

New York State

Article 78 – Life Settlements

Section 7801 - Short title

This article shall be known and may be cited as the "life settlements act".

Section 7802 - Definitions

In this article:

(a) "Accredited investors" shall be as defined in regulation D, rule 501 of the Federal Securities Act of 1933, as amended. **(b)** "Advertisement" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet or similar communications media, including film strips, motion pictures and videos, 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, 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. **(c)(1)** "Business of life settlements" means an activity involving, but not limited to, offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring, or tracking life settlement contracts. **(2)** For purposes of this article, "business of life settlements" shall also include: **(A)** such acts or transactions effectuated in this state by mail or otherwise from outside this state; and **(B)** doing or proposing to do any business in substance equivalent to the business of life settlements in a manner designed to evade the provisions of this chapter. **(d)** "Compensation" means anything of value, including money, credits, loans, interest on premium, forgiveness of principal or interest, vacations, prizes, gifts or the payment of employee salaries or expenses, whether paid as commission or otherwise. **(e)** "Financing entity" means an accredited investor: **(1)** whose principal activity in connection with the transaction is providing funds to effect the life settlement contract or to purchase one or more policies; and **(2)** who has an agreement in writing with a life settlement provider to finance the acquisition of a life settlement contract. **(f)** "Financing transaction" means a transaction in which a licensed life settlement provider obtains financing from a financing entity, including any secured or unsecured financing, any securitization transaction, or any securities offering which is registered or exempt from registration under federal and state securities laws. **(g)** "Insured" means a person covered under a policy that is or may be the subject of a life settlement contract. **(h)** "Insurer" means a life insurance company or a fraternal benefit society. **(i)** "Life expectancy" means the arithmetic mean of the number of months the insured can be expected to live taking into consideration medical records and appropriate experiential data. **(j)** "Life settlement broker" means a person who, for compensation, solicits, negotiates or offers to negotiate a life settlement contract; except that such term shall not include a licensed life settlement provider, or representative thereof, licensed attorney at law, certified public accountant, or financial planner that is accredited by a nationally recognized accreditation agency acceptable to the superintendent, who is retained in his or her professional capacity,

does not advertise as being in the business of life settlements and is compensated without regard to whether a life settlement contract is effectuated. **(k)(1)** "Life settlement contract" means an agreement establishing the terms under which compensation is provided to an owner, which compensation is less than the expected death benefit of the policy, in return for the assignment, transfer, sale, release, devise or bequest of any portion of: **(A)** the death benefit; **(B)** the ownership of the policy; or **(C)** any beneficial interest in the policy, or in a trust or any other entity that owns the policy, where a primary purpose of the transaction is to acquire the policy. **(2)** "Life settlement contract" shall include an agreement, entered into after the effective date of this article, described in paragraph one of this subsection regardless of the date the compensation is provided and regardless of the date the assignment, transfer, sale, devise or bequest is effectuated. **(3)** "Life settlement contract" shall not include: **(A)** an assignment of a policy as collateral for a loan by any depository institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration; **(B)** an assignment of a policy as collateral for a loan made by a licensed financial institution under 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 the 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 article; **(C)** an assignment of a policy as collateral for a loan made by a lender that does not violate article twelve-B of the banking law; **(D)** the making of a policy loan, or the paying of surrender benefits or other benefits, by the issuer of a policy with respect to that policy; **(E)** an exchange of life insurance policies in a transaction described by section 1035 of the Internal Revenue Code of 1986, as amended; **(F)** an agreement made by an individual to take an assignment, purchase, or otherwise receive the death benefit or ownership of any portion of a policy or policies on the life of a single insured or lives of joint insureds; provided that, in a calendar year, the individual enters into no other agreement to take an assignment, purchase, or otherwise receive the death benefit or ownership of any portion of a policy or policies on the life of any other insured or lives of any other joint insureds; **(G)** an agreement to assign, transfer or pledge a settled policy, or any interest therein, to a licensed life settlement provider, an accredited investor or qualified institutional buyer, financing entity, special purpose entity, or related provider trust; **(H)** 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; **(I)** 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; **(J)** a bona fide business succession planning arrangement between: **(i)** one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders; **(ii)** one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or **(iii)** one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members; **(K)** legitimate corporate or pension benefit plans, as determined by the superintendent; or **(L)** any other agreement that the superintendent determines is substantially similar to any of the foregoing. **(l)** "Life settlement intermediary" means a person who maintains an electronic or other facility or system, for the disclosure, through a forum of

offers and counteroffers, to sell or purchase a policy pursuant to a life settlement contract; and delivers to:**(1)** a life settlement provider an offer from a life settlement broker or owner to sell a policy; or**(2)** an owner or life settlement broker an offer from a life settlement provider to purchase a policy.**(m)** "Life settlement provider" means a person who enters, or offers to enter, into a life settlement contract with the owner.**(n)** "Owner" means the owner of a policy who enters or seeks to enter into a life settlement contract.**(o)** "Person" means any natural person or legal entity, including a partnership, limited liability company, association, trust or corporation.**(p)** "Policy" means an individual or group life insurance policy or certificate.**(q)** "Premium finance loan" means a loan made for the purposes of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.**(r)** "Qualified institutional buyer" shall be as defined in rule 144A of the Federal Securities Act of 1933, as amended.**(s)** "Related provider trust" means a trust established by a licensed life settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in settled policies in connection with a financing transaction; provided that the trust has a written agreement with the licensed life settlement provider under which:**(1)** the licensed life settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements; and**(2)** the trust agrees to make all records and files relating to life settlement transactions available to the superintendent as if those records and files were maintained directly by the licensed life settlement provider.**(t)** "Settled policy" means a policy that at any time has been acquired by a life settlement provider pursuant to a life settlement contract.**(u)** "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other legal entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed life settlement provider.

