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Dept. of Commerce & Insurance
Assistant Commissioner
Insurance Division

Rulemaking Hearing Rules
of the
Department of Commerce and Insurance
Division of Insurance

Chapter 0780-1-71
Life Settlements

New Rules

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OFFICE OF LEGAL COUNSEL

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0780-1-71-.01 Authority.

- (1) These rules are adopted by the Commissioner of Commerce and Insurance pursuant to the authority in T.C.A. § 56-50-110, the Life Settlements Act.

Authority: T.C.A. § 56-50-110.

0780-1-71-.02 Definitions.

- (1) In addition to the definitions in T.C.A. § 56-50-102, the following definitions apply to this regulation:
 - (a) "Advertising" 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 sell a life insurance policy pursuant to a life settlement contract.

- (b) “Business of life settlements” means any activity involved in, but not limited to, the offering, solicitation, negotiation, procurement, effectuation, purchasing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating or in any other manner, of life settlement contracts.
- (c) “Chronically ill” means:
 - 1. Being unable to perform at least two (2) activities of daily living (i.e., eating, toileting, transferring, bathing, dressing or continence);
 - 2. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or
 - 3. Having a level of disability similar to that described in 1. above as determined by the Secretary of Health and Human Services;
- (d) “Commissioner” means the Commissioner of Commerce and Insurance.
- (e) “Identifying information” means an owner’s or insured’s address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the owner or insured;
- (f) “Insured” means the person covered under the policy being considered for settlement;
- (g) “Life expectancy” means the mean of the number of months the individual insured under the life insurance policy to be settled can be expected to live as determined by the life settlement provider considering medical records and appropriate experiential data;
- (h) “Net death benefit” means the amount of the life insurance policy or certificate to be settled less any outstanding debts or liens; and

- (i) “Terminally ill” means having an illness or sickness that can reasonably be expected to result in death in twenty-four (24) months or less.

Authority: T.C.A. § 56-50-110.

0780-1-71-.03 License Requirements.

- (1) In addition to the information required in T.C.A. § 56-50-103 and in this rule, the commissioner may ask for other information necessary to determine whether the applicant for a license as a life settlement provider, life settlement broker or life settlement representative complies with the requirements of T.C.A. § 56-50-103.
- (2) The application shall be accompanied by the appropriate license fee. The license may be renewed yearly by payment of the appropriate license renewal fee and a current copy of a letter or certificate of good standing obtained from the filing officer of the applicant’s state of domicile. If a life settlement provider, life settlement broker or life settlement representative fails to pay the renewal fee within the time prescribed, or a life settlement provider fails to submit the reports required by T.C.A. § 56-50-106, such nonpayment or failure to submit the required reports shall result in lapse of the license.
- (3) If at the time of renewal, lapse, or action by the commissioner pursuant to T.C.A. § 56-50-104, a life settlement provider has life settlements where the insured has not died, it shall do one of the following (the commissioner may specify which course of action is required hereunder in connection with an action by the commissioner pursuant to T.C.A. § 56-50-104):
 - (a) Renew or maintain a current licensed status until the earlier of the following events:
 - 1. The date the life settlement provider properly assigns, sells or otherwise transfers the life settlements where the insured has not died; or
 - 2. The date that the last insured covered by a life settlement transaction has died.
 - (b) Appoint, in writing, either the life settlement provider that entered into the life settlement contract, the life settlement broker who received commissions from the life settlement, if applicable, or any other life settlement provider or life settlement broker licensed in

this state to make all inquiries to the insured, or the insured's designee, regarding health status of the insured or any other matters.

- (4) Applicants for life settlement provider and life settlement broker licenses shall submit:
- (a)
 - 1. An audited financial statement with the life settlement provider application;
 - 2. An attested financial statement with the life settlement broker application;
 - (b) A list of all life settlement contract transactions previously conducted where the owner and/or insured is or was then a resident of this state;
 - (c) For each life settlement contract transaction reported under subparagraph (4)(b), a report shall be made including the following information:
 - 1. Date of life settlement contract;
 - 2. Owner's relationship to the insured;
 - 3. Mean life expectancy of the insured at time of contract in months;
 - 4. Face amount of policy settled;
 - 5. Net death benefit settled;
 - 6. Net amount paid to owner;
 - 7. Amount of fee or commission paid to life settlement representative(s) and life settlement broker (if life settlement broker was involved), if applicant is applying for a life settlement provider license;
 - 8. Amount of fee or commission paid to any other person involved in the life settlement, as well as name and address of the recipients;

9. Statement of whether the insured is living or deceased, and date of death if applicable;
 10. Name and address of each life settlement broker through whom the applicant purchased a policy from an owner who resided in this state at the time of contract, if applicant is applying for a life settlement provider license; and
 11. Name and address of the life settlement provider, if the applicant is applying for a life settlement broker license.
- (5) The license issued to a life settlement provider, life settlement broker or life settlement representative shall be a limited license that allows it to operate only within the scope of its license.

Authority: T.C.A. §§ 56-50-103 and 56-50-110.

0780-1-71-.04 Disciplinary Grounds.

