposed for a life settlement contract.**B.** Notwithstanding subsection A, the director may retain on an individual basis qualified actuaries, certified public accountants or other similar individuals who are independently practicing their professions even though these persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

A.R.S. § 20-3208

Section 20-3209 - Immunity from liability**A.** The director, the director's authorized representatives or any examiner appointed by the director is not liable for any statements made or conduct performed in good faith while carrying out the provisions of this chapter.**B.** A person who communicates or delivers information or data to the director, the director's authorized representative or an examiner pursuant to an examination made under this chapter is not liable for the communication or delivery if the communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.**C.** A person listed in subsection A or B is entitled to attorney fees and costs if the person is the prevailing party in a civil cause of action for libel, slander or other relevant tort arising out of activities in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in doing so. For the purposes of this subsection, a proceeding is substantially justified if it had a reasonable basis in law or fact at the time that it was initiated.

A.R.S. § 20-3209

Section 20-3210 - Annual statements; record retention**A.** Each licensed provider shall file with the director on or before March 1 of each year an annual statement in a form prescribed by the director. The annual statement shall be verified by the oath of at least two of its principal officers, showing its condition at the end of the preceding calendar year. In addition to any other requirements, the annual statement shall include the total number, aggregate face amount and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement shall not include individual transaction data regarding the business of life settlements or information that there is a reasonable basis to believe could be used to identify the owner or the insured.**B.** The provider shall maintain records of all consummated transactions and life settlement contracts for three years after the death of the insured. The director may inspect these records during reasonable business hours.

A.R.S. § 20-3210

Section 20-3211 - Contract requirements; execution; rescission; definition**A.** A provider entering into a life settlement contract with any owner of a policy in which the insured is terminally ill shall first obtain the following:**1.** If the owner is the 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 settlement contract.**2.** A document in which the insured consents to the release of the insured's medical records to a provider, settlement broker or insurance producer and, if the policy was issued less than two years from the date of application for a settlement contract, to the insurance company that issued the policy.**B.** The insurer shall respond to a request for verification of coverage submitted by a provider, settlement broker or life insurance producer not later than thirty calendar days from the date the request is received. The request for verification

of coverage must be made on a form approved by the director. The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In the insurer's response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract.**C.** Before or at the time of execution of the settlement contract, the provider shall obtain a witnessed document in which the owner consents to the settlement contract, represents that the owner has a full and complete understanding of the settlement contract and a full and complete understanding of the benefits of the policy, acknowledges that the owner is entering into the settlement contract freely and voluntarily and, for persons with a chronic illness or terminal illness or condition, acknowledges that the insured has a chronic illness or a terminal illness or condition and that the chronic illness or the terminal illness or condition was diagnosed after the policy was issued.**D.** The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in this state or with a resident of this state.**E.** If a life settlement broker or life insurance producer performs any of these activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.**F.** If a broker performs the verification of coverage activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.**G.** Within twenty days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued the insurance policy that the policy is subject to a life settlement contract. The notice shall be accompanied by the documents required by section 20-3204, subsection C.**H.** All medical information solicited or obtained by any licensee is subject to any applicable law relating to confidentiality of medical information.**I.** All life settlement contracts entered into in this state shall provide that the owner may rescind the contract on or before fifteen days after the date it is executed by all parties and the owner has received all required disclosures. Rescission, if exercised by the owner, is effective only if both notice of the rescission is given and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the provider within the rescission period. If the insured dies during the rescission period, the contract shall be deemed to have been rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans and loan interest to the provider.**J.** Within three business days after receipt from the owner of documents to effect the transfer of the insurance policy, the provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgment of the transfer by the issuer of the policy. The trustee or escrow agent shall transfer the proceeds due to the owner within three business days after acknowledgment of the transfer from the insurer.**K.** Failure to tender the life settlement contract proceeds to the owner by the date disclosed to the owner renders the contract voidable by the owner for lack of consideration until the time the proceeds are tendered to and accepted by the owner. The failure to give written notice of the right of rescission tolls the right of rescission until thirty days after the written notice of the right of rescission has been given.**L.** Any fee paid by a provider, party, individual or 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 and not the face value of the policy. This section does not prohibit a broker from reducing the broker's fee below this percentage if the broker so chooses.**M.** The broker shall disclose to the owner anything of value paid or given to a broker that relates to a life settlement contract.**N.** At any time before or at the time of the application for or issuance of a policy or during a two-year period commencing with the date of issuance of the

