

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-222

Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R590-222. Life Settlements
3. Purpose of the new rule or reason for the change:
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change:
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, remove the Enforcement Date and Penalties sections, and update the Severability section to use the department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-36-119	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	

Issue or Version	
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Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:		07/17/2023
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	06/01/2023

R590. Insurance, Administration.

R590-222. Life Settlements.

R590-222-1. Authority.

This rule is promulgated by the ~~[insurance commissioner pursuant to the authority provided in Subsection 31A-2-201(3), authorizing rules to implement the provisions of Title 31A, and Section 31A-36-119, authorizing rules to implement the provisions of Title 31A, Chapter 36]~~ commissioner pursuant to Sections 31A-2-201 and 31A-36-119.

R590-222-2. Purpose and Scope.

- (1) The purpose of this rule is to implement procedures for~~[licensure of]~~:
 - ~~(a) licensing a life settlement provider[s and producers,] or life settlement producer;~~
 - ~~(b) a life settlement provider or a life settlement producer annual report[s,];~~
 - ~~(c) disclosures[-];~~
 - ~~(d) advertising[-];~~
 - ~~(e) reporting of fraud[-];~~
 - ~~(f) prohibited practices[-];~~
 - ~~(g) standards for life settlement payments[-]; and~~
 - ~~(h) procedures for [requests-]a request for verification of coverage.~~
- (2) This rule applies to~~[all]~~:
 - ~~(a) a life settlement provider[s and];~~
 - ~~(b) a life settlement producer[s and to-]; or~~
 - ~~(c) an insurer[s] whose [policies are being-]policy is to be settled.~~

R590-222-3. [Incorporation by Reference.

~~The following appendices are hereby incorporated by reference within this rule and are available at <https://insurance.utah.gov/consumer/legal/resources/rules/current-rules>:~~

- ~~(1) Appendix A, Utah Life Settlement Provider Initial Application, dated 2009.~~
- ~~(2) Appendix B, Utah Life Settlement Provider Annual Report, dated 2009.~~
- ~~(3) Appendix C, NAIC Life Settlement brochure Selling Your Life Insurance Policy, dated 2004.~~
- ~~(4) Appendix D, NAIC Verification of Coverage for Life Insurance Policies, dated 2004.~~
- ~~(5) Appendix E, Utah Life Settlement Provider Renewal Application, dated 2020.~~

R590-222-4.]Definitions.

~~[In addition to the definitions in Section 31A-1-301 and 31A-36-102, the following definitions apply to this rule]~~ Terms used in this rule are defined in Sections 31A-1-301 and 31A-36-102. Additional terms are defined as follows:

- (1) ~~[For purposes of this rule, "insured" means the]~~ "Compliant" means a filing that is complete and complies with Title 31A.

Insurance Code, and Title R590, Administration.

~~(2) "Insured" means, for purposes of this rule, a person covered under [the] a settled policy [being considered for settlement].~~

~~[(2)](3) "Patient identifying information" means an insured's address, telephone number, facsimile number, [electronic mail] email address, photograph or likeness, employer, employment status, social security number, or any other identifiable information [that is likely to lead to the identification of the insured].~~

R590-222-4. Appendices Used by a Licensee.

The following appendices shall be used as described in this rule and are available on the department's website, <https://insurance.utah.gov>:

(1) Appendix A, Utah Life Settlement Provider Initial Application, dated 2009;

(2) Appendix B, Utah Life Settlement Provider Annual Report, dated 2009;

(3) Appendix C, NAIC Life Settlement brochure Selling Your Life Insurance Policy, dated 2004;

(4) Appendix D, NAIC Verification of Coverage for Life Insurance Policies, dated 2004; and

(5) Appendix E, Utah Life Settlement Provider Renewal Application, dated 2020.

R590-222-5. License Requirements.

(1) Life Settlement Provider License.

(a) A person may not perform~~[-]~~ or advertise [~~any~~] a service as a life settlement provider [~~in Utah,~~] without a valid license.

