

Form Filing Checklist—Life Settlement Contracts and Disclosure Statements to Owners

DISCLAIMER

Form filing checklists are intended only as guides for submitting various policy forms to the Office of the Commissioner of Insurance (OCI). The checklists are summaries and are not intended as an OCI directive nor an interpretation of technical legal questions.

Although efforts have been made to ensure that the checklists are current and accurate, information is subject to change on a regular basis without prior notice.

The cites in the second column reference Wisconsin statutes, unless they begin with “Ins”, (which indicates a Wisconsin administrative code [regulation]).

General Filing Requirements	Reference	Comments
Transmittal Document	601.42 Ins 6.05(4)(a)1	SERFF incorporates the required transmittal documents. The “Help” link in SERFF provides access to instructions and tutorials.
Filing Description (SERFF)	601.42	Include a brief explanation of use and intent of the form filing, or that identifies amendments to prior form submissions.
General Conditions	632.69(5)(a)	Life settlement contract forms and disclosures must comply with the requirements of s. 632.69, Stat. and may not be unreasonable, contrary to public interest or otherwise misleading or unfair to the owner.

Life Settlement Contract Requirements	Reference	Comments
Right of Rescission	632.69 (11)(c)	<p>A Life Settlement Contract must state that the owner has the right to rescind the contract before the earlier of 30 calendar days after the execution date of the contract or 15 calendar days after life settlement proceeds have been sent to the owner.</p> <p>Rescission is effective only if both notice is given and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the life settlement within the rescission period.</p> <p>If the insured dies during the rescission period, the contract is rescinded subject to repayment by the owner or the owner's estate to the provider or purchaser of all life settlement proceeds and any premiums, loans, and loan interest paid by the provider or purchaser. Repayment must be made within 60 calendar days of the insured's death.</p> <p>If contract is rescinded, ownership of the policy reverts to the owner or owner's estate if the owner is deceased.</p>
Information Required To Be Included in Either the Life Settlement Contract or a Separate Disclosure Statement to Owner	632.69 (8)(b)	<p>A Provider must disclose in a Life Settlement Contract or a separate disclosure document signed by the owner at least all the following information no later than the date the contract is signed by all parties:</p>
Affiliation Between Provider and Issuer		1. Any affiliation between the provider and the issuer of the policy to be settled;
Provider's Contact Information		2. Name, business address, and telephone number of the provider;
Affiliation Between Provider and Purchaser		3. Any affiliation or contractual arrangements between the provider and the purchaser;
Possible Loss of Coverage		4. That there may be a loss of coverage on other lives under the policy to be settled if it was issued as a joint policy or involves family riders, and that the owner should consult with the insurer for advice concerning the life settlement;

	Reference	Comments
Amount of Current Death Benefit		5. The dollar amount of the current death benefit that will be payable to the provider under the policy, and if known, the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits, and the extent to which the owner’s interest in those benefits will be transferred as a result of the life settlement contract;
Escrowed Funds		6. That the funds will be escrowed with an independent 3 rd party during the transfer process; the name, business address, and telephone number of the independent 3 rd party escrow agent, and that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents.
Disclosure by Broker	632.69 (8)(c)	A broker must disclose to the owner either in the life settlement contract or in a separate document signed by the owner at least all the following information no later than the date the life settlement contract is signed by all parties:
Broker’s Contact Information		1. The name, business address, and telephone number of the broker;
Description of Offers		2. A full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections related to the proposed life settlement contract;
Affiliation Between Broker and Any Person Making an Offer		3. A written statement of any affiliation or contractual arrangement between the broker and any person making an offer in connection with the proposed life settlement contract;
Broker Compensation		4. The amount of the broker’s compensation including anything of value paid or given to the broker for the policy’s placement;
Amount of Settlement Offer		5. The total amount of the life settlement offer and the percentage of the settlement comprised by the broker’s compensation if any portion of the broker’s compensation is taken from the settlement offer.

Information Required to Be Included in a Separate Disclosure Statement to Owner

Reference

Comments

632.69 (8)(a)

1. In each application for a life settlement, the provider must disclose to the owner, in a separate document signed by the owner and provider or broker at least all of the following information no later than the time the application for the life settlement is signed by all parties:

Possible Alternatives

a. There are possible alternatives to life settlement contracts, including any accelerated death benefits or policy loans offered under the owner’s policy;

Broker Represents the Owner Exclusively

b. The broker exclusively represents the policy owner and owes a fiduciary duty to the policy owner and will act according to the owner’s instructions and the best interest of the owner;

Proceeds May Be Taxable

c. Some or all of the proceeds of the life settlement may be taxable, and that the owner should seek the advice of a professional tax advisor;

Proceeds Subject To Claims

d. Proceeds from a life settlement may be Creditor subject to the claims of creditors;

Medical Assistance and Other Government Benefits or Entitlements

e. Proceeds from a life settlement may adversely affect owner eligibility for Medical Assistance or other governmental benefits or or entitlements and the owner should seek advice from the appropriate government agencies;

Right of Rescission

f. The owner has the right to rescind the life settlement contract before the earlier of 30 calendar days after the date of the contract or 15 calendar days after life settlement proceeds have been paid to the owner;

Rescission is effective only if both notice is given and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the life settlement within the rescission period;

If the insured dies during the rescission period, the contract is rescinded subject to repayment by the owner or the owner’s estate to the provider or purchaser of all life settlement proceeds and any premiums, loans, and loan interest paid by the provider or purchaser. Repayment must be made within 60 calendar days of the insured’s death;

Time Frame in Which to Send Funds To Owner

- g. Funds will be sent to the owner within 3 business days after the provider has received written notification by the insurer or group administrator that ownership of the policy or interest in the certificate has been transferred and a beneficiary has been designated;

Forfeiture of Other Rights and Benefits

- h. Entering into a life settlement contract may cause the forfeiture of other rights or benefits under the policy, e.g. conversion or waiver of premium, and the owner should seek assistance from a professional financial advisor;

Required Language

- i. The disclosure must contain the following language - “All medical, financial, or personal information solicited or obtained by a provider or broker about an insured, including the insured’s identity or the identity of family members, a spouse, or a significant other, may be disclosed as necessary to effect the life settlement between the owner and provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.”

Permitted Frequency of Contact

- j. Following execution of a life settlement contract, the insured may be contacted for the purpose of determining the insured’s health status and confirming the insured’s address and contact information. Contact will be limited to once every 3 months If the insured has a life expectancy of more than 1 year, and no more than once a month if the insured has a life expectancy of 1 year or less. Contact will only be made by a provider licensed in the state in which the owner resided at the time of contract, or the provider’s authorized representative.