policy, a person shall not enter into a life settlement regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest or surrender of the policy is to occur. This prohibition does not apply if: **1.** The owner certifies to the provider that the policy was issued on 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 months. The time covered under a group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous and under the same group sponsorship.**2.** The owner submits independent evidence to the provider that one or more of the following conditions have been met within the two-year period:**(a)** The owner or insured is terminally ill.**(b)** The owner or insured disposes of 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.**(c)** The owner's spouse dies.**(d)** The owner divorces the owner's spouse.**(e)** The owner retires from full-time employment.**(f)** The owner becomes a person with a physical or mental disability and a physician determines that the disability prevents the owner from maintaining full-time employment.**(g)** On the application of a creditor of the owner, a court of competent jurisdiction enters a final order, judgment or decree 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.**O.** The provider shall submit copies of the independent evidence required by subsection N, paragraph 2 of this section when the provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider. This section does not prohibit an insurer from exercising its right to contest the validity of any policy.**P.** If the provider submits to the insurer a copy of independent evidence as provided in subsection N, paragraph 2, subdivision (a) of this section when the provider submits a request to the insurer to effect the transfer of the policy to the provider, the copy shall be deemed to establish that the settlement contract satisfies the requirements of this section.**Q.** An insurer shall not: **1.** Engage in any transaction, act or practice that restricts, limits or impairs the lawful transfer of ownership, change of beneficiary or assignment of a policy.**2.** Make any false or misleading statement for the purpose of dissuading an owner or insured from a lawful life settlement contract.**R.** If there is more than one owner on a single policy and the owners are residents of different states, the life settlement contract shall be governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed on in writing by all of the owners of the policy. The law of the state of the insured shall govern in the event that equal owners fail to agree in writing on a state of residence for jurisdictional purposes.**S.** A provider from this state who enters into a life settlement contract with an owner who is a resident of another state that has enacted statutes or adopted rules governing life settlement contracts shall be governed in the effectuation of that life settlement contract by the statutes and rules of the owner's state of residence. If the state in which the owner is a resident has not enacted statutes or rules governing life settlement contracts, the provider shall give the owner notice that neither state regulates the transaction on which the owner is entering. For transactions in those states, the provider shall maintain all records required if the transactions were executed in the state of residence. The forms used in those states need not be approved by the department.**T.** If there is a conflict in the laws that apply to an owner and a purchaser in any individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.**U.** It

is a fraudulent life settlement act and a violation of this chapter for any person to do any of the following or any of the acts listed in subsection X of this section: **1.** Enter into a life settlement contract if a person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive or misleading application for the policy. **2.** Engage in any transaction, practice or course of business if a person knows or reasonably should have known that the intent was to avoid the notice requirements of this section. **3.** 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. **4.** Fail to provide the disclosures or file the required reports with the director as required by this chapter. **5.** Issue, solicit or market the purchase of a new life insurance policy for the sole purpose of, or with a primary emphasis on, settling the policy. **6.** With respect to any settlement contract or insurance policy and a broker, knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to any provider, financing entity or related provider trust that is controlling, controlled by or under common control with a broker, unless the relationship has been fully disclosed to the owner. **7.** With respect to any life settlement contract or insurance policy and a provider, knowingly enter into a life settlement contract with an owner if, in connection with a life settlement contract, anything of value will be paid to a broker that is controlling, controlled by or under common control with a provider or the financing entity or related provider trust that is involved in a settlement contract, unless the relationship has been fully disclosed to the owner. **8.** With respect to a provider, enter into a life settlement contract unless the life settlement promotional, advertising and marketing materials, have been filed with the director as may be prescribed by rule. The 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 is a violation of this chapter. **9.** With respect to any life insurance producer, insurance company, broker or provider, 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. **V.** Life settlement contracts and applications for life settlement contracts, 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 for a life settlement contract may be subject to criminal or civil liability.

W. The lack of a statement as required by subsection V of this section does not constitute a defense in any prosecution for a fraudulent life settlement act. **X.** For the purposes of this section, "fraudulent life settlement act" includes all of the following: **1.** Acts or omissions committed by any person who, for the purpose of depriving another of property or for pecuniary gain, commits or permits his employees or agents to engage in acts, including the following: **(a)** Presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer or insurance producer or any other person, false material information, or concealing material information as part of, in support of or concerning a fact material to one or more of the following: **(i)** An application for the issuance of a life settlement contract or insurance policy. **(ii)** The underwriting of a life settlement contract or insurance policy. **(iii)** A claim for payment or benefit pursuant to a life settlement contract or insurance policy. **(iv)** Premiums paid on an insurance policy. **(v)** Payments and changes in ownership or beneficiary made according to the terms of a life settlement contract or insurance