(b) A life settlement provider license [~~shall be~~] is issued on an annual basis upon:

(i) the submission of a complete initial or renewal application; and

(ii) the payment of [~~the~~] any applicable fee[s] under Section 31A-3-103.

(c) An initial or renewal applicant for a life settlement provider license shall:

~~[(i) use the application form prescribed by the commissioner and available on the department's website. For the initial application, see Appendix A and for the renewal application, see Appendix E;]~~

(i) submit:

(A) Appendix A for an initial application; or

(B) Appendix B for a renewal application;

(ii) [~~with~~] for an initial application, provide a copy of the applicant's plan of operation that [~~is to~~]:

(A) describes the market the applicant intends to target;

(B) explains who will produce business for the applicant and how [~~these people~~] they will be recruited, trained, and compensated;

(C) estimates the applicant's projected Utah business over the next 5 years;

(D) describes the corporate organizational structure of the applicant, its parent company, and [~~all~~] each affiliate[s];

(E) describes the procedures used by the applicant to [~~insure~~] ensure that life settlement proceeds will be sent to the owner within three business days [~~as required by~~] under Subsection 31A-36-110[-](3); and

(F) describes the procedures used by the applicant to [~~insure~~] ensure that the identity, financial information, and medical information of an insured are not disclosed except as authorized under Section 31A-36-106;

(iii) [~~with~~] for an initial application, provide [~~the~~] an antifraud plan [~~as~~] required by Section 31A-36-117;

~~[(iv) with both an initial and renewal application, provide any other information requested by the commissioner; and]~~

~~[(v) with] (iv) for both an initial application and a renewal application, provide evidence of financial responsibility in the amount of \$250,000 in the form of a surety bond issued by an insurer authorized in this state [-The], according to the following terms:~~

~~(A) the surety bond shall be in the favor of [this] the state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the life settlement provider;~~

~~[(A) The] (B) the evidence of financial responsibility shall remain in force for as long as the licensee is active [-];~~

~~[(B) The] (C) the bond [shall] may not be terminated or reduced without 30 days prior written notice to the licensee and the commissioner [-]; and~~

~~[(C) The] (D) the commissioner may accept as evidence of financial responsibility [-] proof that a surety bond [-, in accordance with the requirements in subsection 1(c)(v), has been -] is filed with the commissioner of any other state where the life settlement provider is licensed as a life settlement provider as long as the benefits provided by the surety bond extend to this state [-]; and~~

~~(v) provide other information required by the commissioner.~~

~~[(d) The commissioner may refuse to issue or renew a license of a life settlement provider if any officer, one who is a holder of more than 10% of the provider's stock, partner, or director fails to meet the standards of Title 31A, Chapter 36.]~~

~~(d) A new or renewal application may be denied if an officer holding more than 10% of the provider's stock, a partner, or a director fails to comply with Title 31A, Chapter 36, Life Settlements Act.~~

~~(e) [If, within the time prescribed, a life settlement provider fails -] Failure to pay the renewal fee, [~~fails to~~] submit the renewal application, or [~~fails to~~] submit the annual report [~~required in~~] under Section R590-222-6[-, the nonpayment or failure to submit] shall:~~

~~(i) result in lapse of the license; and~~

~~(ii) subject the life settlement provider to administrative [~~penalties and forfeitures~~] penalty and forfeiture.~~

~~(f) If a life settlement provider has, at the time of license renewal, life settlements where the insured has not died, the life settlement provider shall:~~

~~(i) renew or maintain its current license status until the earlier of [~~the following events~~]:~~

~~(A) the date the life settlement provider properly assigns, sells, or otherwise transfers the life settlements where the insured has~~

not died; or

(B) the date that the last insured covered by a life settlement transaction has died; and

(ii) designate, in writing, either the life settlement provider that entered into the life settlement or the life settlement producer who received commission from the life settlement, ~~[if applicable, or any other]~~ or a life settlement provider or life settlement producer licensed in this state, to make all inquiries to the owner, or the owner's designee, regarding health status of the insured ~~[or]~~ and any other matters.