- (1) Pursuant to the provisions of T.C.A. § 56-50-104, the following are deemed “fraudulent or dishonest practices” by a licensee, applicant for renewal, or any officer, partner, member or key management personnel, without limiting those terms to the practices specified herein:
 - (a) Soliciting or encouraging a person to apply for a life insurance policy for the purpose of entering into a life settlement contract based upon the newly obtained life insurance policy;
 - (b) Entering into a life settlement contract based upon a life insurance contract within a two-year period commencing with the date of issuance of the insurance policy or certificate unless the owner certifies to the life settlement provider that one or more of the following conditions have been met within the two-year period:
 1. The policy was issued upon the owner’s exercise of conversion rights arising out of a group or individual 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 (24) months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

2. (i) The owner submits independent evidence to the life settlement provider that one or more of the following conditions have been met within the two-year period:
 - (I) The owner or insured was diagnosed as terminally or chronically ill after the issuance of the policy;
 - (II) The owner's spouse has died;
 - (III) The owner divorces his or her spouse;
 - (IV) The owner retires from full-time employment;
 - (V) The owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment;
 - (VI) The owner experiences a significant decrease in income that is unexpected and that impairs the owner's reasonable ability to pay the policy premiums;
 - (VII) The owner disposes of his or her ownership interests in a closely held corporation.
 - (ii) Copies of the independent evidence described in Paragraph (i) of this subsection and documents required by § 56-50-109(a) shall be submitted to the insurer when the life settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the life settlement provider that the copies are true and correct copies of the documents received by the life settlement provider.
3. If the life settlement provider submits to the insurer a copy of the owner's or insured's certification described in this subsection (b) when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the life settlement provider, the copy shall be deemed to conclusively establish that the life settlement contract satisfies the requirements of this subsection and the insurer shall timely respond to the request.

- (c) Entering into a life settlement contract based upon a life insurance policy which was issued to an owner as the result of an application which contained untrue information regarding the insured's medical history or health status;
- (d) Encouraging or soliciting a person to provide untrue information regarding the person's medical history or health status;
- (e) Accepting funds from individual investor sources to be used as consideration for a life settlement contract prior to identifying a life insurance policy available for settlement;
- (f) Representing to any person that the life insurance policy upon which a life settlement contract is based, is guaranteed by the Tennessee Life and Health Guaranty Fund;
- (g) Presenting, causing to be presented or preparing 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:
 - 1. An application for the issuance of a life settlement contract or insurance policy;
 - 2. The underwriting of a life settlement contract or insurance policy;
 - 3. A claim payment or benefit pursuant to a life settlement contract or insurance policy;
 - 4. Premiums paid on a life insurance policy;
 - 5. Payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or life insurance policy;
 - 6. The reinstatement or conversion of a life insurance policy;
 - 7. In the solicitation, offer, effectuation or sale of a life settlement contract or life insurance policy;
 - 8. The issuance of written evidence of a life settlement contract or life insurance policy; or
 - 9. A financing transaction.

- (h) Removing, concealing, altering, destroying or sequestering from the commissioner the assets or records of a licensee, applicant for renewal, or other person engaged in the business of life settlements;
- (i) Misrepresenting or concealing the financial condition of a licensee, applicant for renewal, financing entity, insurer or other person.

Authority: T.C.A. § 56-1-204, § 56-12-218, and T.C.A. §§ 56-50-104, 56-50-106, 56-50-107, and 56-50-110.

0780-1-71-.05 Standards for Evaluation of Reasonable Payments.

- (1) In order to assure that owners receive a reasonable return for settling an insurance policy, the following shall be the minimum discounted value that the owner must receive:

Insured's Life Expectancy	Minimum Percentage of Face Value Less Outstanding Loans Received by Owner
(a) Less than 6 months	[80%]
(b) At least 6 but less than 12 months	[70%]
(c) At least 12 but less than 18 months	[65%]
(d) At least 18 but less than 24 months	[60%]
(e) At least 24 but less than 30 months	[55%]
(f) At least 30 but less than 42 months	[50%]
(e) Forty-two months or more	Owner must receive at least Cash Surrender Value of Policy

- (2) The percentage may be reduced by [5%] for settling a policy written by an insurer rated less than the highest [4] categories by A.M. Best, or a comparable rating by another rating agency.

Authority: T.C.A. §§56-50-105 and 56-50-110.

0780-1-71-.06 Reporting Requirements.

- (1) On March 1 of each calendar year, each life settlement provider conducting business in this state shall make a report to the commissioner of all life settlement transactions where the owner and/or the insured is a resident of this state containing the following information for the previous calendar year:

(a) For each life settlement contract transaction participated in during the reporting period:

1. Date of the life settlement contract;
2. Owner's and/or insured's state of residence at the time of the contract, if both are not residents of this state;
3. Owner's relationship to the insured;
4. Mean life expectancy of the insured at time of contract in months;
5. Face amount of policy settled;
6. Net death benefit settled;
7. Net amount paid to owner;
8. Amount of fee or commission paid to life settlement representative(s) and life settlement broker (if life settlement broker was involved):
9. Amount of fee or commission paid to any other person involved in the life settlement, as well as name and address of the recipients;
10. Source of policy (B-Broker; D-Direct Purchase; SM-Secondary Market);
11. Type of coverage (I-Individual or G-Group) and name of insurance company issuing the policy;
12. Period of time the policy had been in effect at the time of life settlement;
13. Disease classification (if applicable); and
14. Type of funding (I- Institutional; S – Individual Investor).