N.Y. Ins. Law § 7802

Section 7803 - License requirements for life settlement providers

(a) No person shall engage in the business of life settlements as a life settlement provider in this state without having authority to do so by virtue of a life settlement provider license issued and in force pursuant to this article.**(b)(1)** The superintendent may issue a life settlement provider license to any person who is deemed by the superintendent to be trustworthy and competent to act as a life settlement provider and who is otherwise qualified as required in this article and who has complied with the prerequisites prescribed in this article.**(2)** Every license issued pursuant to this section shall expire on June thirtieth of odd-numbered years.**(c)(1)** Application for a life settlement provider license shall be made to the superintendent by the applicant on a form prescribed by the superintendent, and the application shall be accompanied by a fee in an amount to be established by the superintendent.**(2)** The applicant for a life settlement provider license shall:**(A)** fully disclose the identity of all stockholders (except stockholders owning fewer than ten percent of the voting shares of a life settlement provider whose shares are publicly traded), partners, officers, members, directors and persons with a controlling interest. For purposes of this section, "controlling interest" means a person who directly or indirectly, has the power to cause to be directed the management, control or activities of such licensee;**(B)** provide a detailed plan of operation;**(C)** provide, if a legal entity, a certificate of good

standing from the state of its domicile;**(D)** provide an anti-fraud plan that meets the requirements of article four of this chapter;**(E)** demonstrate financial accountability as evidenced by a bond or other method for financial accountability as determined by the superintendent pursuant to regulation; and**(F)** provide any other information required by the superintendent.**(d)** The superintendent may require an applicant for such license to submit a set of fingerprints. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. All such criminal history records sent to the superintendent pursuant to this paragraph shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the superintendent, unless otherwise authorized by law. The superintendent shall provide such applicant with a copy of his or her criminal history record, if any, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such record pursuant to regulations and procedures established by the division of criminal justice services. All determinations to grant or deny clearance for licensure pursuant to this section shall be in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the superintendent denies an application, written notice of such determination shall be given to the prospective applicant who shall be afforded notice and the right to be heard and offer proof in opposition to such determination.**(e)(1)** As part of the application, the applicant shall submit a power of attorney designating the superintendent as agent for the purpose of receiving service of legal documents or process.**(2)** The power of attorney shall include the name and address of the officer, agent, or other person to whom such legal documents or process shall be forwarded by the superintendent or his or her deputy on behalf of such life settlement provider.**(3)** Service of legal documents or process upon a life settlement provider pursuant to this subsection shall be made by serving the superintendent, any deputy superintendent or any salaried employee of the department whom the superintendent designates for such purpose with two copies thereof and the payment of a fee of forty dollars. The superintendent shall forward a copy of such legal documents or process by registered or certified mail to the life settlement provider at the address given in its written certificate of registration, and shall keep a record of all legal documents or process so served. Service of legal documents or process so made shall be deemed made within the territorial jurisdiction of any court in this state.**(f)** The superintendent, in the exercise of the superintendent's discretion, may refuse to issue a life settlement provider license in the name of any person if not satisfied that any officer, employee, stockholder, partner, director, member, agent, or responsible person thereof, who may materially influence the applicant's conduct, meets the standards of this article.**(g)** Every license issued pursuant to this section may be renewed for the ensuing period of twenty-four months upon the filing of an application in conformity with this section.**(h)(1)** Before the renewal of any life settlement provider license shall be issued, an application for renewal of the license shall be made to the superintendent by the applicant on a form prescribed by the superintendent and containing such information as the superintendent may prescribe. The application shall be accompanied by a fee in an amount to be established by the superintendent.**(2)** If an application for a renewal license shall have been filed with the superintendent before the expiration of the license, then

the license sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal license applied for or until five days after the superintendent shall have refused to issue such renewal license and shall have given notice of such refusal to the applicant. Before refusing to renew any such license, the superintendent shall notify the applicant of the superintendent's intention to do so and shall give such applicant a hearing.**(3)** An application for the renewal of a license shall be filed with the superintendent not less than sixty days prior to the date the license expires or the applicant may be subject to a further fee for late filing, as prescribed by the superintendent.**(i)** A life settlement provider licensee shall provide to the superintendent new or revised information about stockholders (except stockholders owning fewer than ten percent of the voting shares of a life settlement provider whose shares are publicly traded), partners, officers, members, directors, designated employees or persons with a controlling interest within thirty days of the change.**(j)** Every individual applicant for a license under this section shall be eighteen years of age or older at the time of the issuance of such license.

N.Y. Ins. Law § 7803

Section 7804 - Registration requirements for life settlement intermediaries

(a) No person shall act as a life settlement intermediary in this state without having authority to do so by virtue of a registration issued and in force pursuant to this article.**(b)(1)** The superintendent may issue a life settlement intermediary registration to any person who:**(A)** is deemed by the superintendent to be trustworthy and competent to act as a life settlement intermediary;**(B)** is otherwise qualified as required in this article; and**(C)** has complied with the prerequisites prescribed in this article.**(2)** Every registration issued pursuant to this section shall expire on June thirtieth of odd-numbered years.**(c)(1)** Application for a life settlement intermediary registration shall be made to the superintendent by the applicant on a form prescribed by the superintendent, and the application shall be accompanied by a fee in an amount established by the superintendent.**(2)** The applicant for a life settlement intermediary registration shall provide:**(A)** the state in which the life settlement intermediary is domiciled or resident;**(B)** the principal place of business of the life settlement intermediary;**(C)** all other states in which the life settlement intermediary is doing or intends to do business;**(D)** a detailed plan of operation; and**(E)** the identities of the life settlement intermediary executive officer or officers directly responsible for such business, and all stockholders (except stockholders owning fewer than ten percent of the voting shares of a life settlement intermediary whose shares are publicly traded), partners, officers, members, directors and persons with a controlling interest. For purposes of this section, "controlling interest" means a person who directly or indirectly, has the power to cause to be directed the management, control or activities of such registrant.**(d)** Each life settlement intermediary that is required to register pursuant to this section shall also furnish such information as may be required by the superintendent to:**(1)** verify that the person or persons qualify as a life settlement intermediary; and**(2)** determine compliance with any applicable state law.**(e)(1)** As part of the application, the applicant shall submit a power of attorney designating the superintendent as agent for the purpose of receiving service of legal documents or process.**(2)** The power of attorney shall