(g) ~~[The commissioner shall not issue a license.]~~ A license may not be issued to a nonresident life settlement provider unless a written designation of an agent for service of process is filed and maintained with the commissioner.

(2) Life Settlement Producer license. A life settlement producer shall be licensed under Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, with a life insurance line of authority.

~~[Life settlement producers shall be licensed in accordance with Title 31A, Chapter 23a with a life insurance line of authority.]~~

R590-222-6. Annual Report.

(1)(a) By March 1 of each calendar year, ~~[each]~~ a life settlement provider ~~[licensed in this state]~~ shall submit an annual report to the commissioner. ~~[Such report shall be]~~

(b) The report in Subsection (1)(a) is limited to all life settlement transactions where the owner is a resident of this state.

(2) ~~[This]~~ The report shall:

(a) contain information for the previous calendar year for each life settlement contracted during the reporting period;

(b) be submitted in the format in Appendix B; and

(c) contain the following ~~[information for the previous calendar year for each life settlement contracted during the reporting period]:~~

~~[(a)]~~ (i) a coded identifier;

~~[(b)]~~ (ii) a policy issue date;

~~[(c)]~~ (iii) a date of the life settlement;

~~[(d)]~~ (iv) a net death benefit settled;

~~[(e)]~~ (v) an amount available to the policyholder under the terms of the policy at the time of the settlement; and

~~[(f)]~~ (vi) a net amount paid to the owner.

(3) The completed report ~~[is to]~~ shall be submitted by email to life.uid@utah.gov.

R590-222-7. Payment Requirements.

(1) Payment of the proceeds of a life settlement pursuant to Subsection 31A-36-110(3) shall be by ~~[means of]~~:

(a) wire transfer to an account designated by the owner ~~[or by]~~;

(b) certified check; or

(c) cashier's check.

(2)(a) Payment of the proceeds to the owner pursuant to a life settlement shall be made in a lump sum except where the life settlement provider ~~[has purchased]~~ purchases an annuity or similar financial instrument issued by a licensed life insurance company or bank, or an affiliate of either.

(b) Retention of a portion of the proceeds, not disclosed or described in the life settlement by the life settlement provider or escrow agent, is not permissible without written consent of the owner.

R590-222-8. Disclosures.

~~[As required by Subsection 31A-36-108(1), the disclosure, which is to be provided no later than the time of the application for the life settlement, shall be provided in a separate document that is signed by the owner and the life settlement provider or producer, and shall contain the following information:]~~

(1) The disclosure required by Subsection 31A-36-108(1), provided in a separate document no later than the time of the application for the life settlement and signed by the owner and the life settlement provider or life settlement producer, shall contain:

(a) ~~[There are possible]~~ the alternatives to a life settlement, including any accelerated death benefit[s], loan[s], or other benefit[s] offered under the owner's life insurance policy[-];

(b) ~~[Some or all of]~~ the proceeds of the life settlement may be taxable under federal and state income [taxes]tax laws, and assistance should be sought from a professional tax advisor[-];

(c) ~~[Proceeds]~~ proceeds of the life settlement [could]may be subject to the claims of creditors[-];

(d) ~~[Receipt]~~ receipt of the proceeds of a life settlement may adversely affect the owner's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies[-];

(e) ~~[The owner has the right to]~~ the owner of the life settlement may rescind a life settlement within 15 calendar days after [the] receipt of the life settlement proceeds [by the owner as provided by]under Subsection 31A-36-109(7)[-]H[-];

(f) if the insured dies during the rescission period, the life settlement is [deemed to have been]rescinded[-]Rescission[-];

(g) rescission is subject to repayment of all life settlement proceeds[-]and, any premiums, loans, and loan interest to the life settlement provider[-];

~~[(f) Funds will be]~~ (h) funds are sent to the owner of the life settlement within three business days after the life settlement provider [has received]receives the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate [has been]is transferred and the beneficiary [has been]is designated[-];

