

State of Massachusetts: Life Settlements Statutes

Massachusetts General Law → Chapter 175 Insurance → Section 175.213-223E

Section 175:212 - Definitions for Secs. 213 to 223E

As used in this section and sections 213 to 223E, inclusive, the following words shall have the following meanings unless the context clearly requires otherwise:

"Advertisement", a written, electronic or printed communication or a communication by means of a recorded telephone message or transmitted on radio, television, the Internet or similar communications media, published, disseminated, circulated or placed before the public, directly or indirectly, 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.

"Business of life settlements", an activity including, but not limited to, offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring or tracking a life settlement contract.

"Chronic illness", a condition because of which an individual has been certified by a licensed health care practitioner as: (1) being unable to perform at least 2 activities of daily living; (2) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or (3) having a level of disability similar to that described in clause (1) as determined under regulations promulgated by the United States Secretary of Health and Human Services.

"Financing entity", an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a life settlement 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, whose principal activity related to the transaction is providing funds to effect the life settlement contract or purchase of a policy and who has an agreement in writing with a life settlement provider to finance the acquisition of a life settlement contract; provided, however, that "financing entity" shall not include a nonaccredited investor or purchaser.

"Financing transaction", a transaction in which a licensed life settlement provider obtains financing from a financing entity including, but not limited to, secured or unsecured financing, a securitization transaction or a securities offering which is registered or exempt from registration under federal and state securities laws.

"Fraudulent life settlement act", an act referenced in subsections (b) and (c) of section 223A.

"Individual identification data", an insured's name, address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number or any other information that is likely to lead to the identification of the insured.

"Insured", a person covered under the policy being considered for sale in a life settlement contract.

"Licensee", a person licensed as a life settlement provider or life settlement broker by the commissioner of insurance.

"Life insurance producer", a person licensed as a resident or nonresident insurance producer who has received qualification for a license in a line of authority for life insurance coverage under sections 162H to 162X, inclusive.

"Life settlement broker", a person who, on behalf of an owner and for a fee, commission or other consideration, offers or attempts to negotiate a life settlement contract between an owner and a life settlement provider.

"Life settlement contract",

(1) a written agreement entered into between a life settlement provider and an owner, establishing the terms under which compensation or anything of value shall 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; provided, however, that the minimum value for a life settlement contract shall be greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract;(2) the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such policy if the trust or other entity was formed or availed of for the principal purpose of acquiring a life insurance contract, or multiple life insurance contracts, which life insurance contract or contracts insures the life of a person residing in the commonwealth; or(3) a premium finance loan made for a policy on or before the date of issuance of the policy where: (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) on the date of the premium finance loan, the owner receives a guarantee of the future life settlement value of the policy; or (iii)the owner agrees on the date of the premium finance loan to sell the policy or a portion of its death benefit on any date following the issuance of the policy; provided, however, that a "life settlement contract" shall not include: (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 a loan made by a bank or other licensed financial institution provided that neither a default on such loan nor the transfer of a policy in connection with such default is pursuant to an agreement or understanding with another person to evade regulation under sections 213 to 223E, inclusive;(iii) a collateral assignment of a life insurance policy by an owner;(iv) a loan made by a lender under chapter 255C provided that loan is not described in clause (3) and is not otherwise a life settlement contract;(v) an agreement where all parties: (A) are closely related to the insured by blood or law; (B) have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured; or (C) are trusts established primarily for the benefit of the parties;(vi) a 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;(vii) a bona fide business succession planning arrangement: (A) between shareholders in a corporation or between a corporation and any of its shareholders or any trusts established by its shareholders; (B)

between partners in a partnership or between a partnership and any of its partners or any trusts established by its partners; or (C) between members in a limited liability company or between a limited liability company and any of its members or any 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 that performs significant services for the service recipient's trade or business; or (ix) any other contract, transaction or arrangement that the commissioner determines is not of the type intended to be regulated by sections 213 to 223E, inclusive.

"Life settlement provider", a person who enters into a life settlement contract with an owner; provided, however, that a life settlement provider shall not include: (1) a bank, savings bank, savings and loan association or credit union; (2) a licensed lending institution or creditor or secured party pursuant to a premium finance loan agreement which takes an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan; (3) the issuer of a life insurance policy or rider which provides accelerated death benefits pursuant to the contract or cash surrender value; (4) a natural person who enters into or effectuates not more than 1 agreement in a calendar year for the transfer of a life insurance policy or certificate issued pursuant to a group life insurance policy for compensation or anything of value less than the expected death benefit payable under the policy; (5) a financing entity; (6) a purchaser; (7) an authorized or eligible insurer that provides stop loss coverage to a life settlement provider, purchaser, financing entity, special purpose entity or related provider trust; (8) a related provider trust; (9) a special purpose entity; (10) a life settlement broker; or (11) an accredited investor or qualified institutional buyer as defined in Regulation D of Rule 501 of the federal Securities Act of 1933, 17 C.F.R. section 230.501, as amended, or rule 144A of the federal Securities Act of 1933, 17 C.F.R. 230.144A, as amended, who purchases a life settlement policy from a life settlement provider.

"Net death benefit", the amount of the life insurance policy or certificate to be settled less any outstanding debts or liens.

"Owner", the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a life settlement contract; provided, however, that an "owner" shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy that insures the life of an individual with a terminal illness or chronic illness or condition except where specifically addressed; and provided further, that "owner" shall not include: (1) a life settlement provider or broker; (2) a qualified institutional buyer as defined in rule 144A of the federal Securities Act of 1933, 17 C.F.R. 230.144A, as amended; (3) a financing entity; (4) a special purpose entity; or (5) a related provider trust.