include the name and address of the officer, agent, or other person to whom such legal documents or process shall be forwarded by the superintendent or his or her deputy on behalf of such life settlement provider. **(3)** Service of legal documents or process upon a life settlement provider pursuant to this subsection shall be made by serving the superintendent, any deputy superintendent or any salaried employee of the department whom the superintendent designates for such purpose with two copies thereof and the payment of a fee of forty dollars. The superintendent shall forward a copy of such legal documents or process by registered or certified mail to the life settlement provider at the address given in its written certificate of registration, and shall keep a record of all legal documents or process so served. Service of legal documents or process so made shall be deemed made within the territorial jurisdiction of any court in this state. **(f)** The superintendent may require an applicant for such registration to submit a set of fingerprints. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. All such criminal history records sent to the superintendent pursuant to this paragraph shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the superintendent, unless otherwise authorized by law. The superintendent shall provide such applicant with a copy of his or her criminal history record, if any, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such record pursuant to regulations and procedures established by the division of criminal justice services. All determinations to grant or deny clearance for registration pursuant to this section shall be in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the superintendent denies an application, written notice of such determination shall be given to the prospective applicant who shall be afforded notice and the right to be heard and offer proof in opposition to such determination. **(g)** The superintendent, in the exercise of the superintendent's discretion, may refuse to issue a life settlement intermediary registration in the name of any person if not satisfied that any officer, employee, stockholder, partner, director, member, agent, or responsible person thereof who may materially influence the applicant's conduct meets the standards of this article. **(h)** Every registration issued pursuant to this section may be renewed for the ensuing period of twenty-four months upon the filing of an application in conformity with this section. **(i)(1)** Before the renewal of any life settlement intermediary registration shall be issued, an application for renewal of the registration shall be made to the superintendent by the applicant on a form prescribed by the superintendent and containing such information as the superintendent may prescribe, and the application shall be accompanied by a fee in an amount to be established by the superintendent. **(2)** If an application for renewal registration shall have been filed with the superintendent before the expiration of the registration, the registration sought to be renewed shall continue in full force and effect either until the issuance by the superintendent of the renewal registration applied for or until five days after the superintendent shall have refused to issue such renewal registration and shall have given notice of such refusal to the applicant. Before refusing to renew any such registration, the superintendent shall notify the applicant of the superintendent's intention to do so and shall give such applicant a hearing. **(3)** An application for the renewal of a registration shall be filed with the superintendent

not less than sixty days prior to the date the registration expires or the applicant may be subject to a further fee for late filing, as prescribed by the superintendent. **(j)** A life settlement intermediary shall, as to any subsequent changes in any of the items set forth in paragraph two of subsection (c) and paragraph one of subsection (d) of this section, notify the superintendent in writing within thirty days of any such change. **(k)** Every individual applicant for registration under this section shall be eighteen years of age or older at the time of the issuance of such registration.

N.Y. Ins. Law § 7804

Section 7805 - License and registration revocation

(a) The superintendent may suspend, revoke or refuse to renew the license of any life settlement provider or the registration of any life settlement intermediary, if, after notice and hearing, the superintendent determines that the life settlement provider or life settlement intermediary, or any officer, partner, member, or key management personnel thereof, has: **(1)** violated any insurance laws or any regulation promulgated thereunder, any subpoena or order of the superintendent or of another state's insurance commissioner, or any other law in the course of the licensee's dealings in such capacity; **(2)** provided materially incorrect, materially misleading, materially incomplete or materially untrue information in the license or registration application; **(3)** obtained or attempted to obtain a license or registration through misrepresentation or fraud; **(4)(A)** used fraudulent, coercive or dishonest practices; **(B)** demonstrated incompetence; **(C)** demonstrated untrustworthiness; or **(D)** demonstrated financial irresponsibility in the conduct of business in this state or elsewhere; **(5)** improperly withheld, misappropriated or converted any monies or properties received in the course of business in this state or elsewhere; **(6)** intentionally misrepresented the terms of any insurance contract or life settlement contract or any application therefor; **(7)** been convicted of a felony, or has been guilty of fraudulent or dishonest practices or other misconduct or malfeasance; **(8)** admitted or been found to have committed any insurance unfair trade practice or fraud; **(9)** had a life settlement provider license or life settlement intermediary registration, or an equivalent denied, suspended or revoked in any other state, province, district or territory; **(10)** forged another person's name to an application for insurance or life settlement contract or to any document related to an insurance or life settlement transaction; **(11)** knowingly conducted the business of life settlements with a person who is not licensed or registered unless such person is not required to be licensed or registered; **(12)** demonstrated a pattern of unreasonable payments to owners or insureds; **(13)** failed to honor contractual obligations set out in a life settlement contract; **(14)** sold, assigned, pledged or otherwise transferred the ownership of a settled policy to a person other than as provided in this article; or **(15)** failed to protect the privacy of the insured or owner or other person for whom the licensee or registrant was required to provide protection pursuant to this article. **(b)(1)** Before the superintendent suspends, revokes or refuses to renew the license of a life settlement provider or the registration of a life settlement intermediary, the superintendent shall give notice to the licensee or registrant and shall hold, or cause to be held, a hearing not less than ten days after the giving of such notice, except that

where, in the judgment of the superintendent, the public health, safety or welfare so requires, a license or registration may be suspended for up to ten days prior to a hearing. **(2)** In lieu of revoking or suspending the license or registration for any of the causes enumerated in subsection (a) of this section, the superintendent may impose a civil penalty not to exceed ten thousand dollars for each violation. **(3)** Upon the failure of such licensee or registrant to pay such penalty ordered pursuant to paragraph two of this subsection within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such licensee or registrant, unless such order is stayed by a court of competent jurisdiction, the superintendent may revoke the license of such licensee or the registration of such registrant, or may suspend the same for such period as the superintendent determines.