(b) For life settlements where death has occurred during the reporting period:

1. Date of life settlement contract;
2. Owner's and/or insured's state of residence at the time of the contract, if both were not residents of this state;

3. Mean life expectancy of the insured at time of contract in months;
 4. Net death benefit collected;
 5. If no death benefit collected, reason for no collection;
 6. Total premiums paid to maintain the policy (WP-Waiver of Premium; NA-Not Applicable);
 7. Net amount paid to owner;
 8. Cause of death;
 9. Date of death;
 10. Amount of time between date of contract and date of death in months; and
 11. Difference between the number of months that passed between the date of contract and the date of death and the mean life expectancy in months as determined by the reporting company;
- (c) Name and address of each life settlement broker through whom the reporting company purchased a policy from an owner who resided in this state at the time of contract;
- (d) Number of policies reviewed and rejected;
- (e) Number of policies purchased in the secondary market as a percentage of total policies purchased; and
- (f) Number of policies settled in this state as a percentage of the total number of policies purchased in all states.
- (2) On March 1 of each calendar year, each life settlement broker in this state shall make a report to the commissioner of all life settlement transactions where the owner and/or the insured is a resident of this state containing the following information for the previous calendar year:
- (a) Date of the life settlement contract;
 - (b) Owner's and/or insured's state of residence at the time of contract, if both are not residents of this state;

- (c) Owner's relationship to insured;
- (d) Face amount of policy settled;
- (e) Net death benefits settled;
- (f) Net amount paid to owner;
- (g) Itemization and total of fees or commissions paid to life settlement broker and life settlement representatives;
- (h) Relationship of life settlement broker and/or life settlement representative to the owner and/or insured prior to the life settlement contract transaction;
- (i) Name and address of the life settlement provider.

Authority: T.C.A. §§ 56-50-106 and 56-50-110.

0780-1-71-.07 Examinations and Investigations.

- (1) The commissioner may conduct an examination or investigation under T.C.A. § 56-50-101 et seq. of an applicant, licensee, or any other persons engaged in the business of life settlements as often as, or when, the commissioner in his or her sole discretion deems it reasonably necessary to protect the interests of the public.
- (2) Record Retention Requirements
 - (a) A person required to be licensed by T.C.A. § 56-50-101 et seq. shall retain copies of all:
 - 1. Proposed, offered or executed contracts, underwriting documents, policy forms, and applications from the date of the proposal, offer or execution of the contract, 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 T.C.A. § 56-50-101 et seq.

- (b) The records required to be retained by subsection (a) shall be retained until five (5) years after the death of the insured that is the subject of the life settlement contract. Records required to be retained must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.
 - (c) If no life settlement contract is executed between an owner and a life settlement provider, the records required to be retained by subsection (a) shall be retained for a period of three (3) years after the date the proposed or offered contract is rejected or contract negotiations cease, whichever date is last. Records required to be retained must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.
- (3) Conduct of Examinations and Investigations
 - (a) Upon determining that an examination should be conducted, the commissioner shall issue an examination order appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the "Examiners' Handbook" adopted by the National Association of Insurance Commissioners (NAIC). The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.
 - (b) Every applicant, licensee or person from whom information is sought, its officers, directors, partners, members, employees and agents shall provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, assets and computer or other recordings relating to the property, assets, business and affairs of the applicant or licensee being examined. The officers, directors, partners, members, employees, contractors and agents of the applicant, licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of an applicant or licensee, by its officers, directors, partners, members, employees, agents, or contractors, to submit to examination or to comply with any reasonable written request of the commissioner shall be grounds for denial of an application for

a license, suspension, revocation or nonrenewal of any license or authority held by the licensee to engage in the life settlement business or other business subject to the jurisdiction of the commissioner. Any proceedings for suspension, revocation or nonrenewal of any license or authority shall be conducted pursuant to the Uniform Administrative Procedures Act, Tennessee Code Annotated Title 4, Chapter 5.

- (d) The commissioner shall have the power to issue subpoenas, to administer oaths and to examine under oath any person as to any matter pertinent to an examination or investigation. Upon the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order may be punishable as contempt of court.
 - (e) When making an examination under T.C.A. § 56-50-101 et seq., the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the cost of which shall be borne by the applicant or licensee that is the subject of the examination.
- (4) Any person engaged in the business of life settlements having knowledge or a reasonable belief that a fraudulent act is being, will be, or has been committed in connection with a life settlement transaction shall provide to the commissioner the information required by, and in a manner prescribed by the commissioner.
 - (5) Any other person having knowledge or a reasonable belief that a fraudulent act is being, will be, or has been committed in connection with a life settlement transaction shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

Authority: T.C.A. § 56-1-204; T.C.A. §§ 56-50-103, 56-50-106, 56-50-107 and 56-50-110; T.C.A. § 56-53-109.

0780-1-71-.08 General Rules.

- (1) With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the owner prior to entering into the life settlement contract, or to such other beneficiary, other than the life

settlement trust, provider, or financing entity as the owner may thereafter designate, or in the absence of a beneficiary, to the estate of the owner.

- (2) Payment of the proceeds of a life settlement pursuant to T.C.A. § 56-50-109 shall be by means of wire transfer to the account of the owner or by certified check or cashier's check.
- (3) Payment of the proceeds to the owner pursuant to a life settlement contract shall be made in a lump sum except where the life settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the life settlement provider or escrow agent is not permissible.
- (4) A life settlement provider, life settlement broker or life settlement representative shall not discriminate in the making or solicitation of life settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between owners with dependents and without.
- (5) A life settlement provider, life settlement broker or life settlement representative shall not pay or offer to pay any finder's fee, commission or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal or financial planning services to the owner, or to any other person acting as an agent of the owner with respect to the life settlement.
- (6) A life settlement provider, life settlement broker, or any officer, partner, member, employee, affiliate, agent, contractor or life settlement representative shall not solicit investors who have treated or have been asked to treat the illness of the insured whose coverage would be the subject of the investment.
- (7) Within twenty (20) days after an owner or insured executes documents necessary to transfer any rights under a life insurance policy or within twenty (20) days of entering any agreement, option, promise or any other form of understanding, expressed or implied, relating to the business of life settlements, the life settlement provider shall give written notice to the insurer that issued the insurance policy that the policy has or will become a settled policy or otherwise be involved in the business of life settlements. The notice shall be accompanied by the documents required by Paragraph (8) below.