~~[(g) Entering]~~ (i) entering into a life settlement may cause other rights or benefits, including conversion rights and waiver of premium benefits that [may]exist under the policy or certificate, to be forfeited by the owner[-]Assistance[-] and assistance should be sought

from a financial adviser[-];

~~[(h) Disclosure]~~ (j) the disclosure to an owner of a life settlement shall include ~~[distribution of a copy of the National Association of Insurance Commissioners (NAIC) Life Settlement brochure, dated 2004, that describes the process of life settlements, see]~~ Appendix C[-];

~~_____ (i) The disclosure document shall contain -];~~

~~_____ (k) the following language: "All medical, financial or personal information solicited or obtained by a life settlement provider or life settlement producer 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 between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.";~~ and

~~_____ (j) Following execution of a life settlement, -]~~ (l) the insured, following execution of a life settlement, may be contacted ~~[for the purpose of determining -]~~ to determine the insured's health status and to confirm the insured's ~~[residential or business -]~~ street address and telephone number~~[- This contact shall be -];~~

~~_____ (i) contact is 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[- All such contacts shall -]; and~~

~~_____ (ii) contacts may be made [only -] by a life settlement provider licensed in the state in which the owner resided at the time of the life settlement, or by the authorized representative of a [duly -] licensed life settlement provider.~~

(2)(a) A life settlement provider shall provide the owner of the life settlement with ~~[at least the following disclosures -]~~ a disclosure no later than the date the life settlement is signed by ~~[all -]~~ the parties.

~~_____ (b) The disclosure[s] shall be conspicuously displayed in the life settlement or in a separate document, signed by the owner, and provide [the following information]:~~

~~_____ (a) The affiliation, if any, -]~~ (i) any affiliation between the life settlement provider and the issuer of the settled insurance policy~~[- to be settled -];~~

~~_____ (b) The document shall include -]~~ (ii) the name, business address, and telephone number of the life settlement provider~~[-];~~

~~_____ (c) The -]~~ (iii)(A) the amount and method ~~[of calculating -]~~ used to calculate the compensation paid or to be paid to the life settlement producer or ~~[any -]~~ other person acting for the owner of the life settlement, in connection with the transaction~~[- The term -];~~

~~_____ (B) "compensation" includes anything of value paid or given for the placement of a policy[-];~~

~~_____ (d) If -]~~ (iv) if an insurance policy to be settled ~~[has been -]~~ is issued as a joint policy or involves family riders or ~~[any -]~~ coverage of a life other than the insured under the policy to be settled, the owner shall be informed of the possible loss of coverage on the other lives under the policy and ~~[shall be advised to -]~~ should consult ~~[with -]~~ an insurance producer or the insurer issuing the policy for advice on the proposed life settlement~~[-];~~

~~_____ (e) State -]~~ (v) state the dollar amount of the current death benefit payable to the life settlement provider under the policy or certificate~~[- If -]~~, if known, the ~~[life settlement provider shall also disclose the -]~~ availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the owner's interest in those benefits will be transferred ~~[as a result of -]~~ because of the life settlement~~[-];~~

~~_____ (f) State -]~~ (vi) the name, business address, and telephone number of the independent third~~[-]~~-party escrow agent~~[-];~~ and ~~[the fact -]~~

~~_____ (vii) that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents.~~

(3) If ~~[the -]~~ a life settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate, in writing, the change in ownership or beneficiary to the insured within 20 days after the change.

R590-222-9. Standards for Evaluation of Reasonable Payments.

~~[The -]~~ A life settlement provider ~~[is responsible for assuring -]~~ shall guarantee that the net proceeds from the life settlement exceed the benefits ~~[that are -]~~ available at the time of the life settlement under the terms of the policy including cash surrender, long-term care, and accelerated death benefits.

R590-222-10. Requests for Verification of Coverage.