N.Y. Ins. Law § 7805

Section 7806 - Life settlement contract forms

(a) No licensed life settlement provider shall enter into a life settlement contract subject to this chapter unless the life settlement contract form, application form, and any other form as may be prescribed by regulation, has been filed with and approved by the superintendent. The superintendent may disapprove any such form if the superintendent finds the form or any provisions contained therein to be unreasonable, contrary to law or the interests of the people of this state, or otherwise misleading or unfair. **(b)** Whenever, by the provisions of this chapter, the superintendent has approved any life settlement contract form, application form, or any other form, the superintendent may, after notice and hearing given to the life settlement provider that submitted the form for approval, withdraw an approval previously given if: **(1)** the use of the form is contrary to the requirements applicable to the form at the time of such withdrawal, or **(2)** it contains provisions that are unjust, unfair or inequitable.

Any withdrawal of approval shall be effective at the expiration of such period, at least ninety days after the giving of notice of withdrawal or as the superintendent shall in such notice prescribe.

N.Y. Ins. Law § 7806

Section 7807 - Reporting requirements

(a)(1) Every licensed life settlement provider shall file in the office of the superintendent, annually on or before the first day of March, a statement, to be known as its annual statement, verified by the oath of at least two of its principal officers, showing its condition at the end of the preceding calendar year. The statement shall be in such form and shall contain such other matters as the superintendent shall prescribe. In addition to any other requirements, the annual statement shall 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. The information shall not include individual transaction data regarding the business of life settlements or information if there is a reasonable basis to believe the information could be used to identify the owner or the insured. **(2)** Every life

settlement provider that willfully fails to file an annual statement as required in this section, or willfully fails to reply within thirty days to a written inquiry by the superintendent in connection therewith, shall, in addition to other penalties provided by this chapter, be subject, upon due notice and opportunity to be heard, to a penalty not to exceed five hundred dollars per day of delay, not to exceed fifty thousand dollars in the aggregate, for each such failure.

N.Y. Ins. Law § 7807

Section 7808 - Examinations or investigations

The superintendent may make an examination or investigation into the affairs of any life settlement provider, life settlement broker, life settlement intermediary, applicant for licensure as a life settlement provider or life settlement broker, or applicant for registration as a life settlement intermediary as prescribed under article three of this chapter.

N.Y. Ins. Law § 7808

Section 7809 – Advertising

(a) A life settlement provider, life settlement intermediary or life settlement broker licensed pursuant to this article may conduct or participate in advertisements within this state. The advertisements shall comply with all advertising and marketing laws or rules and regulations as may be promulgated by the superintendent. **(b)** Advertisements shall be accurate, truthful and not misleading in fact or by implication. **(c)** No life settlement provider, life settlement intermediary, life settlement broker, or any person acting on behalf thereof shall: **(1)** directly or indirectly, market, advertise, solicit or otherwise promote the purchase of a policy for the primary purpose of, or with an emphasis on, settling the policy; or **(2)** use the words "free", "no cost" or words of similar import in the marketing, advertising, soliciting or otherwise promoting of the purchase of a policy. **(d)** The failure to follow the provisions of this section shall be a defined violation under article twenty-four of this chapter.

N.Y. Ins. Law § 7809

Section 7810 – Privacy

(a) Except as otherwise permitted or required by law, no life settlement provider, life settlement broker, or life settlement intermediary, or any authorized representative thereof, insurer, information bureau, rating agency or company, or any other person with actual knowledge of an insured or owner's identity, shall disclose the identity of the insured or owner, or any information that there is a reasonable basis to believe could be used to identify the insured or owner, or the insured's financial or medical information, to any 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 or transfer of a life settlement contract or a settled policy, or interest therein,

provided that every sale is conducted in accordance with applicable state and federal law and provided further that the owner and the insured have both provided prior written consent to the disclosure;**(3)** provided in response to an investigation or examination by the superintendent, any other governmental officer or agency, or a self-regulating entity established pursuant to federal securities law;**(4)** a term or condition to the transfer of a policy by one licensed life settlement provider to another licensed life settlement provider, in which case the receiving life settlement provider shall be required to comply with the confidentiality requirements of this section;**(5)** necessary to allow the life settlement provider or life settlement broker, or any authorized representative thereof to administer the insurance policy, or to make contacts for the purpose of determining health status as authorized by subsection (k) of section seven thousand eight hundred thirteen of this article. For the purposes of this article, the term "authorized representative" shall not include any person who has or may have any 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; further, 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 article;**(6)** required to purchase insurance; or**(7)** otherwise permitted by regulation promulgated by the superintendent.**(b)** Any person who obtains or may obtain a settled policy, or any interest therein, pursuant to a transfer, sale, conveyance or assignment of a settled policy, or any interest therein, shall:**(1)** comply with the provisions of this chapter and regulations promulgated thereunder and all other applicable laws, governing the protection of the identity and privacy of the insured or owner; and**(2)** protect against the unlawful release of all information concerning the identity of any insured or owner, which information would or could reasonably be expected to be used to identify or contact such insured or owner, including the name, address (except the state of residence) or social security number of the insured or the owner, or representative thereof, the related insurance policy number or the insured's medical information.**(c)** Non-public personal information solicited or obtained in connection with a proposed or executed 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 applicable laws relating to confidentiality of non-public personal information.**(d)** The failure to follow the provisions of this section shall be a defined violation under article twenty-four of this chapter.