- (8) The life settlement provider shall deliver a copy of the owner's certification pursuant to 0780-1-71-.04(1)(b) if applicable, a copy of a medical release, a copy of the owner's application for the life settlement contract, the notice required under paragraph (7) above and a request for verification of coverage (Appendices A or B to this rule) to the insurer that issued the life policy that is the subject of the transaction.
- (9) The insurer shall respond to a request for verification of coverage (Appendices A or B to this rule) submitted by the life settlement provider within thirty (30) calendar days of the date the request is received and shall indicate whether, based upon the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract.
- (10) Advertising standards:
 - (a) Owners and insureds are to be provided with clear and unambiguous statements in the advertisement of life settlements and are to be assured in the receipt of clear, truthful and adequate disclosure of the benefits, risks, limitations and exclusions of any life settlement contract. The purpose of these guidelines and standards of permissible and impermissible conduct in the advertisement of life settlements is to assure that product descriptions are presented in a manner that prevents unfair, deceptive or misleading advertising and is conducive to accurate presentation and description of life settlements through the advertising media and material used by life settlement licensees.
 - (b) These standards shall apply to any advertising of life settlement contracts or related products or services intended for dissemination in this state, including Internet advertising viewed by persons located in this state.
 - (c) Every life settlement licensee shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its contracts, products and services. All advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the life settlement licensee, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the life settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the life

settlement licensee.

- (d) Advertisements shall be truthful and not misleading by fact or implication. The form and content of an advertisement of a life settlement contract shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive.
- (e) Certain life settlement advertisements are deemed false and misleading on their face and are prohibited. False and misleading life settlement advertisements include, but are not limited to, the following misrepresentations:
 - 1. “Guaranteed,” “safe,” “secure,” “backed by federal law,” “backed by state law,” or “state guaranty funds,” or similar representations;
 - 2. “No risk,” “low risk,” “minimal risk,” or similar representations;
 - 3. “No sales charges or fees” or similar representations;
 - 4. “High yield,” “superior return,” “excellent return,” “high return,” “quick profit,” or similar representations;
 - 5. Purported favorable representations or testimonials about the benefits of life settlement contracts taken out of context from newspapers, magazines, trade papers, journals, radio and television programs, and all other forms of print and electronic media.
- (f) The information required to be disclosed under this subsection shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.
 - 1. An advertisement shall not omit material information or use words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency or effect of misleading or deceiving as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the life settlement contract offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the

payment if the owner is not satisfied or that the life settlement contract includes a "free look" period that satisfied or exceeds legal requirements, does not remedy misleading statements.

2. An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless advertisement has been approved by the insurer.
 3. An advertisement shall not represent that premium payments will not be required to be paid on the life insurance policy that is the subject of the life settlement contract in order to maintain that policy, unless that is the fact.
 4. An advertisement shall not state or imply that interest charged on an accelerated death benefit or policy loan is unfair, inequitable or in any manner an incorrect or improper practice.
 5. The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or any words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or service or may state that a charge is included in the payment or use other appropriate language.
- (g) Testimonials, appraisals or analysis used in advertisements must be genuine; represent current opinion of the author; be applicable to the life settlement contract, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective owners as to the nature or scope of the testimonials, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis, the life settlement licensee makes as its own all the statements contained therein, and the statements are subject to all the provisions of this subsection.
1. If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the life settlement provider or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

2. An advertisement shall not state or imply that a life settlement contract benefit or service has been approved or endorsed by a group of individuals, society, association or other organization unless that is the fact and unless any relationship between an organization and the life settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the life settlement licensee, or receives any payment or other consideration from the life settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.
 3. When an endorsement refers to benefits received under a life settlement contract all pertinent information shall be retained for a period of five (5) years after its use.
- (h) An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.
 - (i) An advertisement shall not disparage insurers, life settlement providers, life settlement brokers, insurance producers, policies, services or methods of marketing.
 - (j) The name of a life settlement licensee shall be clearly identified in all advertisements about the licensee or its life settlement contract products or services, and if any specific life settlement contract is advertised, the life settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the life settlement provider shall be shown on the application.
 - (k) An advertisement shall not use a trade name, group designation, name of the parent company of a life settlement licensee, name of a particular division of the life settlement licensee, service mark, slogan, symbol or other device or reference without disclosing the name of the life settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the life settlement licensee, or to create the impression that a company other than the life settlement licensee would have any responsibility for the financial obligation under a life settlement contract.