"Person", a natural person or legal entity including, but not limited to, a partnership, limited liability company, association, trust or corporation.

"Policy", an individual or group policy, group certificate, contract or arrangement of life insurance owned by a resident of the commonwealth, regardless of whether delivered or issued for delivery in the commonwealth.

"Premium finance loan", a loan made primarily for the purpose of making premium payments on a life insurance policy and such loan is secured by an interest in the life insurance policy.

"Purchaser", a person who pays compensation or 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 a certificate issued pursuant to a group life insurance policy that has been the subject of a life settlement contract.

"Related provider trust", a titling trust or other trust established by a licensed life settlement 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; provided, however, that in order to qualify as a related provider trust, the trust shall have a written agreement with a licensed life settlement provider under which the licensed life settlement provider shall be 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 commissioner as if those records and files were maintained directly by the licensed life settlement provider.

"Settled policy", a life insurance policy or certificate that has been acquired by a provider pursuant to a life settlement contract.

"Special purpose entity", a person other than a natural person formed solely to provide, either directly or indirectly, access to institutional capital markets: (i) for a financing entity or life settlement provider; or (ii) 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, or the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

"Stranger-originated life insurance", an act, practice or arrangement to initiate the issuance of a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the life of the insured; provided, however, that such acts, practices or arrangements shall include, but not be limited to, cases in which life insurance is purchased with resources or guarantees from or through a person who, at the time of policy inception, could not lawfully initiate the policy and where, at the time of inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party; provided further, that trusts that are created to give the appearance of insurable interest and that are used to initiate policies for investors shall violate insurable interest laws and the prohibition against wagering on life; and provided further, that "stranger-originated life insurance" arrangements shall not include lawful life settlement contracts authorized in sections 213 to 223E, inclusive, or those practices set forth in clauses (i) to (ix), inclusive, in the definition of life settlement contract, provided that such life settlement contracts or practices are not part of a transaction otherwise prohibited by said sections 213 to 223E, inclusive.

"Terminal illness", a condition that a licensed health care professional certifies can reasonably be expected to result in death in 24 months or less.

Section 175:213 - Life settlement providers; licensure **(a)** No person shall act as a life settlement provider or, except as provided in clauses (c) and (d), a life settlement broker with an owner who is a resident of the commonwealth, without first obtaining a license from the commissioner. **(b)** The secretary of administration and finance shall determine the fee for a life settlement provider license and life settlement broker license under section 3B of chapter 7; provided, however, that the term and fees for a life settlement provider license shall be equal to that of a foreign stock life insurance company and the term and fees of a life settlement broker license shall be equal to that of an insurance producer license. Licenses shall be renewed on their anniversary date upon payment of a renewal fee as determined by the secretary. Failure to pay the fees on or before the renewal date shall result in expiration of the license. **(c)** A life insurance producer duly licensed as a resident insurance producer with a life line of authority in the commonwealth or in the life insurance producer's home state for at least 1 year and is licensed as a nonresident producer in the commonwealth shall be deemed to meet the licensing requirements of this section and may operate as a life settlement broker; provided, however, that not later than 30 days from the first day of operating as a life settlement broker, the life insurance producer shall notify the commissioner, on a form prescribed by the commissioner, that the producer is acting as a life settlement broker and the producer shall pay the prescribed fee as determined by the secretary of administration and finance under section 3B of chapter 7. Notification shall include an acknowledgment by the life insurance producer that the producer shall operate as a life settlement broker in accordance with this section. **(d)** A licensed attorney, certified public accountant or financial planner accredited by a nationally recognized accreditation agency, who is retained in the type of practice customarily performed in their professional capacity to represent the owner and whose compensation is not paid directly or indirectly by the life settlement provider or purchaser, may negotiate life settlement contracts on behalf of the owner without obtaining a license as a life settlement broker. **(e)** Upon the filing of an application for initial licensure and payment of the application fee, the commissioner shall examine each applicant and may issue a license if the commissioner finds that the applicant: **(1)** has provided a detailed plan of operation, if the applicant is a life settlement provider; **(2)** is competent, trustworthy and intends to transact its business in good faith; **(3)** has a good business reputation and has the experience, training and education to be qualified in the business for which the license is applied; **(4)** if a legal entity, was formed or organized under the laws of the commonwealth or is a foreign legal entity authorized to transact business in the commonwealth or provides a certificate of good standing from the state of its domicile; and **(5)** if a life settlement provider, has provided to the commissioner an antifraud plan that meets the requirements of subsection (g) of section 223B. **(f)** An applicant for a license under this section shall provide such information as the commissioner may require on forms authorized by the commissioner. The commissioner may require an applicant to fully disclose the identity of its stockholders owning 10 per cent or more of the shares of an applicant whose shares are publicly traded, partners, officers and employees. The commissioner shall not issue a license to a qualified applicant if the commissioner determines that an officer, employee, stockholder or partner thereof, who may materially influence the applicant's conduct, has failed to establish its individual qualifications for licensure under this chapter. **(g)** A license issued to a legal entity shall authorize all members, officers and designated employees to act as licensees under the license; provided, however, that those persons shall be identified in the initial application or in any supplements to the

application.(h) The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner or unless the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.(i) A life settlement provider shall not use any person to perform the functions of a life settlement broker unless the person holds a current, valid life settlement broker license.(j) A life settlement broker shall not use any person to perform the functions of a life settlement provider unless such person holds a current, valid life settlement provider license.(k) All licensees under this section shall provide to the commissioner any new or revised information about officers, 10 per cent or more stockholders, partners, directors, members or designated employees within 30 days after receiving such information.(l) A person licensed as a life settlement broker shall, on a biennial basis, complete 15 hours of training related to the business of life settlements and life settlement transactions as required by the commissioner; provided, however, that a life insurance producer who is operating as a life settlement broker shall not be subject to the requirements of this subsection. Failure to meet the requirements of this subsection may result in suspension or nonrenewal of license by the commissioner.(m) A person licensed as a life settlement broker shall represent only the owner and shall owe a fiduciary duty to the owner to act according to the owner's instructions and in the best interest of the owner, regardless of the manner in which the life settlement broker is compensated.