N.Y. Ins. Law § 7810

Section 7811 - Disclosures to owners and insureds

(a) The life settlement provider or life settlement broker shall provide the owner with a separate written document conspicuously displaying the information and disclosures required by this subsection. The separate document shall be signed by the owner and life settlement provider, no later than the date the life settlement contract is signed by all parties. At a minimum, the document shall state:**(1)** that there are possible alternatives to life settlement contracts, including accelerated benefits offered by the issuer of the policy;**(2)** that some or all of the proceeds of a life settlement contract may be taxable and that advice should be sought from a professional tax advisor;**(3)** that the proceeds from a life settlement contract could 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 rescind a life settlement contract from the time of execution of the contract until fifteen days after the receipt of the life settlement proceeds by the owner;**(6)** that proceeds will be sent to the owner within three 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;**(7)** 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;**(8)** the gross offer or bid that the life settlement provider shall pay pursuant to the life settlement contract; the net amount to be paid to the owner pursuant to the life settlement contract; the name of each life settlement broker, life settlement intermediary, insurance producer or insurance consultant that will be compensated by the life settlement provider, or any affiliate, parent corporation, or subsidiary of the life settlement provider; and the amount of compensation that the life settlement provider, or any affiliate, parent corporation or subsidiary of the life settlement provider, shall provide to a life settlement broker, life settlement intermediary, insurance producer or insurance consultant, or any affiliate, parent corporation or subsidiary of such broker, intermediary, producer, or consultant, pursuant to the life settlement contract. For the purposes of this paragraph, "gross offer or bid" means the total amount or value offered by the life settlement provider for the purchase of one or more life insurance policies, inclusive of commissions and fees;**(9)** the date by which the funds will be available to the owner and the transmitter of the funds;**(10)** that the life settlement provider or life settlement broker is required to provide an owner during the solicitation process with a consumer information booklet in a form prescribed by the superintendent, or other similar material, subject to the approval of the superintendent;**(11)** that the insured may be contacted by either the life settlement provider or life settlement broker, or any authorized representative thereof, for the purpose of determining the insured's health status or to verify the insured's address, and that the contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less;**(12)** any affiliations or contractual arrangements between the life settlement provider and the issuer of the policy to be settled;**(13)** any affiliations or contractual arrangements with any other life settlement provider, life settlement broker, life settlement intermediary or party financing the transaction;**(14)** that a life settlement broker represents exclusively the owner, and not the insurer or the life settlement provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner;**(15)** the name, business address, telephone number and e-mail address of the independent, third party escrow agent and that the owner has the right to inspect or receive copies of the relevant escrow or trust agreements or documents;**(16)** that a change of ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life; and**(17)** the name, business address, telephone number and e-mail address of the life settlement provider.**(b)** The life settlement provider or life settlement broker shall provide to the

insured in a separate written document conspicuously displaying the information and disclosures required by this subsection. The separate document shall be signed by the insured no later than the date the life settlement contract is signed by all parties. The document shall:**(1)** state that the insured may be contacted by either the life settlement provider or life settlement broker or any authorized representative thereof, for the purpose of determining the insured's health status or to verify the insured's address, and that the contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less;**(2)** state that a change of ownership could in the future limit the insured's ability to purchase additional insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life; and**(3)** contain the following language, or such other language required by the superintendent by regulation: "All medical, financial or personal information solicited or obtained by a life settlement provider or life settlement broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the life settlement contract between the owner and provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years".**(c)** The life settlement broker shall provide the owner with a separate written document conspicuously displaying the information and disclosures required by this subsection. The separate document shall be signed by the owner and life settlement broker, no later than the date the life settlement contract is signed by all parties. At a minimum, the document shall state:**(1)** the name, business address, telephone number and e-mail address of the life settlement broker;**(2)** a full, 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 with any life settlement provider, other life settlement broker, life settlement intermediary or any financing entity;**(4)** the gross amount to be paid pursuant to the life settlement contract, the net amount of the proceeds to be paid to the owner pursuant to the life settlement contract, the amount of compensation to be paid to the life settlement broker pursuant to the life settlement contract, and the name of such life settlement broker. For purposes of this paragraph, "gross amount to be paid" means the total amount or value to be paid by the life settlement provider for the purchase of one or more life insurance policies, inclusive of commissions and fees; and**(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 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 one or more life insurance policies, inclusive of commissions and fees.

N.Y. Ins. Law § 7811

Section 7812 - Life insurance applications

(a) Without limiting the ability of an insurer to assess the insurability of a policy applicant and to determine whether or not to issue the policy, and in addition to other questions an insurer may

lawfully pose to a life insurance applicant, insurers may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing. **(b)** The insurer may include the following notice to the applicant and the insured, or other notice acceptable to the superintendent, on the application or as an amendment thereto: "If you enter 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, then the following may be true: **(1)** a change of ownership may lead to a person unknown to you owning an interest in the insured's life; **(2)** a change of ownership may limit your ability to purchase insurance in the future on the insured's life because there is a limit to how much coverage insurers will issue on one life; **(3)** if ownership of the life insurance policy changes, 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/or other factors may reduce the ability to obtain coverage and/or may result in significantly higher premiums; and **(4)** you should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner."