- (l) An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead owners or insureds into believing that the solicitation is in some manner connected with a government program or agency.
- (m) An advertisement may state that a life settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing life settlement licensee may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the Department of Commerce and Insurance to find out if the state requires licensing and, if so, whether the life settlement provider or life settlement broker is licensed.
- (n) An advertisement shall not create the impression that the life settlement provider, its financial condition or status, the payment of claims or the merits, desirability, or advisability of its life settlement contracts are recommended or endorsed by any governmental entity.
- (o) The name of the actual licensee shall be stated in all of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.
- (p) An advertisement shall not directly or indirectly create the impression that any division or agency of the state or of the United States government endorses, approves or favors:
 - 1. Any life settlement licensee or its business practices or methods of operation;
 - 2. The merits, desirability or advisability of any life settlement contract;
 - 3. Any life settlement contract; or

4. Any life insurance policy or life insurance company.
- (q) If the advertisement emphasizes the speed with which the settlement will occur, the advertising must disclose the average time frame from completed application to the date of the offer and from acceptance of the offer to receipt of the funds by the owner;
 - (r) If the advertising emphasizes the dollar amounts available to owners, the advertising shall disclose the average purchase price as a percent of the face value obtained by owners contracting with the licensee during the past six (6) months.
- (11) If a life settlement provider enters into a life settlement that allows the owner to retain an interest in the policy, the life settlement contract shall contain the following provisions:
- (a) A provision that the life settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount settled. Benefits in excess of the amount settled shall be paid directly to the owner's beneficiary by the insurance company;
 - (b) A provision that the life settlement provider will, upon acknowledgment of the perfection of the transfer, either;
 - 1. Advise the insured, in writing, that the insurance company has confirmed the owner's interest in the policy; or
 - 2. Send a copy of the instrument sent from the insurance company to the life settlement company that acknowledges the owner's interest in the policy; and
 - (c) A provision that apportions the premiums to be paid by the life settlement company and the owner. It is permissible for the life settlement contract to specify that all premiums shall be paid by the life settlement company.

Authority: T.C.A. §§ 56-50-102, 56-50-103, 56-50-105, 56-50-108, 56-50-109, and 56-50-110.

0780-1-71-.09

Disclosure.

- (1) A disclosure document containing the disclosures required by the Life Settlements Act and this rule shall be provided before or concurrent with taking an application for a life settlement contract:
 - (a) The disclosure document shall contain the following language: “All medical, financial, personal information solicited or obtained by a life settlement company or life settlement broker about an owner and insured, including the owner’s and insured’s identity or the identity of family members, a spouse or a significant other, may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides the funds for the purchase of this policy. You may be asked to renew your permission to share information every two years.”
 - (b) The information shall not be disclosed in any form to any person, unless disclosure:
 1. Is requested by the commissioner or any other governmental officer or agency; or
 2. Is necessary to effect the life settlement between the owner and the life settlement provider, and the owner and insured have provided prior written consent to the disclosure; or
 3. Is a term of or condition to the transfer of a life policy by one life provider to another life settlement provider.
 - (c) Notwithstanding any other provisions, for the purposes of complying with Paragraph (b) above, the use of this information by the life settlement provider or the life settlement broker or their authorized representatives in the following situations shall be deemed necessary to the completion of the life settlement contract or an acceptable term of or condition to the transfer of a life policy from one life settlement provider to another life settlement provider:
 1. To make contacts with the insured for the purpose of determining his or her health status;
 2. To detect fraud in accordance with the life settlement provider’s or life settlement broker’s anti-fraud plan;

3. To effectuate institutional risk control within the life settlement provider or life settlement broker;
 4. To purchase stop loss coverage; or
 5. To permit a financing entity to finance the purchase of policies by a life settlement provider.
- (2) No later than the date on which the life settlement contract is signed by all parties, the life settlement provider shall provide the following disclosures displayed conspicuously in the life settlement contract or in a separate document signed by the owner and the life settlement provider or life settlement broker:
- (a) The name, address and telephone number of the life settlement provider;
 - (b) The name, business address, and telephone number of any independent third party escrow agent involved in the transaction, the right of the owner to inspect or receive copies of the relevant escrow or trust agreements or documents;
 - (c) If a life settlement broker is involved, the amount and method of calculating the broker's compensation. The term "compensation" includes anything of value paid or given to a life settlement broker for the placement of a policy.
 - (d) If a life settlement broker is involved in the transaction, the broker shall disclose all settlement offers received by the broker for the owner's life policy.
- (3) Before or concurrent with taking an application for a life settlement contract and the date on which the life settlement contract is signed by all parties, the life settlement provider shall clearly provide in substance the following fraud warnings to the owner displayed conspicuously in the life settlement contract or in a separate document signed by the owner and the life settlement provider or life settlement broker:

"It is a crime to knowingly provide false, incomplete or misleading information in an application for insurance or an application for a viatical or life settlement contract with an intent to defraud. Penalties include imprisonment, fines and denial of insurance benefits."

- (4) If the life settlement provider transfers ownership or changes the beneficiary of the life policy, the provider shall communicate the change in ownership or beneficiary to the insured within twenty (20) days after the change.

Authority: T.C.A. §§ 56-50-105, 56-50-106, 56-50-108, 56-50-109, and 56-50-110; T.C.A. §§ 56-53-102, 56-53-104, and 56-53-111.

0780-1-71-.10 Prohibited Practices.