Mass. Gen. Laws ch. 175, § 213

Section 175:214 - Suspension, revocation or nonrenewal of license(a) The commissioner may suspend, revoke or refuse to renew the license of a licensee if the commissioner finds that: (1) there was a material misrepresentation in the application for the license;(2) the licensee or any officer, partner, member or director has been convicted or determined by a regulator to have committed a fraudulent or dishonest practice, is subject to a final administrative action or is otherwise shown to be untrustworthy or incompetent to act as a licensee;(3) if a life settlement provider, the licensee demonstrates a pattern of unreasonably withholding payments to policy owners;(4) the licensee no longer meets the requirements for initial licensure;(5) the licensee or any officer, partner, member or director has been convicted of a felony or a misdemeanor of which criminal fraud is an element, or the licensee has pleaded guilty or had the case continued without a finding with respect to a felony or a misdemeanor of which criminal fraud or moral turpitude is an element, regardless of whether a judgment of conviction has been entered by the court;(6) the life settlement provider has entered into a life settlement contract using a form that has not been approved under sections 213 to 223E, inclusive;(7) the life settlement provider has failed to honor contractual obligations set out in a life settlement contract;(8) the life settlement provider has assigned, transferred or pledged a settled policy to a person other than a life settlement provider licensed under this chapter, a purchaser, an accredited investor or qualified institutional buyer as defined respectively in Regulation D of Rule 501 of the federal Securities Act of 1933, 17 C.F.R. section 230.501, as amended, or rule 144A of the federal Securities Act of 1933, 17 C.F.R. section 230.144A, as amended, a financing entity, a special purpose entity or a related provider trust; or(9) the licensee or any officer, partner, member or key management personnel has violated sections 213 to 223E, inclusive.(b) Before the commissioner denies a license application or suspends, revokes or refuses to renew the license of a licensee under

sections 213 to 223E, inclusive, the commissioner shall conduct a hearing in accordance with chapter 30A.

Mass. Gen. Laws ch. 175, § 214

Section 175:215 - Approval of forms by commissioner**(a)** No person shall use any form of life settlement contract or provide to an owner a disclosure statement form unless it has been filed with and approved by the commissioner. The commissioner shall disapprove a life settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract fails to meet the requirements of sections 219, 220, 222 and subsection (b) of section 223B or are unreasonable, contrary to the interests of the public or are otherwise misleading or unfair to the owner.**(b)** No insurer shall, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy under a life settlement contract, require that the owner, insured, life settlement provider or life settlement broker sign any form, disclosure, consent, waiver or acknowledgment that has not been expressly approved by the commissioner for use in connection with a life settlement contract.

Mass. Gen. Laws ch. 175, § 215

Section 175:216 - Annual statement to commissioner**(a)** A life settlement provider shall file with the commissioner, annually on or before March 1, a statement containing such information as the commissioner may prescribe by regulation. In addition to any other requirements, the annual statement shall: **(i)** specify 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 for each carrier; **(ii)** include the names of the insurance companies whose policies have been settled; and **(iii)** include only those transactions where the owner is a resident of the commonwealth; provided, however, that an 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)** A life settlement provider that willfully fails to file an annual statement or willfully fails to reply within 30 days after receipt of a written inquiry by the commissioner in connection therewith shall, in addition to any other penalties prescribed by law, be subject, upon due notice and opportunity to be heard, to a penalty of up to \$250 per day of delay, not to exceed \$25,000 in the aggregate, for each such failure.

Mass. Gen. Laws ch. 175, § 216

Section 175:217 - Nondisclosure of individual identification data or confidential information of insured**(a)** Except as otherwise authorized or required by law, a life settlement provider, life settlement broker, insurance company, life insurance producer, information bureau, rating agency or company or any other person with actual knowledge of an insured's identity shall not disclose the individual identification data of an insured or 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: **(1)** necessary to effect a life settlement contract between the owner and a life settlement provider and the owner and insured have provided prior written consent to the disclosure;**(2)** necessary to effectuate the sale of a life settlement contract, or interests therein, as investments; provided, however, that the sale shall be conducted in accordance with applicable state and federal securities laws; and provided further, that the owner and the insured shall have both provided prior written consent to the

disclosure;(3) provided in response to an investigation or examination by the commissioner or any other governmental officer or agency;(4) a term or condition to the transfer of a policy by 1 life settlement provider to another life settlement provider;(5) necessary to allow the life settlement provider or life settlement broker or an authorized representative to make contacts for the purpose of determining health status; provided, however, that for the purposes of this section, the term "authorized representative" shall not include a person who has or may have a financial interest in the life settlement contract other than a licensed life settlement provider, licensed life settlement broker, financing entity, related provider trust or special purpose entity; and provided further, that a life settlement provider or life settlement broker shall require its authorized representative to agree in writing to adhere to the privacy provisions of this section; or(6) required to purchase stop loss coverage.(b) Private information solicited or obtained in connection with a proposed or actual life settlement contract shall be subject to the provisions applicable to financial institutions under the Gramm Leach Bliley Act, P.L. 106-102 (1999), and all other state and federal laws relating to the confidentiality of nonpublic personal information. *Mass. Gen. Laws ch. 175, § 217*