policy.(vi) The reinstatement or conversion of an insurance policy.(vii) The solicitation, offer to enter into or effectuation of a life settlement contract or insurance policy.(viii) The issuance of written evidence of life settlement contracts or insurance and 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.(b) Employing any device, scheme or artifice to defraud in the business of life settlements.(c) Entering into any intentional practice or plan that involves stranger originated life insurance as prescribed in section 20-443.02.(d) Employing any device, scheme or artifice in violation of section 20-1104.(e) If providing premium financing, receiving any proceeds, fees or other consideration from the policy or owner of the policy that are in addition to the amounts required to pay principal, interest and any costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except for a default, unless the default on such a loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. Any payments, charges, fees or other amounts received by a person providing premium financing in violation of this subdivision shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of overpayment.**2.** If a person does any of the following or permits the person's employees or agents to do any of the following, in the furtherance of a fraud or to prevent the detection of a fraud:(a) Remove, conceal, alter, destroy or sequester from the director the assets or records of a licensee or other person engaged in the business of life settlements.(b) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person.(c) Transact the business of life settlements in violation of any law requiring a license, certificate of authority or other legal authority for the transaction of the business of life settlements.(d) File with the director or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the director.(e) Engage in embezzlement, theft, misappropriation or conversion of moneys, funds, premiums, credits or other property of a provider, insurer, insured, owner, insurance policy owner or any other person engaged in the business of life settlements or insurance.(f) Enter into, broker or otherwise deal in a life settlement contract that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information requested concerning any fact material to the policy where the owner or the owner's agent intended to defraud the policy's issuer.(g) Attempt to commit, assist, aid or abet in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.(h) Misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this chapter for the purpose of evading or avoiding the provisions of this chapter.

A.R.S. § 20-3211

Section 20-3212 - Scope of chapter

This chapter does not:

1. Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law.**2.** Prevent or prohibit a person from disclosing voluntarily information concerning life settlement fraud to a law enforcement or regulatory agency other than the department.**3.** Limit the powers granted elsewhere by the laws of this state to the director or an insurance fraud unit to investigate and examine possible

violations of law and to take appropriate action against wrongdoers.**4.** Preempt or otherwise limit title 44, chapter 12 or any rules, orders, policy statements, notices, bulletins or other interpretations issued by or through the corporation commission or the corporation commission's designee acting pursuant to title 44, chapter 12. Compliance with this chapter does not constitute compliance with any applicable provision of title 44, chapter 12 or any rules, orders, policy statements, notices, bulletins or other interpretations issued by or through the corporation commission or the corporation commission's designee acting pursuant to title 44, chapter 12.
A.R.S. § 20-3212

Section 20-3213 - Applicability**A.** A provider lawfully transacting business in this state before the effective date of this chapter may continue to transact business in this state, pending approval or disapproval of that person's application for a license, if the provider files the application with the director not later than thirty days after publication by the director of an application form and instructions for licensure of providers. If the publication of the application form and instructions occurs before the effective date of this chapter, the provider shall file the application not later than thirty days after the effective date of this chapter. During the time that an application is pending with the director, the applicant may use any form of life settlement contract that has been filed with the director pending approval of the application if the form is otherwise in compliance with this chapter.**B.** A person who has lawfully acted as a broker and negotiated life settlement contracts between any owner residing in this state and one or more providers for at least one year immediately before the effective date of this chapter may continue to do so pending approval or disapproval of that person's application for a license if the broker files the application with the director not later than thirty days after publication by the director of an application form and instructions for licensure of brokers. If the publication of the application form and instructions occurs before the effective date of this chapter, the broker shall file the application not later than thirty days after the effective date of this chapter.**C.** Any person transacting business in this state under this section shall comply with all requirements of this chapter.

A.R.S. § 20-3213

Section 20-3214 - Injunctions; civil remedies; cease and desist**A.** In addition to the penalties and other enforcement provisions of this chapter, if any person violates any provision of this chapter or any rule adopted pursuant to this chapter, the director may seek an injunction in a court of competent jurisdiction in the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the director determines are necessary to restrain the person from further committing the violation.**B.** Any person who is damaged by the acts of another person in violation of this chapter or any rule adopted pursuant to this chapter may bring a civil action for damages against the person committing the violation in a court of competent jurisdiction.**C.** The director may issue a cease and desist order pursuant to section 20-456 upon a person who violates any provision of this chapter, any rule or order adopted by the director or any written agreement entered into with the director.**D.** If the director finds that an action presents an immediate danger to the public and requires an immediate final order, the director may 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 and remains effective for ninety days. If the department begins nonemergency cease and desist proceedings under subsection C of this

section, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction. In addition to actual damages, if the violation of this chapter was willful, the trial court may award statutory damages in an amount up to three times the actual damages awarded. The provisions of this chapter may not be waived by agreement. No choice of law provision may 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.

A.R.S. § 20-3214

Section 20-3215 - Penalties**A.** It is a violation of this chapter for any person, provider, broker or party related to the business of life settlements to commit a fraudulent life settlement act.**B.** A person who commits a fraudulent life settlement act is guilty of committing insurance fraud and is subject to section 20-466.01.**C.** The director may seek an injunction and an order of restitution and may levy a civil penalty pursuant to section 20-466.02 on any person who is licensed pursuant to this chapter and who is found to have committed a fraudulent life settlement act or to have violated any other provision of this chapter.**D.** The director may deny, suspend for not more than twelve months, revoke or refuse to renew the license of a person who commits a fraudulent life settlement act.

A.R.S. § 20-3215