(1) ~~[Insurers, authorized to do business in this state, whose policies are being -]~~ An insurer whose policy is settled~~[-]~~ shall respond to a request for verification of coverage from a life settlement provider or life settlement producer within 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 policyholder or certificate holder, ~~[accompanies -]~~ shall accompany the request;

(b) in the case of an individual policy, submission of a form substantially similar to ~~[the NAIC Verification of Coverage for Life Insurance Policies, dated 2004, which has been -]~~ Appendix D that is completed by the life settlement provider or life settlement producer in accordance with the instructions on the form~~[- see Appendix D];~~

(c) in the case of group insurance coverage:

(i) submission of a form substantially similar to ~~[the NAIC Verification of Coverage for Life Insurance Policies dated 2004, which has been -]~~ Appendix D that is completed by the life settlement provider or life settlement producer in accordance with the instructions on the form~~[- see Appendix D];~~ and

(ii) ~~[which has previously been -]~~ is referred to the group policyholder and completed to the extent the information is available to the group policyholder.

(2) An insurer whose policy is being settled may not charge a fee for responding to a request for information from a life settlement provider or life settlement producer ~~[in compliance with this rule in excess of -]~~ more than any usual and customary charges to policyholders, certificate holders, or insureds for similar services.

~~[(3) The]~~(3)(a) An insurer whose policy is being settled shall send an acknowledgment of receipt of the request for verification of coverage to the policyholder or certificate holder and, ~~[where]~~if the policyholder or certificate holder is other than the insured, to the insured.

(b) The acknowledgment may contain a general description of any accelerated death benefit or similar benefit ~~[that is]~~available under a provision of or rider to the life insurance contract.

R590-222-11. ~~[Advertising]~~Advertisement.

~~[(1) This section shall apply to advertising of life settlements, related products, or services intended for dissemination in this state. Failure to comply with any provision of this section is determined to be a violation of Section 31A-36-112.]~~

(2)(1) The form and content of an advertisement of a life settlement shall be ~~[sufficiently]~~complete and clear ~~[so as]~~to avoid misleading or deceiving the reader, viewer, or listener.~~[It shall]~~

(2) An advertisement may not contain false or misleading information, including information that is false or misleading because it is incomplete.

(3) Information required to be disclosed ~~[shall]~~may 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.

(4) An advertisement ~~[shall]~~may 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 owners~~;~~ as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence.

(5) An advertisement ~~[shall]~~may not use the name or title of an insurer or an insurance policy unless the affected insurer ~~[has approved]~~approves the advertisement.

(6) An advertisement ~~[shall]~~may not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(7) The words "free," "no cost," "without cost," "no additional cost", "at no extra cost," or words of similar ~~[import shall]~~meaning may not be used ~~[with respect to]~~regarding any benefit or service unless the statement is true.

(8) An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

~~[(8)]~~(9)(a) Testimonials, appraisals or analysis used in ~~[advertisements must]~~an advertisement shall:

(i) be genuine;

(ii) represent the current opinion of the author;~~[be applicable]~~

(iii) apply to the life settlement product or service advertised~~[, if any]~~; and

(iv) 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.~~[It]~~

(b) When using testimonials, appraisals, or analysis, the statements become the statements of the life settlement licensee ~~[makes, as its own, all the statements contained therein, and the statements]~~and are subject to ~~[all the provisions of this section]~~this Section R590-222-11.

~~[(a)]~~(c) If ~~[the]~~an individual making a testimonial, appraisal, analysis, or ~~[an]~~endorsement has a financial interest in the party ~~[making use of]~~using the testimonial, appraisal, analysis, or endorsement, either directly or through a 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.

~~[(b)]~~(d)(i) An advertisement ~~[shall]~~may not state or imply that a life settlement benefit or service ~~[has been]~~is approved or endorsed by a group of individuals, society, association, or other organization unless~~[that is the fact]~~:

(A) it is a factual statement; and~~[unless any]~~

(B) a relationship between an organization and the life settlement licensee is disclosed.

(ii) 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]~~information shall be disclosed in the advertisement.

~~[(e)]~~(e) When an endorsement refers to benefits received under a life settlement, all pertinent information shall be retained for a period of five years after its use.

