

State of Vermont: Life Settlements Statutes

Vermont Statutes → Title 8 Banking and Insurance → Chapter 103 Life Insurance Policies and Annuity Contracts → Subchapter 5B Life Settlements

Section 3835 - Definitions

As used in this subchapter:

(1) "Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or that is transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, that are published, disseminated, circulated, or placed directly before the public in this State for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy pursuant to a life settlement contract. **(2)** "Business of life settlements" means an activity involved in, but not limited to, the offering, soliciting, negotiating, procuring, effectuating, financing, monitoring, tracking, administering, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner acquiring an interest in a life insurance policy by means of a life settlement contract. **(3)** "Chronically ill" means: **(A)** being unable to perform at least two activities of daily living, including eating, toileting, transferring, bathing, dressing, or continence; **(B)** requiring substantial supervision to protect the individual from threats to health and safety due to intellectual disability; or **(C)** having a level of disability similar to that described in subdivision (A) of this subdivision (3) as determined by the appropriate administrator of a state or federal public disability insurance or benefit program. **(4)** "Commissioner" means the Commissioner of Financial Regulation. **(5)** **(A)** "Financing entity" means an insurance 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, but: **(i)** whose principal activity related to the transaction is providing funds to effect the life settlement or purchase of one or more policies subject to a life settlement contract; and **(ii)** who has an agreement with one or more licensed life settlement providers to finance the acquisition of life settlement contracts. **(B)** "Financing entity" does not include a life settlement purchaser. **(C)** "Financing entity" includes an accredited investor as defined by Rule 501 as promulgated under the Federal Securities Act of 1933, as amended. **(6)** "Fraudulent life settlement act" includes: **(A)** acts or omissions committed by any person who knowingly or who reasonably should know and, 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: **(i)** presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a life settlement provider, life settlement broker, financing entity, 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 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 in accordance with the terms of a life settlement contract or insurance policy; **(VI)** the reinstatement or conversion of an insurance

policy;(VII) the solicitation, offer, effectuation, or sale of a life settlement contract or insurance policy;(VIII) the issuance of written evidence of a life settlement contract or insurance; or(IX) a financing transaction; and(ii) employing any plan, financial structure, device, scheme, or artifice to defraud related to policies subject to a life settlement contract.(B) any person in the furtherance of a fraudulent settlement act or to prevent the detection of a fraudulent settlement act committing or permitting its employees or its agents to:(i) 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) misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;(iii) 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; or(iv) file with the Commissioner or the equivalent chief insurance regulatory official of another jurisdiction a document that contains false information or that otherwise conceals information about a material fact from the Commissioner;(C) embezzlement, theft, misappropriation, or conversion of monies, funds, premiums, credits, or other property of a life settlement provider, insurer, insured, policy owner, insurance policy owner, or any other person engaged in the business of life settlements or insurance;(D) recklessly entering into, negotiating, brokering, or otherwise dealing 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 concerning any fact material to the policy, where the person or the persons intended to commit a fraudulent settlement act with respect to the policy's issuer, the life settlement provider, or the owner;(E) facilitating the change of state of ownership of a policy or certificate or the state of residency of a policy owner to a state or jurisdiction that does not have a law similar to this subchapter for the express purposes of evading or avoiding the provisions of this subchapter;(F) attempting to commit, assisting, aiding, or abetting in the commission of or conspiracy to commit the acts or omissions specified in this subdivision (6).(7) "Life insurance producer" means any person licensed in this State as a resident or nonresident insurance producer who has received qualification to sell life insurance coverage or a life line of coverage pursuant to chapter 131 of this title.(8) "Life settlement broker" means a natural person who is working exclusively on behalf of a policy owner and, for a fee, commission, or other valuable consideration, offers or attempts to negotiate life settlement contracts between an owner and one or more life settlement providers. Notwithstanding the manner in which the life settlement broker is compensated, a life settlement broker is deemed to represent only the policy owner and not the insurer or the life settlement provider and to owe a fiduciary duty to the policy owner to act according to the policy owner's instructions and in the best interest of the policy owner. The term does not include an attorney or a certified public accountant who is retained to represent the policy owner and whose compensation is not paid directly or indirectly by the life settlement provider or purchaser.(9)(A) "Life settlement contract" means a written agreement between a policy owner and a life settlement provider or any affiliate of the life settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the policy owner's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance.(B) "Life settlement contract" includes a premium finance loan made for a life insurance policy by a lender to a policy owner on, before, or after the date of issuance of the policy where:(i) the policy owner or the insured receives on the date of the premium finance