Section 175:218 - Examination of business by commissioner when deemed reasonably necessary to protect public interest; confidential information; records maintenance(a) 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 may order a licensee or applicant to produce records, books, files or other information reasonably necessary to ascertain whether such licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting an examination shall be paid by the licensee or applicant.(b) For a foreign or alien licensee, the commissioner may accept an examination report on the licensee as prepared by the appropriate licensing authority for the licensee's state of domicile or port-of-entry state.(c) Individual identification data for all owners, purchasers and insureds shall be considered private and confidential information and shall not be disclosed by the commissioner unless the disclosure is required by law or is disclosed to the National Association of Insurance Commissioners, to the insurance department of any other state or country or to law enforcement officials of the commonwealth or any other state or agency of the federal government at any time, so long as the agency or office receiving the information agrees in writing to hold such material confidential.(d) Records of all completed transactions and life settlement contracts shall be maintained by the life settlement provider for 3 years after the death of the insured and shall be available to the commissioner for inspection during reasonable business hours.(e)(1) In conducting an examination, the commissioner shall use methods common to the examination of licensees, including guidelines and procedures for examinations as adopted by the National Association of Insurance Commissioners.(2) A licensee or person from whom information is sought, including the licensee's or person's officers, directors and agents, shall provide to the commissioner timely, convenient and free access at its offices to all books, records, accounts, papers, documents, assets and computer or other recordings relating to the property, assets, business and affairs of the licensee being examined. The officers, directors, employees and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of a licensee, or its officers, directors, employees or agents, to submit to examination or to comply with a reasonable written request of the commissioner shall be grounds for suspension, refusal or nonrenewal of a license or authority

held by the licensee to engage in the life settlement business or any other business subject to the commissioner's jurisdiction.(3) The commissioner may issue subpoenas, administer oaths and examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena under this section, the commissioner may petition a court of competent jurisdiction and, upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence.(4) When making an examination, the commissioner 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.(5) Nothing in sections 213 to 223E, inclusive, shall limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action under any other insurance law. Findings of fact and conclusions made pursuant to an examination shall be prima facie evidence in a legal or regulatory action.(6) Nothing in sections 213 to 223E, inclusive, shall limit the commissioner's authority to use and, if the commissioner deems appropriate, to make public any final or preliminary examination report, any examiner's or licensee's work papers or other documents or any other information discovered or developed during the course of an examination in the furtherance of a legal or regulatory action.(f)(1) Examination reports shall be comprised of only facts appearing upon the books, from the testimony of its officers or agents or other persons examined concerning its affairs and such conclusions and recommendations as the examiners find reasonably warranted from the facts.(2) Not later than 60 days after completion of the examination, the commissioner shall transmit a report of the examination to the licensee examined, together with a notice that shall afford the licensee examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report, which shall become part of the report, or to request a hearing on any matter in dispute.(g) Except as otherwise provided, all examination reports, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination, or in the course of analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential and privileged, shall not be subject to chapter 66 or clause Twenty-sixth of section 7 of chapter 4, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The licensee being examined shall have access to all documents used to make the report.(h)(1) An examiner shall not be appointed by the commissioner 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; provided, however, that an examiner may be: (i) an owner; (ii) an insured in a life settlement contract or insurance policy; or (iii) a beneficiary in an insurance policy that is proposed for a life settlement contract.(2) Notwithstanding the requirements of this subsection, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants or other similar individuals who are independently practicing their professions, even though such persons may from time to time be similarly employed or retained by persons subject to examination under sections 213 to 223E, inclusive.(i)(1) No cause of action shall arise and no liability shall be imposed against the commissioner, the commissioner's authorized representatives or any examiner appointed by the commissioner for statements made or conduct

performed in good faith while carrying out sections 213 to 223E, inclusive. **(2)** No cause of action shall arise and no liability shall be imposed against a person for communicating or delivering information or data to the commissioner, the commissioner's authorized representative or an examiner related to an examination if the communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. Nothing in this paragraph shall abrogate or modify any common law or statutory privilege or immunity enjoyed by any person referenced in paragraph (1). **(3)** A person referenced in paragraph (1) or (2) shall be entitled to an award of attorneys' fees and costs if that person is the prevailing party in a civil action for libel, slander or any other relevant tort arising out of activities in carrying out sections 213 to 223E, inclusive and the party bringing the action was not substantially justified in doing so. For purposes of this section "substantially justified" shall mean that the action had a reasonable basis in law or in fact at the time it was initiated. **(j)** The charge for an examination under this section shall be determined annually by the secretary of administration and finance under section 3B of chapter 7 and shall be paid by each licensee within 30 days after notice from the commissioner of the charge. The charge shall include an amount equal to the cost of fringe benefits as established by the secretary of administration and finance under section 5D of chapter 29. If in the course of an examination of a domestic or foreign licensee that maintains a branch office outside the commonwealth it becomes necessary or expedient for the commissioner or any deputies or examiners to travel outside the commonwealth, the licensee shall pay the proper expenses incurred by the commissioner or the deputies or examiner. Whenever the commissioner deems it advisable, the commissioner shall cause a complete audit of the books of the licensee to be made by a disinterested expert accountant and such licensee shall pay the proper expenses of the audit.