(9) An advertisement ~~[shall]~~may not contain statistical information unless it accurately reflects recent and relevant facts~~[. The]~~ and identifies the source of all statistics used in an advertisement~~[shall be identified]~~.

(10) An advertisement ~~[shall]~~may not disparage insurers, life settlement providers, life settlement producers, life settlement investment agents, anyone who may recommend a life settlement, insurance producers, policies, services, or methods of marketing.

(11)(a) The name of ~~[the]~~a life settlement licensee shall be clearly identified in all advertisements about the licensee or its life settlement~~;~~ products or services, and, if any specific life settlement is advertised, the life settlement shall be identified either by form number or ~~[some other]~~another appropriate description.

(b) If an application is part of the advertisement, the name and ~~[administrative office]~~business address of the life settlement provider shall be shown on the application.

(12) An advertisement ~~[shall]~~may not use a trade name, group designation, name of ~~[the]~~a parent company of a life settlement licensee, name of a particular division of ~~[the]~~a 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]~~has 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]~~has any responsibility for the financial obligation under a life settlement.

(13) An advertisement ~~[shall]~~ may 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 prospective owners into believing that the solicitation is in some manner connected with a government program or agency.

(14)(a) 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.

~~_____~~ (b) The advertisement may ask the audience to consult the licensee's web site or contact the department ~~[of insurance]~~ to find out if the state requires licensing and, if so, whether the life settlement provider or life settlement producer is licensed.

(15) An advertisement ~~[shall]~~ may not create the impression that the life settlement provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its life settlements are recommended or endorsed by any government entity.

(16)(a) The name of the actual licensee shall be stated in ~~[all of]~~ its advertisements.

~~_____~~ (b) An advertisement ~~[shall]~~ may not use a trade name, ~~[any]~~ a group designation, name of ~~[any]~~ an affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that ~~[would have]~~ has 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]~~ has any responsibility for the financial obligation of the licensee.

(17) An advertisement ~~[shall]~~ may not, directly or indirectly, create the impression that any division or agency of the state or of the U.S. government endorses, approves, or favors:

(a) ~~[any]~~ a life settlement licensee ~~[or]~~, its business practices, or methods of operations;

(b) the merits, desirability, or advisability of ~~[any]~~ a life settlement;

(c) ~~[any]~~ a life settlement; or

(d) ~~[any]~~ a life insurance policy or life ~~[insurance company]~~ insurer.

(18) If ~~[the]~~ an advertisement emphasizes the speed with which ~~[the]~~ a settlement will occur, the ~~[advertising must]~~ advertisement shall disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the owner.

(19) If ~~[the advertising]~~ an advertisement emphasizes the dollar amounts available to owners, the ~~[advertising]~~ advertisement shall disclose the average purchase price as a percent of face value obtained by owners contracting with the licensee during the past six months.

R590-222-12. Reporting of Fraud.

(1) ~~[A person engaged in the business of life settlements under Title 31A, Chapter 36,]~~ A life settlement licensee that knows or ~~[has reasonable cause to suspect]~~ suspects that any person ~~[has]~~ violated or will violate ~~[any provision of]~~ Section 31A-36-113, shall, upon acquiring the knowledge, promptly notify the commissioner and provide ~~[the commissioner with]~~ a complete and accurate statement of all ~~[of the]~~ relevant facts and circumstances.

~~_____~~ (2) Any other person acquiring such knowledge may furnish the information to the commissioner in the same manner.

~~_____~~ (3) The fraud report is a protected communication and when made without actual malice does not subject the person making the report to ~~[any]~~ liability ~~[whatsoever]~~.

~~_____~~ (4) The commissioner may suspend, revoke, or refuse to renew the license of ~~[any]~~ a person who fails to comply with this section.

R590-222-13. Prohibited Practices.

(1)(a) A life settlement provider or life settlement producer shall obtain from a person ~~[that]~~, who is provided with patient identifying information, a signed affirmation that the person ~~[or entity]~~ will not further divulge the patient identifying information without procuring the express, written consent of the insured for the disclosure.