loan a guarantee of a future life settlement value of the policy; or **(ii)** the policy owner or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy. **(C)** "Life settlement contract" does not include: **(i)** a policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms; **(ii)** loan proceeds that are used solely to pay: **(I)** premiums for the policy; **(II)** the costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third party collateral provider fees and expenses, including fees payable to letter of credit issuers; **(iii)** a loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that the default itself is not pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this subchapter; **(iv)** a loan made by a lender that does not violate chapter 143 of this title, provided that the premium finance loan is not described in subdivision **(B)** of this subdivision **(9)**; **(v)** an agreement where all the parties are closely related to the insured by blood or law; or have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties; **(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 trust established by the employer, of life insurance on the life of the employee; **(vii)** a bona fide business succession planning arrangement: **(I)** between two or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders; **(II)** between two or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or **(III)** between two 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; or **(ix)** any other contract, transaction, or arrangement exempted from the definition of life settlement contract by the Commissioner by rule or order based on a determination that the contract, transaction, or arrangement is not of the type intended to be regulated by this subchapter. **(10)** "Life settlement investment agent" means a person who is an appointed or contracted agent of a licensed life settlement provider who solicits or arranges the funding for the purchase of a life settlement by a life settlement purchaser and who is acting on behalf of a life settlement provider. **(11)(A)** "Life settlement provider" means a person other than a policy owner that solicits, enters into, or effectuates a life settlement contract with a policy owner resident in this State. **(B)** "Life settlement provider" does not include: **(i)** a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy solely as collateral for a loan; **(ii)** a premium finance company making premium finance loans and exempted by the Commissioner from the licensing requirement under the premium finance laws that takes an assignment of a life insurance policy solely as collateral for a loan; **(iii)** the issuer of the life insurance policy; **(iv)** an authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a life settlement provider, purchaser, financing entity, special purpose entity, or related provider trust; **(v)** a financing entity; **(vi)** a special purpose entity; **(vii)** a related provider trust; **(viii)** a life settlement purchaser; or **(ix)** any other person that the Commissioner determines by rule or order is not the type of