Mass. Gen. Laws ch. 175, § 218

Section 175:219 - Advertisement by licensed life settlement brokers or providers **(a)** A licensed life settlement broker or life settlement provider may conduct or participate in advertisements. The advertisements shall comply with all advertising laws or rules and regulations promulgated by the commissioner that are applicable to insurers, life insurance producers, brokers and providers. **(b)** Advertisements shall be accurate, truthful and not misleading in fact or by implication. **(c)** No person in the business of insurance or the business of life settlements shall: **(1)** directly or indirectly market, advertise or solicit the purchase of a new policy for the purpose of or with a significant emphasis on settling the policy; **(2)** use the words "free" or "no cost" or words of similar import in marketing, advertising, soliciting or otherwise promoting the purchase of a policy; or **(3)** with respect to a life settlement provider, enter into a life settlement contract unless the related advertisements, as may be prescribed by regulation, have been filed with the commissioner. **(d)** Prior to publication, the commissioner may require the submission of advertising material. **(e)** The commissioner shall require delivery of a buyer's guide or a similar consumer advisory package in the form prescribed by the commissioner to owners during the solicitation process.

Mass. Gen. Laws ch. 175, § 219

Section 175:220 - Disclosures by providers **(a)** Not later than the date of application for a life settlement contract, a life settlement provider shall provide to the owner, in a separate document signed by the owner, the following information: **(1)** that possible alternatives to life settlement contracts exist including, but not limited to, accelerated benefits offered by the issuer of the life

insurance policy;(2) that some or all of the proceeds of a life settlement contract may be taxable and that assistance should be sought from a professional tax advisor;(3) that the proceeds from a life settlement contract may be subject to the claims of creditors;(4) that receipt of proceeds from a life settlement contract may adversely affect the recipients' eligibility for public assistance or other government benefits or entitlements and that advice should be obtained from the appropriate agencies;(5) that the owner has a right to terminate a life settlement contract not more than 15 days after the date it is executed by all parties;(6) that the owner has received the disclosures required by this section;(7) that the following statement regarding rescission is included: "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 life settlement provider within the rescission period. If the insured dies during the rescission period, the life settlement 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 life settlement provider.";(8) that proceeds will be sent to the owner within 3 business days after the life settlement provider has received the insurer or group administrator's acknowledgement that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated in accordance with the terms of the life settlement contract;(9) that entering into a life settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate of a group policy, to be forfeited by the owner and that assistance should be sought from a professional financial advisor;(10) the amount and method of calculating the compensation paid, or to be paid, to the life settlement broker or any other person acting for the owner in connection with the transaction;(11) the date by which the funds will be available to the owner and the transmitter of the funds;(12) that the commissioner shall require delivery of a buyer's guide or a similar consumer advisory package in the form prescribed by the commissioner to owners during the solicitation process;(13) the following statement: "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 the insured's family members, a spouse or a significant other, may be disclosed as necessary to effect the life settlement contract 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 2 years.";(14) that the commissioner shall require life settlement providers and life settlement brokers to print separate signed fraud warnings on their applications and on their life settlement contracts as follows: "Any person who knowingly presents false information in a life settlement application or contract may be found guilty of a crime and may be subject to fines and confinement in prison."(15) that the insured may be contacted by either the life settlement provider or life settlement broker or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address; provided, however, that this contact shall be limited to once every 3 months if the insured has a life expectancy of more than 1 year and not more than once per month if the insured has a life expectancy of 1 year or less;(16) the affiliation, if any, between the life settlement provider and the issuer of the insurance policy to be settled;(17) that a life settlement broker represents exclusively the owner and not the insurer, the life settlement provider or any other person and that the broker 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;(18) the name, address

and telephone number of the provider;(19) 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; and(20) that a change of ownership may, 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 1 life.(b) The written disclosures shall be conspicuously displayed in any life settlement contract furnished to the owner by a life settlement provider, including any affiliations or contractual arrangements between the life settlement provider and the life settlement broker.(c) A life settlement broker shall provide the owner and the life settlement provider with the following disclosures not 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: (1) the name, business address and telephone number of the life settlement broker;(2) a complete and accurate description of all the offers, counter offers, acceptances and rejections relating to the proposed life settlement contract;(3) any affiliations or contractual arrangements between the life settlement broker and any person making an offer in connection with the proposed life settlement contracts;(4) the name of each life settlement broker involved in the life settlement agreement who receives compensation and the amount of compensation received by that broker, which compensation shall include anything of value paid or given to the life settlement broker in connection with the life settlement contract;(5) a complete reconciliation of the gross offer or bid by the life settlement provider to the net amount of proceeds or value to be received by the owner; provided, however, that for the purpose of this section, "gross offer" or "bid" shall mean the total amount or value offered by the life settlement provider for the purchase of a life insurance policies, inclusive of commissions and fees; and(6) that a failure to provide the disclosures or rights described in this section shall be deemed an unfair trade practice under chapter 176D.(c) A life settlement broker shall disclose to the owner anything of value paid or given to the life settlement broker relating to a life settlement contract.

Mass. Gen. Laws ch. 175, § 220

Section 175:221 - Financing as collateral; causes for rejection(a) Insurance carriers 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.(b) If the premium finance 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 this chapter.(c) The insurance carrier may disclose certain information to the applicant and the insured, either on the application or an amendment to the application to be completed not later than the delivery of the policy including, but not limited to, the following disclosure: "If you have entered into a loan arrangement where the policy is used as collateral and the policy changes ownership at some point in the future in satisfaction of the loan, the following may be true: (1) a change of ownership could lead to a stranger owning an interest in the insured's life;(2) 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 on the amount of coverage insurers will issue on 1 life;(3) 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 and other factors may reduce the ability to obtain coverage or may result in significantly higher

premiums;(4) you should consult a professional tax 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."(d) The insurance carrier may require certifications from the applicant or the insured, including the following certified statements: (1) I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy;(2) 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; however, I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy; and(3) The borrower has an insurable interest in the insured.