N.Y. Ins. Law § 7812

Section 7813 - General rules

(a) A life settlement provider entering into a life settlement contract shall first obtain a written consent from the insured to the release of the insured's medical records subject to the limitations contained in section seven thousand eight hundred ten of this article. **(b)** The insurer shall respond to a request for verification of coverage submitted by a life settlement provider, life settlement broker or life settlement intermediary within fifteen days after the date the request is received. The insurer shall complete and issue the verification of coverage or indicate the specific reasons why it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer is pursuing or intends to pursue an investigation regarding the validity of the policy. **(c)** The life settlement provider shall give written notice to the insurer that issued the policy within ten days after the life settlement contract is executed by all parties. **(d)** Unless the insurer is pursuing or intends to pursue an investigation, the insurer shall, within fifteen days of receipt of a request for a change of ownership or assignment used to effectuate the transfer or assignment of the owner's rights or benefits under a policy to a life settlement provider, process the change of ownership or assignment and notify the life settlement provider and the owner that the transfer or assignment has been effectuated. **(e)** If a life settlement broker performs any activity required of the life settlement provider in this section or provides any disclosures required by section seven thousand eight hundred eleven of this article, then the life settlement provider is deemed to have performed that activity or provided that disclosure. **(f)** All medical information solicited or obtained by any licensee or any other person shall be subject to the provisions applicable to health care providers under the public health law and all applicable laws relating to confidentiality of medical information, provided that, to the extent that this chapter provides for greater confidentiality of medical information, this chapter shall govern. **(g)(1)** Every life settlement contract shall provide that the owner has an unconditional right to rescind the life

settlement contract from the time of execution of the contract until fifteen days after the receipt of the life settlement proceeds by the owner by giving notice of rescission to the life settlement provider by midnight of the fifteenth day. **(2)** Within five days after receipt of the notice of rescission, the life settlement provider shall provide a written statement to the owner itemizing the amount of all life settlement proceeds and any premiums, loans and loan interest paid or to be paid as of a date certain as may be requested by the owner. **(3)** Within fifteen days after the receipt of the written, itemized statement by the owner, the owner must repay all such life settlement proceeds and any premiums, loans and loan interest paid by the life settlement provider. **(4)** If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded, subject to repayment of all life settlement proceeds and any premiums, loans and loan interest paid by the life settlement provider. **(5)** Within five days after receipt of notice of the insured's death during the rescission period, the life settlement provider shall provide a written statement to the owner or, if the owner is deceased, to the legal representative of the owner's estate, itemizing the amount of all life settlement proceeds and any premiums, loans and loan interest paid or to be paid as of a date certain as may be requested by the owner or the legal representative of the owner's estate. As soon as practicable, the owner or the owner's estate shall repay all such proceeds and any premiums, loans and loan interest paid by the life settlement provider. **(h)** Within three business days after receipt from the owner of documents to effect the transfer of the policy that is the subject of a life settlement contract, the life settlement provider shall deposit the proceeds of the life settlement contract into an escrow or trust account in a state or federally chartered financial institution. The escrow agent or trustee shall be required to transfer the proceeds due to the owner within three business days of acknowledgement of the transfer from the insurer. **(i)** Failure to tender the life settlement contract proceeds to the owner by the date disclosed to the owner shall render the life settlement contract voidable by the owner for lack of consideration until the time the proceeds are tendered to and accepted by the owner. A failure to give written notice of the right of rescission hereunder shall toll the right of rescission until thirty days after the written notice of the right of rescission has been given. **(j)(1)** No person, at any time prior to, or at the time of, the application for, or issuance of, a policy, or during the two-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 or bequest of the policy is to occur. This prohibition shall not apply if the owner certifies to the life settlement provider that: **(A)** the policy was issued upon the owner's exercise of conversion rights arising out of a policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four months. The time covered under a group policy shall be calculated without regard to a change in insurers, provided the coverage has been continuous and under the same group sponsorship; or **(B)** one or more of the following conditions, for which the owner submits independent evidence to the life settlement provider, have been met within the two-year period: **(i)** the owner or insured is terminally or chronically ill; **(ii)** the owner or insured disposes of ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued; **(iii)** the owner's spouse dies; **(iv)** the owner divorces his or her spouse; **(v)** the owner retires from full-time employment or involuntarily ceases employment; **(vi)** the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time

employment;**(vii)** 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; or**(viii)** any other condition that the superintendent may determine by regulation to be an extraordinary circumstance for the owner or the insured.**(2)** Copies of the independent evidence required by subparagraph (B) of paragraph one of this subsection 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 any policy.**(3)** For the purposes of this section a person is:**(A)** terminally ill if the individual has an illness, sickness or physical condition that can reasonably be expected to result in death in twenty-four months or less; or**(B)** chronically ill if that individual has been certified by a licensed health care practitioner as:**(i)** being unable to perform without substantial assistance from another individual at least two activities of daily living (i.e., eating, toileting, transferring, bathing, dressing or continence) for a period of at least ninety days, due to a loss of functional capacity;**(ii)** requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment for a period of at least ninety days, due to a loss of functional capacity; or**(iii)** having a level of disability similar to that described in clause (i) of this subparagraph, as determined by the United States Secretary of Health and Human Services.**(k)** Contacts with the insured for the purpose of determining the health status of the insured by a licensed life settlement provider after the life settlement contract has been executed shall be made only by the licensed life settlement provider or licensed life settlement broker, or any authorized representative thereof, and shall be limited to once every three months for an insured with a life expectancy of more than one year, and to no more than once per month for an insured with a life expectancy of one year or less.**(l)** The life settlement broker shall represent only the owner and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner.**(m)** A life settlement provider, life settlement broker, or life settlement intermediary shall be responsible for the actions of its authorized representative.**(n)(1)** A life settlement intermediary's services shall not be limited to life settlement providers or life settlement brokers that are affiliates, parents, or subsidiaries of the life settlement intermediary.**(2)** A life settlement intermediary shall establish and maintain systems, practices and procedures to ensure that:**(A)** every transaction with an affiliate, parent or subsidiary of the life settlement intermediary is fair and equitable and conducted on an arms-length basis; and**(B)** an affiliate, parent or subsidiary of the life settlement intermediary is not granted or provided with preferential treatment or access to information or services that are not granted or provided to an unaffiliated life settlement provider or life settlement broker that conducts business with the life settlement intermediary.**(o)** A life settlement provider may sell, assign, pledge or otherwise transfer the ownership of a settled policy only to a licensed life settlement provider, an accredited investor or qualified institutional buyer, financing entity, special purpose entity, or related provider trust; provided, however, a life settlement provider may sell, assign, pledge or otherwise transfer a beneficial interest in a settled policy to someone other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer, financing entity, special

purpose entity, or related provider trust if a licensed life settlement provider continues to administer and service the settled policy and protects the privacy of the insured and owner pursuant to section seven thousand eight hundred ten of this article.**(p)** The failure to follow the provisions of this section shall be a defined violation under article twenty-four of this chapter.