person intended to be covered by the definition of life settlement provider. **(12)(A)** "Life settlement purchaser" means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a life settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a life settlement contract, for the purpose of deriving an economic benefit. **(B)** "Life settlement purchaser" does not include: **(i)** an accredited investor or qualified institutional buyer as defined, respectively, in Rule 501(a) or Rule 144A promulgated under the Federal Securities Act of 1933, as amended; **(ii)** a financing entity; **(iii)** a special purpose entity; or **(iv)** a related provider trust. **(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)(A)** "Policy owner" means the owner of a life insurance policy or a certificate holder under a group policy who resides in this State and enters or seeks to enter into a life settlement contract. For the purposes of this subchapter, a policy owner shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition. If there is more than one policy owner on a single policy and the policy owners are residents of different states, the transaction shall be governed by the law of the state in which the policy owner having the largest percentage ownership resides or, if the policy owners hold equal ownership, the state of residence of one policy owner agreed upon in writing by all the policy owners. **(B)** "Policy owner" does not include a: **(i)** qualified institutional buyer as defined in Rule 144A promulgated under the Federal Securities Act of 1933, as amended; **(ii)** a financing entity; **(iii)** a special purpose entity; **(iv)** a related provider trust; **(v)** a purchaser of a purchased policy. **(15)** "Purchased policy" means a life insurance policy or certificate that has been acquired by a life settlement provider pursuant to a life settlement contract. **(16)** "Related provider trust" means 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. The trust shall have a written agreement with the licensed life settlement provider under which the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to life settlement transactions available to the Commissioner as if those records and files were maintained directly by the licensed life settlement provider. **(17)** "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets: **(A)** for a financing entity or licensed life settlement provider; or **(B)(i)** in connection with a transaction in which the securities in the special purposes entity are acquired by the owner or by "qualified institutional buyers" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, and in which the securities are sold in compliance with 9 V.S.A. chapter 150 (the Vermont Uniform Securities Act) and the orders and rules adopted or issued thereunder; or **(ii)** in connection with a transaction in which the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets and in which the securities are sold in compliance with 9 V.S.A. chapter 150 (the Vermont Uniform Securities Act) and the orders and rules adopted or issued thereunder. **(18)** "Stranger-originated life insurance," or "STOLI," means an act or acts, practice or an arrangement to initiate a life insurance policy in the name of a resident of this State for the benefit of a third party who, at the time of policy origination, has no insurable interest under the laws of this State in the life of the

insured. STOLI practices include cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of policy inception, could not lawfully initiate the policy himself, herself, or itself and where, at the time of policy 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. Trusts that are created to give the appearance of insurable interest and are used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. STOLI arrangements do not include those practices set forth in subdivision (9)(C) of this section. **(19)** "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in 24 months or less. **(20)** "Viator" means any person who owns, controls, or has rights to the benefits or values of a life insurance policy or who owns, is covered by, controls, or has rights to the benefits or values of a group policy, either of which insures the life of a person who is terminally or chronically ill or has a life-threatening illness or condition and who enters into an agreement under which the life settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the life settlement provider.

8 V.S.A. § 3835

Section 3836 - License and bond requirements **(a)** Life settlement providers. **(1)** No person shall operate as a life settlement provider without first obtaining a license from the Commissioner. **(2)** Application for a life settlement provider license shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner, and the application shall be accompanied by an application fee of \$50.00 and a license fee of \$400.00. **(3)** Licenses may be renewed from year to year on a date prescribed by the Commissioner of the odd-numbered year next following the date of issuance upon payment of a biennial renewal fee of \$400.00. Failure to pay the fee by the renewal date shall result in expiration of the license. **(4)** The applicant shall provide information on forms required by the Commissioner. The Commissioner shall have authority at any time to require the applicant to disclose fully the identity of all stockholders, partners, officers, members, and employees, and the Commissioner may, in the exercise of the Commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this subchapter. **(5)** Upon the filing of an application and the payment of the license fee, the Commissioner shall make an investigation of each applicant and issue a license if the Commissioner finds that the applicant: **(A)** Has provided a detailed and sound plan of operation. **(B)** Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for. **(C)** Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for. **(D)** Has demonstrated evidence of financial responsibility in a format and in substance as prescribed by the Commissioner through a surety bond executed and issued by an insurer authorized to issue surety bonds in this State in the amount set forth below, or a letter of credit in the amount set forth below on a form and in a manner approved by the Commissioner, or such other amount as the Commissioner may require. The Commissioner may ask for evidence of financial responsibility at any time the Commissioner deems necessary. Any surety bond or letter