Mass. Gen. Laws ch. 175, § 221

Section 175:222 - Entering into life settlement contract where insured has terminal or chronic illness(a) A life settlement provider entering into a life settlement contract with an owner of a policy, where the insured has a terminal or chronic illness or condition, shall first obtain: (1) if the owner is the insured, a written statement from a licensed attending physician that the owner is of sound mind; and(2) a document in which the insured consents to the release of the insured's medical records to a life settlement provider, life settlement broker or insurance producer and, if the policy was issued less than 2 years from the date of application for a life settlement contract, to the insurance company that issued the policy.(b) Within 20 days after an owner executes the life settlement contract, the life settlement provider shall give written notice to the insurer that issued the insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required in clauses (1) and (2) of subsection (a).(c) The insurer shall respond to a request for verification of coverage submitted by a life settlement provider, life settlement broker or life insurance producer not later than 30 calendar days after the date the request was 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 regarding the validity of the insurance contract.(d) 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: (1) consents to the life settlement contract; (2)represents that the owner has a full and complete understanding of the life settlement contract; (3)represents that the owner has a full and complete understanding of the benefits of the policy;(4)acknowledges that the owner is entering into the life settlement contract freely and voluntarily; and (5) for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness or condition and that the terminal or chronic illness or condition was diagnosed after the policy was issued.(e) The insurer shall not unreasonably delay effecting a change of ownership or beneficiary with a life settlement contract lawfully entered into in the commonwealth or with a resident of the commonwealth.(f) If a life settlement broker or life insurance producer performs any of the activities in subsections (a) and (b) or (d), the life settlement provider shall be deemed to have fulfilled the requirements of this section.(g) If a life settlement broker performs those verification of coverage activities required of the life settlement provider, the life settlement provider shall be deemed to have fulfilled the requirements of this section.(h) All medical information solicited or obtained by a licensee shall be subject to applicable provisions of this chapter and any other law relating to the confidentiality of medical information, if not otherwise provided in sections 213 to 223E,

inclusive. **(i)** A life settlement contract shall provide that the owner may rescind the life settlement contract not more than 15 days after the date it was executed by all parties. Rescission, if exercised by the owner, shall be effective only if: (1) notice of the rescission is given and (2) the owner repays all proceeds and any premiums, loans and loan interest paid on account of the life settlement provider within the rescission period. If the insured dies during the rescission period, the life settlement 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 life settlement provider. Failure to give written notice of the right of rescission shall toll the right of rescission until 30 days after the written notice of the right of rescission has been given. **(j)** Within 3 business days after receipt from the owner of documents to effect the transfer of the policy pursuant to a life settlement contract, the life settlement provider shall pay the proceeds of the life settlement contract to an escrow or trust account managed by a trustee or escrow agent in a state or federally-chartered financial institution pending acknowledgement of the transfer by the issuer of the policy. The trustee or escrow agent shall transfer the proceeds due to the owner within 3 business days of acknowledgement 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 life settlement contract voidable by the owner for lack of consideration until such time as the proceeds are tendered to and accepted by the owner. **(l)** Any fee paid by a life settlement provider, party, individual or from an owner to a life settlement 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 to prohibit a life settlement broker from reducing the life settlement broker's fee below this percentage if the broker so chooses. **(m)** No person at any time prior to, or at the time of the application for, or issuance of a policy, or during a 2-year period commencing with the date of issuance of the policy shall enter into a life settlement contract 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. **(n)(1)** The prohibition in subsection (m) shall not apply if: **(i)** the owner certifies to the provider that the policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy; provided, however, that the total of the time covered under the conversion policy plus the time covered under the prior policy shall be at least 24 months; and provided further, that 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 **(ii)** the owner submits independent evidence to the life settlement provider that any of the following conditions have been met within the 2-year period: **(A)** the owner or insured has a terminal or chronic illness or condition; **(B)** the owner or insured disposes of the owner's or insured's 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 obtains a divorce; **(E)** the owner retires from full-time employment; **(F)** the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or **(G)** a final order, judgment or decree is entered by a court of competent jurisdiction on the application of a 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 required by clause (ii) of paragraph (1) 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. Nothing in this section shall prohibit an insurer from exercising its right to contest the validity of a policy.**(3)** If the life settlement provider submits to the insurer a copy of independent evidence provided for in subclause (A) of clause (ii) of paragraph (1) 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 establish that the life settlement contract satisfies the requirements of this section.

Mass. Gen. Laws ch. 175, § 222

Section 175:223 - Life settlement contracts with residents from other states**(a)** If there is more than 1 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 of ownership resides or, if the owners hold equal ownership, the state of residence of 1 owner agreed upon in writing by all of the owners. The law of the state of the insured shall govern in the event that equal owners fail to agree in writing upon a state of residence for jurisdictional purposes.**(b)** A life settlement provider from the commonwealth who enters into a life settlement contract with an owner who is a resident of another state that has enacted laws or adopted regulations governing life settlement contracts shall be governed in the effectuation of that life settlement contract by the laws and regulations of the owner's state of residence. If the state in which the owner is a resident has not enacted laws or regulations governing life settlement contracts, the life settlement provider shall give the owner notice that neither state regulates the transaction upon which the owner is entering. For transactions in those states, however, the life settlement provider shall maintain all records required if the transactions were executed in the owner's state of residence. The forms used in those states shall not require the approval of the commissioner.**(c)** If there is a conflict in the laws that apply to an owner and a purchaser in an individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.