~~_____~~ (b) Notwithstanding ~~[the foregoing]~~ Subsection (1)(a), if a life settlement provider or a life settlement producer ~~[is served with]~~ produces records containing patient identifying information pursuant to a subpoena, ~~[and, therefore, compelled to produce records containing patient identifying information, it shall notify]~~ the owner and the insured shall be notified, in writing, at their last known addresses and within five business days after receiving notice of the subpoena.

(2) A life settlement provider ~~[shall]~~ may not ~~[also]~~ act as a life settlement producer in the same life settlement, whether entitled to collect a fee directly or indirectly.

(3) A life settlement producer ~~[shall]~~ may not seek or obtain ~~[any]~~ compensation from the owner without ~~[the]~~ first obtaining the owner's written agreement ~~[of the owner obtained prior to]~~ before performing ~~[any services]~~ a service in connection with a life settlement.

(4) A life settlement provider or life settlement producer ~~[shall]~~ may not unfairly discriminate in the making or soliciting of life settlements, or discriminate between owners with dependents and without dependents.

(5) A life settlement provider or life settlement producer ~~[shall]~~ may not pay or offer to pay ~~[any]~~ a finder's fee, commission, or other compensation to ~~[any]~~ an insured's physician, ~~[or to an]~~ attorney, accountant, or ~~[other]~~ another person providing medical, legal, or financial planning services to the owner~~;~~ or to ~~[any other]~~ a person acting as an agent of the owner, other than a life settlement producer, ~~[with respect to]~~ regarding the life settlement.

R590-222-14. Filing ~~[of]~~ Forms.

~~_____~~ ~~[(1) All forms to be]~~ (1)(a) A form used for a life settlement shall be filed with the commissioner ~~[prior to use. The department is not required to review each form and does not provide approval for a filing]~~ before use. ~~[The forms will be identified as]~~

~~_____~~ (b) A form is a "filed for use" filing when the compliant form is submitted to the department ~~[with all requirements]~~.

~~_____~~ (c) The following forms ~~[to]~~ shall be filed ~~[include the]~~:

- ~~(i) life settlement[;];~~
- ~~(ii) disclosure to the owner[;];~~
- ~~(iii) notice of intent to settle[;];~~
- ~~(iv) verification of coverage[;]; and~~
- ~~(v) application.~~
- (2) A form filing ~~[consists of]~~shall include:
 - (a) a cover letter on the licensee's letterhead ~~[that provides the following]~~providing:
 - (i) a list of the forms being filed, by title and ~~[any]~~identification number~~[-given the document];~~
 - (ii) a description of the filing; and
 - (iii) an indication ~~[whether]~~if the form:
 - (A) is a new filing; or
 - (B) is replacing or modifying a previously filed form~~[-if so, describe-], including the changes~~ ~~[being-]made, the reason for the changes,~~ and the ~~[date previously]~~previous filing's filed date; and
 - (b) a copy of each form to be filed.
- (3) The form filing and any ~~[responses must-]~~response shall be submitted ~~[via-]~~by email to life.uid@utah.gov.
- (4) If a filing ~~[has been-]~~is rejected, the filing ~~[must-]~~shall be resubmitted as a new filing.
- (5) If a ~~[Filing Objection Letter has been-]~~filing objection letter is issued, the response ~~[must-]~~shall include:
 - (a) a new cover letter identifying the changes made; and
 - (b) ~~[one-]~~a copy of the revised form.
- (6) ~~[Companies-]~~A person may request the status of their filing by email, telephone, or mail after 30 days from the date of submission.

~~**R590-222-15. Enforcement Date.**~~

~~The commissioner will begin enforcing the revised provisions of this rule 30 days from the rule's effective date.~~

~~**R590-222-16. Penalties.**~~

~~A person found, after an administrative proceeding, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~]~~

~~**R590-222-17]15. Severability.**~~

~~[If any provision or clause of this rule or its application to any person or situation is held to be invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R590-222, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance, life settlement

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