of credit issued pursuant to this subdivision shall be solely in the favor of this state and shall specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the life settlement provider. The minimum amount of the bond or letter of credit shall be based on the annual aggregate life settlement payments attributable to the licensee to policy owners in Vermont, as follows. The Commissioner may adjust by rule the ranges established below if necessary to be consistent with the aggregate payment data filed in annual statements pursuant to section 3839 of this title: **(i)** \$0.00 to \$1,000,000.00, a bond or letter of credit not less than \$50,000.00; **(ii)** \$1,000,000.01 to \$15,000,000.00, a bond or letter of credit not less than \$100,000.00; **(iii)** \$15,000,000.00 or more, a bond or letter of credit not less than \$150,000.00. **(E)** Has provided an anti-fraud plan that meets the requirements of section 3847 of this subchapter. **(6)** 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 Secretary of State or 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 Secretary of State, in accordance with 11 V.S.A. § 1633. **(7)** A life settlement provider shall provide to the Commissioner new or revised information about officers, stockholders holding 10 percent or more, partners, directors, members, or designated employees within 30 days of the change. **(b)** Life settlement broker. **(1)** A person shall not operate as a life settlement broker without first obtaining a license from the Commissioner. **(2)** A person licensed as an attorney or certified public accountant who is retained to represent the policy owner and whose compensation is not paid directly or indirectly by the life settlement provider may negotiate life settlement contracts on behalf of the policy owner without having to obtain a license as a life settlement broker. **(3)** Application for a life settlement broker license shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner, and the application shall be accompanied by an application fee of \$30.00 and a license fee of \$100.00. **(4)** Licenses may be renewed by the Commissioner on the even-numbered year next following the date of issuance upon payment of a biennial renewal fee of \$100.00. Failure to pay the fee by the renewal date shall result in expiration of the license. **(5)** The applicant shall provide information on forms required by the Commissioner. **(6)** Upon the filing of an application and the payment of the license fee, the Commissioner shall make an investigation of each applicant and issue a license if the Commissioner finds that the applicant: **(A)** Is competent and trustworthy. **(B)** Has a good business reputation and has had at least two years' prior experience as a licensed life insurance producer. **(C)** Has demonstrated evidence of financial responsibility in a format and in substance as prescribed by the Commissioner through a surety bond executed and issued by an insurer authorized to issue surety bonds in this State in the amount set forth below, or a letter of credit in the amount set forth below on a form and in a manner approved by the Commissioner, or such other amount as the Commissioner may require. The Commissioner may ask for evidence of financial responsibility at any time the Commissioner deems necessary. Any surety bond or letter of credit issued pursuant to this subdivision shall be solely in the favor of this State and shall specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the life settlement broker. The minimum amount of the bond or letter of credit shall be based on the annual aggregate life settlement payments attributable to the licensee to policy owners in Vermont, as follows. The Commissioner may adjust by rule the ranges established

below if necessary to be consistent with the aggregate payment data filed in annual statements pursuant to section 3839 of this title: **(i)** \$0.00 to \$2,000,000.00, a bond or letter of credit not less than \$25,000.00; **(ii)** \$2,000,000.01 to \$5,000,000.00, a bond or letter of credit not less than \$50,000.00; **(iii)** \$5,000,000.01 to \$15,000,000.00, a bond or letter of credit not less than \$75,000.00; and **(iv)** \$15,000,000.01 and more, a bond or letter of credit not less than \$100,000.00. **(7)** 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 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 Secretary of State, in accordance with 11 V.S.A. § 1633. **(8)** An individual licensed as a life settlement broker shall complete on a biennial basis an additional 15 hours of life insurance producer training related to life settlements and life settlement transactions as determined by the Commissioner. Such additional training requirements shall be approved for education under section 4800a of this title. Any person failing to meet the requirements of this subsection shall be subject to the penalties imposed by the Commissioner. **(9)** No life settlement broker may charge or receive a fee, a commission, or other valuable consideration in excess of two percent of the amount paid by the life settlement company to the policy owner on a policy that is the subject of the life settlement broker's services. Upon the written request of the life settlement broker and after conferring with the policy owner, the Commissioner may approve another rate of compensation as reasonable and appropriate under highly unusual circumstances. **(c)** The insurer that issued the policy subject to a life settlement shall not be responsible for any act or omission of a life settlement broker or life settlement provider 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 life settlement provider or life settlement broker in connection with the life settlement contract.