Mass. Gen. Laws ch. 175, § 223

Section 175:223A - Fraudulent life settlement acts**(a)** A person shall not commit a fraudulent life settlement act.**(b)** "Fraudulent life settlement act" shall mean: **(1)** an act or omission committed by a person who, in connection with a life settlement contract, knowingly and with an intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts including, but not limited to: **(i)** presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a life settlement provider, premium finance lender, life settlement broker, insurer, 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 any of the following: **(A)** an application for the issuance of a life settlement contract or insurance policy;**(B)** the underwriting of a life settlement contract or insurance policy;**(C)** a claim for payment or benefit pursuant to a life settlement contract or insurance policy;**(D)** premiums paid on an insurance policy;**(E)** payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or insurance policy;**(F)** the reinstatement or conversion of an insurance policy;**(G)** the solicitation, offer to enter into or effectuation of, a life settlement contract or insurance policy;**(H)** the issuance of written evidence of life settlement contracts or insurance;**(I)** an

application for, or the existence of or any payments related to, a loan secured directly or indirectly by an interest in a life insurance policy; or **(J)** engaging in stranger-originated life insurance. **(ii)** failing to disclose to the insurer, where the request for such disclosure has been asked for by the insurer, that the prospective insured has undergone a life expectancy evaluation by a person or entity other than the insurer or its authorized representatives in connection with the issuance of the policy. **(iii)** employing any device, scheme or artifice to defraud in the business of life settlements. **(2)** acts committed by a person or that such person permits an employee or agent to commit in the furtherance of a fraud or to prevent the detection of fraud: **(i)** to 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; **(ii)** to misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person; **(iii)** to 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; **(iv)** to file with the commissioner or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing information about a material fact from the commissioner; **(v)** to engage in embezzlement, theft, misappropriation or conversion of money, funds, premiums, credits or other property of a life settlement provider, insurer, insured, owner, insurance policy owner or other person engaged in the business of life settlements or insurance; **(vi)** to knowingly and with an intent to defraud, enter into, broker or otherwise deal in a life settlement contract, the subject of which is a life insurance 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 requested concerning any fact material to the policy, where the owner or the owner's agent intended to defraud the policy's issuer; **(vii)** to attempt to commit, assist, aid or abet in the commission of, or conspiracy to commit the acts or omissions specified in this subsection; or **(viii)** to misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to sections 213 to 223E, inclusive, for the purpose of evading or avoiding the provisions of said sections 213 to 223E, inclusive. **(c)** It shall also be a fraudulent life settlement act for a person to: **(1)** enter into a life settlement contract if such person knows or reasonably should have known that the policy was obtained by means of a false, deceptive or misleading application for such policy; **(2)** engage in a 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 sections 213 to 223E, inclusive; **(3)** engage in a fraudulent act or practice in connection with a transaction relating to a settlement involving an owner who is a resident of the commonwealth; **(4)** issue, solicit or market the purchase of a new policy for the purpose of or with a significant emphasis on settling the policy; **(5)** if providing premium financing, receive 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 reasonable costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except in the event of a default, unless either the default on the loan or transfer of the policy occurs pursuant to an agreement or understanding with another person for the purpose of evading regulation under sections 213 to 223E, inclusive; **(6)** with respect to any life settlement contract or insurance policy and a life settlement broker, knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to a life settlement provider, financing entity or related provider trust that is controlling, controlled by or under common control with such life settlement broker unless the relationship is disclosed to the owner; **(7)** with respect to a life settlement contract or insurance policy and a life

settlement provider, knowingly enter into a life settlement contract with an owner if, in connection with the life settlement contract, anything of value will be paid to a life settlement broker that is controlling, controlled by or under common control with the life settlement provider, the financing entity or a related provider trust that is involved in the life settlement contract unless the relationship is disclosed to the owner;(8) create a trust that gives the appearance of insurable interest and is used to initiate policies for investors;(9) include any reference in an advertisement that would cause an owner to reasonably believe that the insurance is free for any period of time; or(10) with respect to a life insurance producer, insurance company, life settlement broker or life settlement provider, make a statement or representation to the applicant or policyholder in connection with the sale or financing of a policy to the effect that the policy is free or without cost to the policyholder for any period of time unless provided in the policy.(d) The commissioner may investigate suspected fraudulent life settlement acts and persons engaged in the business of life settlements.

Mass. Gen. Laws ch. 175, § 223A

Section 175:223B - Violations of secs. 213 to 223E; participation in life settlements business by felons; statement regarding false information required; knowledge of fraudulent life settlement acts; antifraud initiatives(a)(1) A person shall not knowingly and intentionally interfere with the enforcement or investigations of suspected or actual violations of sections 213 to 223E, inclusive.(2) A person in the business of life settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.(b)(1) 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 a life settlement application or contract may be found guilty of a crime and may be subject to fines and confinement in prison."