N.Y. Ins. Law § 7813

Section 7814 - Prohibited practices

(a) No person shall:**(1)** enter into a life settlement contract if the person knows or reasonably should have known that the policy was obtained in a false, deceptive or misleading way;**(2)** engage in any transaction, practice or course of business if the person knows or reasonably should have known that the intent was to avoid the disclosure or other notice requirements of this article;**(3)** engage in any fraudulent act or practice in connection with any transaction relating to any life settlement;**(4)(A)** enter into a premium finance loan with an applicant for a new policy or an owner, pursuant to which the person providing premium financing, or any affiliate, parent corporation or subsidiary of the person, shall receive any proceeds, fees or other consideration, directly or indirectly, from the policy or owner of the policy or any other person, other than commissions earned by a licensed insurance producer on the policy, with respect to the premium finance loan, that are in addition to the amounts required to pay the principal, interest and any reasonable costs, fees or expenses incurred by the lender or borrower related to the premium finance loan or subsequent sale of such loan; provided, further, that any payments, charges, fees or other amounts in addition to the amounts required to pay the principal, interest and any reasonable costs or expenses incurred by the lender or borrower related to the premium finance loan shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of the overpayment. For purposes of this paragraph, "owner" means the owner of a policy whether or not entering into, or offering to enter into, a life settlement contract;**(B)** If, at any time, a policy that is the subject of a premium finance loan specified in subparagraph (A) of this paragraph is sold, assigned, transferred, devised or bequeathed pursuant to the terms of a premium finance loan, any proceeds or other consideration received other than the amounts specified in subparagraph (A) of this paragraph shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not then living;**(5)** with respect to any life settlement contract, knowingly fail to disclose any affiliation or contractual arrangement as required by this article;**(6)** directly or indirectly, purchase or obtain an interest in any policy that is the subject of a life settlement contract where the person has acted as a life settlement broker or life settlement intermediary with respect to the policy, unless such affiliation has been disclosed to the owner pursuant to paragraph three of subsection (c) of section seven thousand eight hundred eleven of this article; and (A) if a life settlement broker, the broker has provided all offers and counter offers pursuant to paragraph two of subsection (c) of section seven thousand eight hundred eleven of this article, and has conducted the transaction on a fair and equitable arm-length basis; or (B) with respect to a life settlement intermediary, the intermediary complies with subsection (o) of section seven thousand eight hundred thirteen of this article;**(7)** directly or indirectly provide any compensation to any person acting in this state as a

life settlement broker, and no person shall accept any such compensation, unless the person is a licensed life settlement broker pursuant to the provisions of section two thousand one hundred thirty-seven of this chapter;**(8)** directly or indirectly pay any referral or finder's fee or provide any other compensation to any owner's physician, attorney, accountant, insurance producer, insurance consultant, or other person providing medical, legal or financial planning services to the owner, or to any other person, other than a life settlement broker, representing the owner with respect to the life settlement contract, and no person shall accept any such fee or compensation;**(9)** directly or indirectly provide compensation to a life settlement broker, except where the compensation is for a specific life settlement contract and is clearly disclosed to the owner as required in this article;**(10)** directly or indirectly engage in any act determined by the superintendent to be an unfair or deceptive act or practice pursuant to this chapter;**(11)** remove, conceal, alter, destroy or sequester from the superintendent the assets or records of a life settlement provider, life settlement broker, life settlement intermediary or other person engaged in the business of life settlements;**(12)** misrepresent or conceal the financial condition of a life settlement provider; or**(13)** in relation to the business of life settlements, file with the superintendent a document containing materially false information concerning any fact material thereto or otherwise conceal information about a fact material thereto from the superintendent.**(b)** No life settlement provider, life settlement broker, life settlement intermediary, owner or any other person, as a condition of entering into a life settlement contract, shall request or require an insured to submit to a medical examination at any time subsequent to the settlement of the policy.**(c)** No life settlement provider shall enter into any life settlement contract in which payments of proceeds are made in installments.**(d)** No life settlement provider, life settlement broker or life settlement intermediary shall directly or indirectly:**(1)** be a party to or enter into an agreement or understanding limiting or restricting an owner's or life settlement broker's ability to seek competitive bids on policies to the extent that the agreement or understanding unlawfully restrains trade or constitutes anti-competitive behavior;**(2)** monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, in this state, the business of life settlements;**(3)** be a party to or enter into an agreement with a life settlement provider, life settlement broker or life settlement intermediary to the extent that the agreement fixes or limits the value paid to owners;**(4)** be a party to or enter into any agreement or communication with a life settlement provider or life settlement intermediary with respect to the terms to be offered to an owner to the extent that the agreement or understanding unlawfully restrains trade or constitutes anti-competitive behavior;**(5)** be a party to or enter into any agreement with a life settlement provider, life settlement broker, life settlement intermediary or other person to restrain trade or engage in any other anti-competitive behavior;**(6)** be party to or enter into any agreement with a life settlement provider, life settlement broker, life settlement intermediary or other person the effect of which may be substantially to lessen competition in the business of life settlements subject to this chapter; or**(7)** be a party to or enter into any agreement with a life settlement provider, life settlement broker, life settlement intermediary or other person to refuse to conduct business with any person in the business of life settlements.**(e)** No life settlement intermediary shall:**(1)** represent, solicit, negotiate or act on behalf of, an owner, a life settlement provider, or a life settlement broker; or**(2)** act as a life settlement provider or life settlement broker.**(f)** No insurer shall prohibit an insurance agent from disclosing to a client the availability

of a life settlement contract.**(g)** The failure to follow the provisions of this section shall be a defined violation under article twenty-four of this chapter.