8 V.S.A. § 3836

Section 3837 - License revocation and denial **(a)** Life settlement providers. The Commissioner may suspend or revoke and may refuse to issue or renew the license of a life settlement provider if the Commissioner finds that: **(1)** there was any material misrepresentation in the application for the license; **(2)** the licensee or any officer, partner, member, or key management personnel have been convicted of fraudulent or dishonest practices or are subject to a civil judicial adjudication under federal, foreign, or State law or to an administrative action issued by any jurisdiction showing the licensee or any officer, partner, member, or key management personnel to be untrustworthy or incompetent; **(3)** the licensee demonstrates a pattern of unreasonable payments to policy owners; **(4)** the licensee or any officer, partner, member, or key management personnel have been found guilty of or have pleaded guilty or nolo contendere to any felony or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court; **(5)** the licensee has entered into any life settlement contract that has not been approved pursuant to this subchapter; **(6)** the licensee has failed to honor contractual obligations set out in a life settlement contract; **(7)** the licensee no longer meets the requirements for initial licensure; **(8)** the licensee has assigned, transferred, or pledged a policy subject to a life settlement contract to a person other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined respectively in Rule 501(a) or Rule 144A promulgated under the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; **(9)** the licensee or any officer, partner, member,

or key management personnel has violated any provision of this subchapter or a rule adopted or order issued under this subchapter;**(10)** the licensee or any officer, partner, member, or key management personnel have violated any provision of 9 V.S.A. chapter 150 (the Vermont Uniform Securities Act); or**(11)** the licensee has, in the conduct of his or her affairs, used fraudulent, coercive, or dishonest practices or has shown himself or herself to be incompetent, untrustworthy or financially irresponsible.**(b)** Life settlement brokers. The Commissioner may refuse to issue or renew or may suspend or revoke the license of a life settlement broker if the Commissioner finds that:**(1)** there was any material misrepresentation in the application for the license;**(2)** the licensee has been convicted of fraudulent or dishonest practices or is subject to a civil judicial adjudication under federal, foreign, or State law or to an administrative action issued by any jurisdiction showing the licensee or any officer, partner, member, or key management personnel to be untrustworthy or incompetent;**(3)** the licensee has been found guilty of or has pleaded guilty or nolo contendere to any felony or to a misdemeanor involving fraud, dishonesty, breach of trust, or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;**(4)** the licensee no longer meets the requirements for initial licensure;**(5)** the licensee has engaged in any one or more of the acts or conditions set forth in subsection 4804(a) of this title;**(6)** the licensee has violated any provision of this subchapter or a rule adopted or order issued under this subchapter;**(7)** the licensee or any officer, partner, member, or key management personnel have violated any provision of 9 V.S.A. chapter 150 (the Vermont Uniform Securities Act); or**(8)** the licensee has otherwise engaged in bad-faith conduct with one or more policy owners.

8 V.S.A. § 3837

Section 3838 - Approval of life settlement contracts, disclosure statements, and related forms**(a)** A person shall not use a life settlement contract form or related form or provide to a policy owner in this State any of the disclosure statement forms required by subsections 3841(a), (b), and (c) of this title unless such forms are first filed with and approved by the Commissioner. Related forms include the statement of attending physician required by subdivision 3843(a)(1)(A) of this title; the medical records release form required by subdivision 3843(a)(1)(B) of this title; the policy owner's statement of understanding form required by subdivision 3843(a)(5) of this title; any application form to be used by the policy owner to request a life settlement; any advertising material that the Commissioner, in his or her discretion, requires to be filed; and such other forms as the Commissioner may prescribe by rule or order.**(b)** The Commissioner shall disapprove a life settlement contract form, disclosure statement form, or related form if, in the Commissioner's judgment, the contract or provisions contained therein fail to meet the requirements of sections 3841, 3843, 3846, and subsection 3847(b) of this title or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the policy owner. Any notice of disapproval of such form shall state the grounds therefore and shall state that a hearing will be granted within 20 days upon request of the filer who requests a hearing within 30 days of the date of the notice of disapproval.**(c)** Any life settlement contract form, disclosure statement form, or related form filed with the Commissioner shall be deemed approved if it has not been disapproved within 60 days of the filing. The Commissioner may extend by not more than 30 additional days the period within which affirmative approval or disapproval of any such form may be given by notifying the life settlement provider or life settlement broker of such extension before expiration of the initial 60-day period.**(d)** The Commissioner may at any time, after notice and for cause shown, withdraw