(2) The lack of a statement as required in paragraph (1) shall not constitute a defense in a prosecution for a fraudulent life settlement act.(c)(1) A person engaged in the business of life settlements having knowledge or a reasonable belief that a fraudulent life settlement act is being, will be or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.(2) A person not engaged in the business of life settlements having knowledge or a reasonable belief that a fraudulent life settlement act is being, will be or has been committed may provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.(d)(1) No civil liability shall be imposed on and no cause of action shall arise from a person furnishing information concerning suspected, anticipated or completed fraudulent life settlement acts or suspected or completed fraudulent insurance acts if the information is provided to: (i) the commissioner or the commissioner's employees, agents or representatives;(ii) federal, state or local law enforcement or regulatory officials or their employees, agents or representatives;(iii) a person involved in the prevention and detection of fraudulent life settlement acts or that person's agents, employees or representatives;(iv) a regulatory body or its employees, agents or representatives, overseeing life insurance, the business of life settlements, securities or investment fraud;(v) the insurer that issued the life insurance policy covering the life of the insured; or(vi) the licensee and its agents, employees or representatives.(2) Paragraph (1) shall not apply to statements 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 insurance that was fraudulently obtained, the party bringing the action shall plead specifically any allegation that paragraph (1) should not apply because the person filing the report or furnishing the information did so with actual malice.(3) A person identified in paragraph (1) shall be entitled to an award of attorneys' fees and costs if the person is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out sections 213 to 223E, inclusive, and the party bringing the action was not substantially justified in doing so. For the purposes of this paragraph a proceeding shall be "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.(4) This section shall not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in paragraph (1).(e)(1) The documents and evidence provided pursuant to subsection (d) or obtained by the commissioner in an investigation of suspected or actual fraudulent life settlement acts shall be privileged and confidential, shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.(2) Paragraph (1) shall not prohibit release by the commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent life settlement acts:(i) in administrative or judicial proceedings to enforce laws administered by the commissioner;(ii) to federal, state or local law enforcement or regulatory agencies or to an organization established for the purpose of detecting and preventing fraudulent life settlement acts; or(iii) at the discretion of the commissioner, to a person in the business of life settlements that is aggrieved by a fraudulent life settlement act.(3) Release of documents and evidence under paragraph (2) shall not abrogate or modify the privilege granted in paragraph (1).(f) Sections 213 to 223E, inclusive, shall not: (1) preempt the authority or relieve the duty of law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law;(2) preempt, supersede or limit securities laws in the commonwealth or any rule, order or notice issued thereunder;(3) prevent or prohibit a person from disclosing voluntarily information concerning life settlement fraud to a law enforcement or regulatory agency other than the commissioner; or(4) limit the powers granted elsewhere by the laws of the commonwealth to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.(g)(1) Life settlement providers and life settlement brokers shall have antifraud initiatives in place to detect, prosecute and prevent fraudulent life settlement acts. At the discretion of the commissioner, the commissioner may order, or a licensee may request and the commissioner may grant, such modifications of the following required initiatives 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 expect to accomplish the purpose of this section. Antifraud initiatives shall include: (i) fraud investigators, who may be life settlement provider or life settlement broker employees or independent contractors; and(ii) an antifraud plan, which shall be submitted to the commissioner; provided, however, that the antifraud plan shall include, but not be limited to: (A) a description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;(B) a description of the procedures for reporting possible fraudulent life settlement acts to the commissioner;(C) a description of the plan for antifraud education and training of underwriters and other personnel; and(D) a description or 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.(2) Antifraud plans submitted to the commissioner shall be privileged and

confidential, shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.**(h)** 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 life settlement broker, life settlement 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 life settlement provider, life settlement broker or purchaser.

Mass. Gen. Laws ch. 175, § 223B

Section 175:223C - Violations of secs. 213 to 223E**(a)** If a person violates any provisions of sections 213 to 223E, inclusive, or any rule or regulation promulgated thereunder, the commissioner may seek an injunction in a court of competent jurisdiction in the county wherein the person resides or has a principal place of business and may apply for temporary and permanent orders that the commissioner determines necessary to restrain the person from further committing the violation.**(b)** A person damaged by the acts of another person in violation of any provisions of sections 213 to 223E, inclusive, or any rule or regulation promulgated thereunder may bring a civil action for damages against the person committing the violation in a court of competent jurisdiction.**(c)** The commissioner may issue a cease and desist order, in accordance with chapter 30A, upon a person who violates any provision of sections 213 to 223E, inclusive, any regulation, rule or order adopted by the commissioner or any written agreement entered into with the commissioner.**(d)** When the commissioner finds that an action presents an immediate danger to the public and requires immediate action, the commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order shall be effective immediately upon service of a copy of the order on the respondent and shall remain effective for 90 days. If the commissioner begins nonemergency cease and desist proceedings under subsection (c), the emergency cease and desist order shall remain effective, absent an order by an appellate court pursuant to chapter 30A. In the event of a willful violation of this act, the trial court may award statutory damages in addition to actual damages in an amount up to 3 times the actual damage award.**(e)** Sections 213 to 223E, inclusive, shall not be waived by any agreement. Except for a valid agreement under subsection (a) of section 223, a choice of law provision shall not be utilized to prevent the application of said sections 213 to 223E, inclusive, to a life settlement contract in which a party to the life settlement contract is a resident of the commonwealth.

Mass. Gen. Laws ch. 175, § 223C

Section 175:223D - Penalty**(a)** If a person is found guilty of committing a fraudulent life settlement act, that person shall also be guilty of committing insurance fraud and shall be subject to additional penalties.**(b)** The commissioner may levy a civil penalty, not to exceed \$10,000 for each violation, upon any person, including those persons and their employees licensed pursuant to sections 213 to 223E, inclusive, who is found to have committed a fraudulent life settlement act or violated any other provision of sections 213 to 223E, inclusive.**(c)** The license of a person licensed under sections 213 to 223E, inclusive, that has committed a fraudulent life settlement act shall be revoked for at least 1 year.

Mass. Gen. Laws ch. 175, § 223D

Section 175:223E - Unfair trade practices

A violation of sections 213 to 223E, inclusive, shall be an unfair trade practice under sections 3 and 4 of chapter 176D and shall be subject to the penalties set forth in section 7 of said chapter 176D.

Mass. Gen. Laws ch. 175, § 223E

Section 175:223F - Authority of commissioner to promulgated regulations

The commissioner may promulgate regulations to implement sections 212 to 223E, inclusive.

Mass. Gen. Laws ch. 175, § 223F