N.Y. Ins. Law § 7814

Section 7815 - Stranger-originated life insurance

(a) In this chapter, "stranger-originated life insurance" means any act, practice or arrangement, at or prior to policy issuance, to initiate or facilitate the issuance of a policy for the intended benefit of a person who, at the time of policy origination, has no insurable interest in the life of the insured under the laws of this state, including:**(1)** the purchase of life insurance with resources or guarantees from or through a person that, at the time of policy initiation, could not lawfully initiate the policy;**(2)** an arrangement or other agreement to transfer the ownership of the policy or the policy benefits to another person; or**(3)** a trust or similar arrangement that is used, directly or indirectly, for the purpose of purchasing one or more policies for the intended benefit of another person in a manner that violates the insurable interest laws of this state.**(b)** Stranger-originated life insurance arrangements do not include lawful life settlement contracts as permitted by this article or those practices set forth in paragraph three of subsection (k) of section seven thousand eight hundred two of this article, provided that such contracts or practices are not for the purpose of evading regulation under this article.**(c)** No person shall directly or indirectly engage in any act, practice or arrangement that constitutes stranger-originated life insurance.**(d)** The failure to follow the provision of subsection (c) of this section shall be a defined violation under article twenty-four of this chapter.

N.Y. Ins. Law § 7815

Section 7816 - Penalties and civil remedies

(a)(1) If, after notice and hearing, the superintendent determines that any information required by subsection (a) or (c) of section seven thousand eight hundred eleven of this article knowingly was not provided or knowingly was delayed in being provided by the life settlement broker to the material detriment of the owner, then the superintendent, in addition to any other penalty prescribed by law, may require the life settlement broker to pay to the people of this state an amount not to exceed the compensation due or provided to the life settlement broker.**(2)** If, after notice and hearing, the superintendent determines that any information required by subsection (a) of section seven thousand eight hundred eleven of this article knowingly was not provided or knowingly was delayed in being provided by the life settlement provider to the material detriment of the owner, then the superintendent, in addition to any other penalty prescribed by law, may require the life settlement provider to pay to the people of this state an amount not to exceed forty-five thousand dollars.**(b)** If, after notice and hearing, the superintendent determines any person knowingly violated subsection (c) of section seven thousand eight hundred fifteen of this article, then the superintendent, in addition to any other penalty prescribed by law, may require the person to pay to the people of this state an amount not to exceed one hundred thousand dollars.**(c)** If, after notice and hearing, the superintendent

determines that any person knowingly violated section seven thousand eight hundred ten of this article, then the superintendent, in addition to any other penalty prescribed by law, may require the person to pay the insured or owner an amount not to exceed twenty thousand dollars.**(d)(1)** If, after notice and hearing, the superintendent determines that any person knowingly and willfully acted as a life settlement provider without a license in violation of subsection (a) of section seven thousand eight hundred three of this article, then the superintendent may impose a civil penalty payable to the people of this state not to exceed one hundred thousand dollars for each policy settled in violation thereof.**(2)** If, after notice and hearing, the superintendent determines that any person knowingly and willfully acted as a life settlement broker without a license in violation of subsection (a) of section two thousand one hundred thirty-seven of this chapter, then the superintendent may impose a civil penalty payable to the people of this state not to exceed fifty thousand dollars for each policy settled in violation thereof.**(3)** If, after notice and hearing, the superintendent determines that any person knowingly and willfully acted as a life settlement intermediary without a registration in violation of subsection (a) of section seven thousand eight hundred four of this article, then the superintendent may impose a civil penalty payable to the people of this state not to exceed fifty thousand dollars for each transaction.**(e)** Any person who has been injured by reason of a violation of subsection (a), (b) or (c) of this section may bring an action to recover damages suffered by reason of such violation. In any action brought under this section, the court may award reasonable attorney's fees to a prevailing plaintiff.**(f)** Nothing provided in this article shall limit or restrict any common law, contractual or other right of action.

N.Y. Ins. Law § 7816

Section 7817 - Authority to promulgate regulations

The superintendent may promulgate regulations implementing this article.

N.Y. Ins. Law § 7817

Section 7818 - Nonconforming contracts

(a) Except as otherwise specifically provided in this chapter, any life settlement contract subject to this chapter that is in violation of any of the provisions of this chapter shall be valid and binding upon the life settlement provider, but in all respects in which the contract's provisions are in violation of the requirements or prohibitions of this chapter it shall be enforceable as if it conformed with such requirements or prohibitions.**(b)** In any action to recover under the provisions of any life settlement contract that the superintendent is authorized by this chapter to approve, if in the superintendent's opinion the provisions of this chapter are more favorable to owners, the court shall enforce such contract as if its provisions were the same as those specified in this chapter unless the court finds that the actual provisions of the contract were more favorable to owners at the date when the contract was entered into.

N.Y. Ins. Law § 7818

Section 7819 - Applicability and choice of law

(a) The provisions of this article shall apply to any life settlement contract made, proposed to be made, or solicited with a resident of this state or any owner physically in this state. **(b)(1)** If there is more than one owner on a single policy, and the owners are residents of different states, then the state of residency shall be the state in which the owner having the largest percentage of ownership resides or, if the owners hold equal ownership, the state of residence of one owner, agreed upon in writing by all of the owners. **(2)** A life settlement contract entered into with an owner who is a resident of another state may be governed by the laws of the other state provided that the owner elects in writing to be governed by the laws of the other state, and if the owner is also a resident of this state, the life settlement contract is made, proposed to be made and solicited outside this state. **(c)** For the purposes of this section, with respect to any person other than a natural person, the state of residence shall be: **(1)** the state in which the person maintains its principal place of business; or **(2)** with respect to a trust, a state in which the grantor resides.

N.Y. Ins. Law § 7819

Section 7820 - Severability

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

N.Y. Ins. Law § 7820