approval of a previously approved contract form, disclosure statement form, or related form. Any order of the Commissioner withdrawing a previous approval shall state the grounds therefor in such detail as reasonably to inform the filer thereof. Any such withdrawal of a previously approved form shall be effective at the expiration of such period not less than 30 days after the giving of notice of withdrawal as the commissioner shall in such notice prescribe. Any demand for a hearing relative to the Commissioner's withdrawal of approval of a form which has been received by the Commissioner prior to the effective date of such withdrawal shall stay such action pending the hearing thereon.(e) The forms required to be filed by this section shall be filed in a manner prescribed by the Commissioner. Filings shall be accompanied by payment to the Commissioner of a nonrefundable fee of \$50.00 for each form submitted.

8 V.S.A. § 3838

Section 3839 - Reporting requirements and privacy(a) Each life settlement provider shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner may prescribe by rule or order. Information relating to life settlement transactions shall be limited to only those transactions where the policy owner is a resident of this State. Upon proper request by the filer, the Commissioner shall keep confidential trade secret information exempt from public inspection and copying under 1 V.S.A. § 317(c)(9). The annual statement shall not contain individually identifiable life settlement transaction information, but such information shall be provided to the Commissioner pursuant to section 3840 of this title. If available to the provider because of the provider's business relationship or affiliation with one or more life settlement purchasers, the annual statement shall also include such information as the Commissioner may prescribe by rule or by order concerning life settlement purchase agreements or similar investment contracts entered into by residents of this State.(b) 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 or a policy owner's identity shall be subject to the department's Regulation No. IH-2001-I "Privacy of Consumer Financial and Health Information," as amended.

8 V.S.A. § 3839

Section 3840 - Investigations and examinations(a) The Commissioner, in addition to all powers granted pursuant to chapter 1 of this title, may examine the business and affairs of any licensee or applicant for a license whenever he or she deems it to be prudent for the protection of policyholders or the public. The Commissioner shall have the authority to examine any person and to order the production of any records, books, files or other information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.(b) A person required to be licensed by this subchapter shall for five years following the death of the insured retain copies of all:(1) proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later;(2) all checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction; and(3) all other records and documents related to the requirements of this subchapter.(c) Except as otherwise provided in this subchapter, 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 investigation made under this subchapter or in the course of analysis or investigation by the Commissioner of the financial condition or market conduct of a licensee shall be confidential by law and privileged, shall not be subject to disclosure as a public record under 1 V.S.A. § 317, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The Commissioner is authorized to 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.(d) The expense incurred in conducting any examination shall be paid by the licensee or applicant.