- (1) A life settlement provider, life settlement broker or life settlement representative shall not provide identifying information to any person, except to the commissioner or to any other governmental officer or agency, unless the insured and owner provide written consent to the release of the information.
- (2) A life settlement provider, life settlement broker or life settlement representative shall obtain from a person that is provided with medical, financial, identifying information or information otherwise deemed to be nonpublic personal information pursuant to the Gramm-Leach-Bliley Financial Services Modernization Act of 1999, except the commissioner or any other governmental officer or agency, a signed affirmation that the person or entity will not further divulge the information without procuring the express, written consent of the insured for the disclosure. Notwithstanding the foregoing, if a life settlement provider, life settlement broker or life settlement representative is served with a subpoena by a person other than the commissioner or any other governmental officer or agency and, therefore, compelled to produce records containing identifying information, it shall notify the owner and the insured in writing at their last known addresses within five (5) business days after receiving notice of the subpoena, unless required by law to provide earlier or different notice.
- (3) A life settlement provider shall not act also as a life settlement broker, whether entitled to collect a fee directly or indirectly, in the same life settlement.
- (4) A life settlement broker shall not, without the written agreement of the owner obtained prior to performing any services in connection with a life settlement, seek or obtain any compensation from the owner.
- (5) A life settlement provider shall not use a longer life expectancy than is supported by medical history and health status in order to reduce the payout to which the owner is entitled.

Authority: T.C.A. §§ 56-50-106, 56-50-109, and 56-50-110.

0780-1-71-.11 Insurance Company Practices.

- (1) Life insurance companies authorized to do business in this state shall respond to a request for verification of coverage from a life settlement provider or a life settlement broker within thirty (30) calendar days of the date a request is received, subject to the following conditions:
 - (a) A current authorization consistent with applicable law, signed by the policy owner or certificateholder, accompanies the request;
 - (b) In the case of an individual policy, submission of a form substantially similar to Appendix A, which has been completed by the life settlement provider or life settlement broker in accordance with the instructions on the form, and
 - (c) In the case of group insurance coverage:
 1. Submission of a form substantially similar to Appendix B, which has been completed by the life settlement provider or life settlement broker in accordance with the instructions on the form, and
 2. Which has previously been referred to the group policyholder and completed to the extent the information is available to the group policyholder.
- (2) Nothing in this section shall prohibit a life insurance company and a life settlement provider or a life settlement broker from using another verification of coverage form that has been mutually agreed upon in writing in advance of submission of the request.
- (3) A life insurance company may not charge a fee for responding to a request for information from a life settlement provider or life settlement broker in compliance with this section in excess of any usual and customary charges to policy owners, certificateholders or insureds for similar services.
- (4) The life insurance company may send an acknowledgment of receipt of the request for verification of coverage to the policy owner or certificateholder and, where the policy owner or certificate owner is other than the insured, to the insured. The acknowledgment may contain a general description of any accelerated death benefit that is available under a provision of or rider to the life insurance contract.

Authority: T.C.A. § 56-50-110.

APPENDIX A

**VERIFICATION OF COVERAGE
FOR INDIVIDUAL POLICIES**

Section One:

(To be completed by the Life Settlement Provider or Life Settlement Broker)

Insurance Company: _____

Name of Policy Owner: _____

Policy Number: _____

Policy Owner's Social
Security Number: _____

Name of Insured: _____

Policy Owner's Address: _____
(Street)

Insured's date of birth: _____

(City/State)

Please provide the information requested in Section Two (below) with regard to the policy identified above and in accordance with the attached authorization.

In addition, please provide the forms checked below which are available from your company to complete a life settlement transaction:

- Absolute Assignment/Change of Ownership/Life Assignment Form
- Change of Beneficiary
- Release of Irrevocable Beneficiary (if applicable)
- Waiver of Premium Claim Form
- Disability Waiver of Premium Approval Letter

Date

Signature of a representative of Life Settlement
Broker or Life Settlement Provider

Full name and address of Life Settlement Broker
or Life Settlement Provider

Section Two:
(To be completed by the life insurance company)

- 1) Face amount of policy: \$ _____
- 2) Original date of issue: _____ / _____ / _____ *Month/Date/Year*
- 3) Was face amount increased after original issue date? no yes
 - a) If yes, when: _____ / _____ / _____
 - b) Amount of increase \$ _____
- 4) Type of policy: _____ *(Term/Whole Life/Universal Life/Variable Life)*
- 5) Is policy participating? no yes
 - a) If yes, what is current dividend election? _____
- 6) Current net death benefit: _____ *(Enter full amount payable, including any additional insurance, and/or dividends accumulated at interest, minus policy loans, outstanding interest on policy loans and/or accelerated death benefits paid)*
- 7) a) Current cash value: \$ _____ *(Enter full amount, including cash value of any additional insurance and/or dividends accumulated at interest, minus policy loans and outstanding interest on policy loans)*
 - b) Current surrender value: \$ _____
 - c) Is the Cash Value paid to the Beneficiary in addition to the Face Amount?
 no yes
 - d) Is there collateral assignment against this policy now? no yes
 If yes, Assignee of record: _____
 - e) What is the length of the contestability period? Current beyond contestability? no yes
 - f) Is this a Group Conversion? no yes If yes, is the contestability period waived? no yes
- 8) Terms of policy loans:
 - a) Amount of policy loans taken: \$ _____
 - b) Amount of outstanding interest on policy loan: \$ _____
 - c) Current interest rate: _____
- 9) Has policy lapsed? no yes
 - a) If yes, when did policy lapse? _____ / _____ / _____
 If policy has lapsed, is coverage continued under non-forfeiture option? no yes
 If yes, indicate which option, amount of coverage, duration, etc.: _____

20) If an ownership or beneficiary change or assignment were to be made on this policy, to whom would the completed forms be sent for recording?

