

### **304.15-715 Requirements for life settlement contracts.**

- (1) A life settlement provider entering into a life settlement contract with any person shall first obtain:
  - (a) If the owner is insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a life settlement contract; and
  - (b) A document in which the insured consents to the release of his or her medical records to a life settlement provider, life insurance agent, or life settlement broker and, if the policy was issued less than two (2) years from the date of application for a life settlement contract, to the insurance company that issued the policy.
- (2) The insurer shall respond to a request for verification of coverage submitted by a life settlement provider or life settlement broker not later than thirty (30) calendar days after the date the request is received. The request for verification of coverage shall be made on a form approved by the commissioner. The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at that time regarding the validity of the insurance contract or possible fraud, and shall provide sufficient detail of all reasons for the investigation to the life settlement provider or life settlement broker.
- (3) Prior to or at the time of execution of the life settlement contract, the life settlement provider shall obtain a witnessed document in which the owner consents to the life settlement contract, represents that he or she has a full and complete understanding of the life settlement contract and a full and complete understanding of the benefits of the policy, and acknowledges that he or she has entered into the life settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, that the terminal or chronic illness or condition was diagnosed after the policy was issued.
- (4) All medical information solicited or obtained by any licensee shall be subject to the applicable provision of state law relating to confidentiality of medical information.
- (5) All life settlement contracts entered into in this state shall contain an unconditional right to rescind a life settlement contract before the earlier of thirty (30) calendar days after the date it is executed or fifteen (15) calendar days after the date of receipt of the proceeds of the life settlement contract by the owner. If exercised by the owner, rescission is effective only if both notice of the rescission is given, and within the rescission period all proceeds, and any premiums, loans, and loan interest are repaid to the life settlement provider. If the insured dies during the rescission period, the life settlement contract shall be deemed to have been rescinded subject to repayment of all proceeds and any premiums, loans, and loan interest to the life settlement provider. The life settlement provider shall effectuate the change of ownership of the policy or certificate to the owner immediately upon effective rescission by the owner.

- (6) The independent third-party trustee shall transfer the proceeds that are due to the owner within two (2) business days upon receipt of acknowledgment of the transfer of ownership from the insurer.
- (7) Failure to tender consideration to the owner for the life settlement contract by the date disclosed renders the life settlement contract voidable by the owner for lack of consideration until the time consideration is tendered to and accepted by the owner.
- (8) Contacts with the insured for the purpose of determining the health status of the insured after the execution of the life settlement contract shall only be made by the life settlement provider or its authorized representative and shall be limited to once every three (3) months for an insured with a life expectancy of more than one (1) year, and to no more than once per month for an insured with a life expectancy of one (1) year or less. The life settlement provider shall explain the procedure for these contacts at the time the life settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Life settlement providers shall be responsible for the actions of their authorized representatives.
- (9) The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in the Commonwealth or with a resident of the Commonwealth.
- (10) If a life settlement broker performs any activities required of the provider under this section, the provider is deemed to have fulfilled those requirements of this section that have been properly performed by the broker.
- (11) If a life settlement broker performs any of the disclosure activities required of the provider under KRS 304.15-710, the provider is deemed to have fulfilled those requirements of KRS 304.15-710 that have been properly performed by the broker.
- (12) Within twenty (20) days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued that insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required by KRS 304.15-702(1)(b).
- (13) Any fee paid by a provider, party, individual, or an owner to a broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained, not the face value of the policy. Nothing in this section shall be construed as prohibiting a broker from reducing such broker's fee below this percentage if the broker so chooses.
- (14) The broker shall disclose to the owner anything of value paid or given to a broker which relates to a life settlement contract.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1196, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 32, sec. 6, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 58, sec. 10, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 472, sec. 4, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 403, sec. 5, effective July 15, 1998.

**Legislative Research Commission Note (7/15/2008).** 2008 Ky. Acts ch. 32 intended to change all existing references in the KRS from "viatical settlement" to "life

settlement." One reference to "viatical settlement" in this section was overlooked during the bill drafting process. The Reviser of Statutes has made this change upon the authority of KRS 7.136(1)(h).

**Legislative Research Commission Note** (6/20/2005). Under the authority of KRS 7.136(1)(h), during codification a manifest clerical or typographical error occurring in 2005 Ky. Acts ch. 58, sec. 10(5) has been corrected. It is clear from the context and legislative history of the Act that the words "and within the rescission period" were misplaced within the sentence in which they occur, and the correct placement within the sentence has been effectuated during codification.