8 V.S.A. § 3840

Section 3841 - Disclosure to policy owner(a) With each application for a life settlement, a life settlement provider or a life settlement broker shall provide the policy owner with at least the following disclosures not less than 10 days prior to the time the application for the life settlement contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the policy owner and the life settlement provider or life settlement broker and shall include the following information:(1) There are possible alternatives to life settlement contracts, including any accelerated death benefits or policy loans offered under the policy owner's life insurance policy.(2) That a life settlement broker represents exclusively the policy owner and not the insurer or the life settlement provider and owes a fiduciary duty to the policy owner, including a duty to act according to the policy owner's instructions and in the best interest of the policy owner.(3) Some or all of the proceeds of the life settlement may be taxable under federal income tax and state franchise and income tax laws, and assistance should be sought from a professional tax advisor.(4) Proceeds of the life settlement could be subject to the claims of creditors.(5) Receipt of the proceeds of a life settlement may adversely affect the policy owner's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.(6) The policy owner has the right to rescind a life settlement contract before 30 calendar days after the date upon which the life settlement contract is executed by all parties. Rescission, if exercised by the policy owner, is effective only if both notice of the rescission is given and the policy owner repays all proceeds and any premiums, loans, and loan interest paid on account of the life settlement 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 policy owner or the policy owner's estate of all life settlement proceeds and any premiums, loans, and loan interest on the life settlement within 60 days of the insured's death.(7) Funds will be sent to the policy owner within three business days after the life settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and that the beneficiary has been designated.(8) 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, to be forfeited by the policy owner. Assistance should be sought from an independent, qualified professional with experience in these matters.(9) Disclosure to a policy owner shall include distribution of a brochure approved by the Commissioner describing the process of life settlements.(10) The disclosure document shall contain the following language: "All medical, financial, or personal information

solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of family members, a spouse or party to a civil union or a significant other may be disclosed as necessary to effect the life settlement between the policy 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 who may not be obligated to protect and keep the information confidential. You may be asked to renew your permission to share information every two years."

(11) Following execution of a life settlement contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in this subchapter. This contact shall be limited to once every three months if the insured has a life expectancy of six months or more, and no more than once every two months if the insured has a life expectancy of six months or less. All such contracts shall be made only by a life settlement provider licensed in the state in which the policy owner resided at the time of the life settlement or by the authorized representative of such duly licensed life settlement provider.

(12) No broker shall have a financial relationship or affiliation with a life settlement provider unless the broker fully discloses such relationship or affiliation, and the manner and amount of the broker's compensation. A broker shall not participate in or form a financial arrangement or affiliation with a life settlement provider if such arrangement or affiliation conflicts with the broker's fiduciary duty to the policy owner.

(b)(1) A life settlement provider shall provide the policy owner with at least the following disclosures no later than 10 days before 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 policy owner and provide the following information:

(A) unless previously disclosed under subsection (a) of this section, the affiliation, if any, between the life settlement provider and the issuer of the insurance policy to be subject to the life settlement contract;

(B) the name, business address, and telephone number of the life settlement provider;

(C) any affiliations or contractual arrangements between the life settlement provider and the life settlement purchaser.

(2) If an insurance policy subject to a life settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be subject to a life settlement contract, the policy owner or owners shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with his or her or their insurance producer or the insurer issuing the policy for advice on the proposed life settlement.

(3) The document shall state the dollar amount of the current death benefit payable to the life settlement provider under the policy or certificate. The life settlement provider shall also disclose the availability, if known, of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the policy owner's interest in those benefits will be transferred as a result of the life settlement contract.

(4) The document shall state whether the funds will be escrowed with an independent third party or placed in trust during the transfer process. If an escrow account is used, the document shall provide the name, business address, and telephone number of the independent third party escrow agent. If a trust account is used, the document shall identify the state or federally chartered institution. The document shall state that the policy owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(c) A life settlement broker shall provide the policy owner with at least the following disclosures no later than 10 days before 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 policy owner and provide the following information: **(1)** the name, business address, and telephone number of the life settlement broker; **(2)** a full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed life settlement contract; **(3)** a written disclosure of 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 amount and method of calculating the broker's compensation, which term includes anything of value paid or given to a life settlement broker for the placement of a policy; and **(5)** where any portion of the life settlement broker's compensation, as defined in subdivision (4) of this subsection, is taken from a proposed life settlement offer, a disclosure of the total amount of the life settlement offer and the percentage of the life settlement offer constituted by the life settlement broker's compensation. **(d)** If the life settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate in writing the change in ownership or beneficiary to the insured within 20 days after the change.

8 V.S.A. § 3841