Name: _____ Title: _____

Company Name: _____ Department: _____

Address (No P.O. Box, please) _____

City: _____ State: _____ ZIP: _____

Telephone No: _____ Fax: _____

The answers provided reflect information contained in the company's records as of:

_____ (date)

Signature: _____ Name: (Printed) _____

Title: _____

Company: _____

Direct Telephone No: _____ Direct Fax No: _____

APPENDIX B

VERIFICATION OF GROUP LIFE INSURANCE BENEFITS

Section One:

(To be completed by the Life Settlement Provider or Life Settlement Broker)

Insurance Company

Name of Employee/Member

Employer/Policyholder Name

Insured's Date of Birth

Policy Number

Insured's Social Security Number

Certificate Number

Employee/Membership Number

Please provide the information requested in Section Two or Section Three, as appropriate, with regard to the individual and coverage described, in accordance with the attached authorization. In addition, please provide the forms checked below which are available from your company to complete a life settlement transaction:

- Absolute Assignment
- Change of Beneficiary (irrevocable if applicable)
- Disability Waiver of premium claim or
- Disability Waiver of premium award letter

Date

Signature of a representative of Life Settlement Broker or Life Settlement Provider

Full name and address of Life Settlement Broker or Life Settlement Provider

Section Two:

(To be completed by the employer/group policyholder and the insurer. Both should indicate the parts they completed.)

1) BASIC COVERAGE:

a) Is the plan self-insured or is coverage provided under a group policy issued by a life insurance company? _____

b) Name of plan administrator:

If by a group policy, please provide the name of the insurance company for BASIC life insurance coverage: _____

c) Effective date of BASIC life insurance coverage: _____

d) Face amount of BASIC life insurance: _____

e) Does the amount of coverage decrease for any reason? no yes

If yes, please explain: _____

f) Does BASIC coverage plan have contestable provisions? no yes

If yes, what is the length of the provision and when does it end:

g) Is BASIC coverage subject to a suicide provision? no yes

If yes, what is the length of the provision and when does it end:

h) Monthly premium paid by employer/group policyholder for BASIC life insurance:
\$ _____

i) Certificate Number: _____

j) Monthly premium paid by employee/insured for BASIC life insurance: \$ _____

k) Is BASIC life insurance coverage Term Universal Life?

i) If Universal Life, please indicate cash value, if any: _____

Is this amount payable in addition to the face amount? no yes

l) Is coverage in force? no yes

- m) Has the policy ever lapsed? no yes If yes, date of lapse
____/____/____
- n) At the time of the original application, was the insured required to have a medical or non-medical examination, including blood work? no yes
- o) When is next premium due? _____
- p) Has employee's coverage under this plan ever been reinstated? no yes
 - i) If yes, date of reinstatement: _____
- q) Is the employee presently working? no yes
 - If no, is the employee on approved waiver of premium? no yes
 - If no, is the waiver of premium pending? no yes
 - How long will the waiver of premium continue? _____
 - What is the date of the last day worked by the employee? ____/____/____
- r) If the employee terminates before a period of 3 to 5 years, can the policy be converted to an individual policy? no yes
 - If yes, how much of the total face amount can be converted? \$ _____
 - Is the conversion to an individual policy guaranteed without a medical examination or medical questions? no yes

2) SUPPLEMENTAL (OPTIONAL) COVERAGE

- a) Insurance Company for SUPPLEMENTAL life insurance coverage: _____

- b) Effective date of SUPPLEMENTAL life insurance coverage: _____
- c) Face amount of SUPPLEMENTAL life insurance: _____
- d) Does SUPPLEMENTAL coverage plan have contestable provisions? no
 yes
- e) Is SUPPLEMENTAL coverage subject to a suicide provision? no yes
- f) Monthly premium paid by employer/group policyholder for SUPPLEMENTAL life insurance: \$ _____
- g) Monthly premium paid by employee/insured for SUPPLEMENTAL life insurance: \$ _____
- h) Is SUPPLEMENTAL life insurance coverage Term Universal Life?

i) If Universal Life, please indicate cash value, if any: _____

Is this amount payable in addition to the face amount? no yes

i) Is coverage in force? no yes

j) When is next premium due? _____

k) Has employee's coverage under this policy been reinstated within the last two years?

no yes

i) If yes, date of reinstatement: _____

3) DISABILITY WAIVER OF PREMIUM

a) Does plan provide for waiver of premium in the event of employee/insured's disability?

BASIC no yes What is the waiting period? _____

SUPPLEMENTAL no yes What is the waiting period?

b) Are premiums currently being waived under disability premium waiver?

BASIC? no yes

SUPPLEMENTAL? no yes

c) Who pays premiums under disability premium waiver?

BASIC Insurance carrier Employer

SUPPLEMENTAL Insurance carrier Employer

d) What was the date of approval? _____

e) Next review date? _____

f) Does the employer continue to pay the premium while the insured is on the "elimination period"?

g) Does the insured have to pay to keep the coverage in force?

h) If the insured is no longer eligible for waiver, what amount of coverage can be converted to an individual policy? \$ _____

i) Will a new suicide/contestability clause be in effect for the converted policy?

no yes

ii) Will assignee be notified if insured is no longer eligible for waiver?

no yes

Does the assignee have the right without the insured's participation to convert the policy? no yes

i) Does the employer continue to pay the premium while the insured is on the "elimination period"? no yes

j) Does the insured have to pay to keep the coverage in force? no yes

4) BENEFICIARIES, ASSIGNMENTS AND LIMITATIONS

a) Who are the primary beneficiaries of the coverage(s)?

BASIC _____

SUPPLEMENTAL: _____

b) Is any beneficiary under this policy designated irrevocably, or is insured otherwise limited in designation of new beneficiaries? no yes

c) Can this coverage be assigned?

