

KENTUCKY
CONSUMER GUIDE
TO UNDERSTANDING
LIFE SETTLEMENTS



Commonwealth of Kentucky

Public Protection Cabinet

Defining the Terms

A **life settlement** (which includes viatical settlements) occurs when a person sells his or her life insurance policy to a third party. The owner of the insurance policy sells the policy for a cash payment that is less than the full amount of the death benefit.

A **life settlement** provider is the person or company who buys the life insurance policy. The life settlement provider becomes the new owner and has control over the policy including naming a beneficiary.

The **life settlement contract** is the agreement in which the life settlement provider agrees to purchase all or a portion of the life insurance policy and the owner agrees to sell all or a portion of the life insurance policy.

The **life settlement broker** can assist an owner of a life insurance policy in searching for the right life settlement provider to purchase the policy. The life settlement broker then will receive a commission for helping with the sale. The life settlement broker has a legal obligation to find the best deal for the owner of the life insurance policy.

The person selling the life insurance policy is the **owner** of the life insurance policy. The owner will receive a settlement payment for the sale of the policy, which will be an amount that is less than the face amount of the life insurance policy.

Understanding Life Settlements

A viatical settlement is the sale of a life insurance policy to a third party. The owner of the life insurance policy sells it for a payment that is less than the full amount of the death benefit. The buyer becomes the new owner and has the right to make any changes to the life insurance policy including naming the beneficiary.

People decide to sell their life insurance policies for many reasons. Some of those reasons may be changing needs of dependents, wanting to reduce insurance premiums or needing to raise cash for expenses. People with a terminal or chronic illness may want to sell their policy in order to pay medical bills. Before making the decision to sell a life insurance policy, always check for alternatives. There may be an option in the life insurance policy to accelerate death benefits.

Be sure you fully understand life settlements before you make any decisions.

A life settlement may or may not be the right choice for you. The Kentucky Department of Insurance, along with the National Association of Insurance Commissioners (NAIC), is concerned that many consumers may not fully understand life settlements. In addition, some or all of the proceeds of a life settlement may be taxable, and receipt of life settlement proceeds may affect your eligibility for Medicaid or other government benefits. Please be sure to check with a financial professional before making any decision.

Consumer Tips

- Understand how the process works and read all documents carefully.
- Decide whether to sell your policy directly to a life settlement provider or go through a life settlement broker who will do the comparison shopping for you.
- If you do not use a life settlement broker, comparison shop on your own.
- You do not have to accept any life settlement offer.
- Be sure to read through the life settlement application for accuracy, especially information about your medical history.
- Understand that you have the ability to cancel the contract **before the earlier of** [~~within~~] the first 30 days after you have signed a contract or 15 days after you have received the settlement money.
- Understand that buyers will have access to your medical information and they have the right to contact you as often as every 3 months to discuss any changes in your medical information.

Consumer Alert

Be cautious if you are:

- * asked to invest in or buy a life settlement contract;
- * interested in selling your life insurance policy and want more information; or
- * contacted by someone who wants you to buy a life insurance policy then immediately sell that policy as a life settlement transaction.

Additional Questions to Consider

- a? Do I still need life insurance protection?
- a? How does the life settlement provider decide how much cash my policy is worth?
- a? Do different life settlement providers make different offers?
- a? What costs including commissions will I have to pay if I sell my policy?
- a? Are the life settlement provider and/or broker licensed in Kentucky?
- a? Who will become the legal owner of the policy if I sell it?
- a? How often will I be contacted to determine my continuing health condition?
- a? After I sell my policy, can it be resold?
- a? Will I always know who owns the policy?

Steps in the Life Settlement Process

1. A written statement from a licensed attending physician that you are of sound mind to sell your policy.
2. Sign a contract in which you:
 - a. consent to the life settlement contract
 - b. verify any catastrophic or life threatening illness was diagnosed after the policy was issued
 - c. confirm that you fully understand the life settlement contract
 - d. release your medical records
 - e. acknowledge that you entered into the life settlement contract freely and voluntarily

Explore All Your Options: A Checklist

Before you enter into any life settlement transaction, you should:

- 11 Contact your life insurer to learn about all of your possible options under your policy, such as accelerated benefits. It could pay you a substantial portion of your policy's death benefit without selling your policy to a third party. Also ask if there is any cash value in your policy. You may be able to use some of the cash value to meet your immediate needs and keep your policy in force for your beneficiaries. You also may be able to use the cash value as security for a loan from a financial institution.
- 11 Contact a licensed life settlement broker or licensed life settlement provider for information about life settlements.
- 11 Consult with your own financial adviser who knows your personal financial needs. Be sure to ask about tax and other financial consequences if you sell your policy. Contact a professional tax adviser to find out the tax implications. Proceeds are only tax-free under certain circumstances.
- 11 Contact the Kentucky Department of Insurance at 800-595-6053 for information about current laws that may protect you.

Other Things to Consider

- 11 Know that your creditors could claim the proceeds.
- 11 Find out if you will lose any Medicaid benefits.
- 11 Find out if you will lose any public assistance benefits.
- 11 Know that you must provide certain medical and personal information to third parties who will receive the proceeds from your policy upon your death. These third parties may sell your policy and pass along your medical and personal information to other individuals.



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