BASIC no yes

If yes, to a corporation? no yes To someone not related to insured?

no yes

SUPPLEMENTAL no yes

If yes, to a corporation? no yes To someone not related to insured?

no yes

d) Can the BASIC and SUPPLEMENTAL policy be assigned for value?

no yes

e) Do records show any assignments of record? no yes

f) Do records show any outstanding liens or encumbrances of record?

no yes

g) Are there any collateral assignments on the policy? no yes

If yes, please provide the name of the assignee: _____

h) The following parties (as applicable) should indicate whether they will provide notice to the assignee if the master policy is terminated.

Group policyholder no yes
Third party administrator (if any) no yes
Insurance company no yes

i) Can Assignee convert the coverage without the permission of insured? no
 yes

6) ACCELERATED DEATH BENEFITS

a) Is there an Accelerated Death Benefit available under the coverage?

BASIC no yes

SUPPLEMENTAL no yes

b) Has request for Accelerated Death Benefit been made? no yes

c) Has payment been made to insured under this provision? no yes

i) Amount paid: _____ Date paid: _____

ii) Is this amount a lien against death proceeds? no yes

Interest rate _____

iii) Can the remaining death benefit be assigned? no yes

7) MISCELLANEOUS

a) Is coverage portable?

BASIC no yes

SUPPLEMENTAL no yes

b) If insured is no longer eligible for coverage under the group, will Assignee be notified?

no yes

c) If master policy discontinues, what amount can be converted to an individual policy? \$ _____

d) Is this plan administered by a third party? no yes

If yes, please provide the name, address and telephone number of administrator:

Name: _____ Title _____

Company name: _____ Department: _____

Street Address: _____
(No P.O. Box please)

City: _____ State: _____ Zip: _____

Telephone number: () _____ Fax: () _____

If a change of beneficiary form or assignment were to be made for this coverage, to whom should the completed forms be sent?

Name: _____ Title _____

Company name: _____ Department: _____

Street Address: _____
(No P.O. Box please)

City: _____ State: _____ Zip: _____

Telephone number: () _____ Fax: () _____

1) How much insurance can be converted if the master contract terminates?
\$ _____

2) How much insurance can be converted is the insured terminates
employment before five years? \$ _____

3) Can the assignee convert the entire settled/ viaticated death benefit if the
insured is on DPW and the master contract terminates? no yes

4) Is the insured on short term disability? no yes

If yes, when does the insured become eligible for long term disability?

5) Is the insured on long term disability? no yes

If yes, can the assignee convert the entire settled/ viaticated death benefit
should the insured's disability cease?

6) What is the insured's current employment status? _____

The answers provided reflect information in our files as of _____ (date)

Signature: _____ Name: _____

Date: _____ Title: _____

Company: _____

Direct telephone number: () _____ Direct fax number: () _____

Information not provided by the employer may be obtained from the insurance company if different from administrator identified above:

Name: _____ Title _____

Company name: _____ Department: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone number: () _____ Fax: () _____

Section Three:

The insurance company or the third party administrator named above is requested to complete the information not provided by the employer in Section Two, above, Items number: _____

The answers provided to the identified questions reflect information in the files of the insurance company as of _____ (date)

Signature: _____ Name: _____

Date: _____ Title: _____

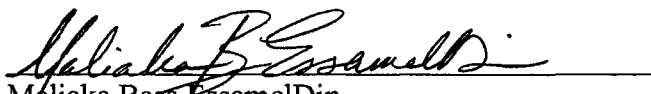
Company: _____

Direct telephone number: () _____ Direct fax number: () _____

Legal Contact and/or party who will approve final copy:
Maliaka Bass EssamelDin
312 Eighth Avenue, North
Twenty-Fifth Floor
William R. Snodgrass Tower
Nashville, Tennessee 37243
(615) 741-2199

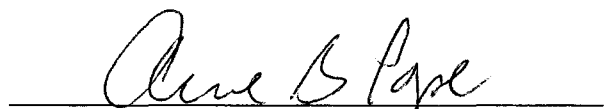
Contact for disk acquisition: Maliaka Bass EssamelDin
312 Eighth Avenue, North
Twenty-Fifth Floor
William R. Snodgrass Tower
Nashville, Tennessee 37243
(615) 741-2199

Signature of agency or officers directly responsible for proposing and/or drafting these rules:

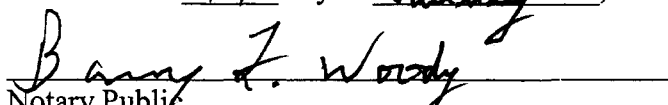

Maliaka Bass EssamelDin
Staff Attorney

I certify that this is an accurate and complete copy of the rulemaking hearing rules lawfully promulgated and adopted by the Department of Commerce and Insurance on the 17th day of January, 2003.

Further, I certify that the provisions of T.C.A. §4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking was filed in the Department of State on the 28th day of February, 2001 and such notice of the rulemaking hearing having been published in the March, 2001 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 23rd day of April, 2001.


Anne B. Pope, Commissioner
Department of Commerce and Insurance

Subscribed and sworn to before me this the 17 day of January, 2003.


Notary Public

My Commission Expires: January 21, 2004

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G Summers/GE
Paul G. Summers
Attorney General and Reporter

These rulemaking hearing rules were properly filed in the Department of State on the 7 day of Feb., 2003 and will become effective on the 23, day of April, 2003

Riley C Darnell
Riley C. Darnell
Secretary of State

By: Mudde

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SECRETARY OF STATE
PUBLIC AFFAIRS