

31A-36-113 Fraud.

- (1) As used in this section, "recklessly" means engaging in conduct:
 - (a) when a person knows or should have known of a substantial likelihood of the existence of the relevant facts or risks; and
 - (b) involving a significant deviation from acceptable standards of conduct.
- (2) A person may not, knowingly or with intent to defraud, to deprive another of property or for pecuniary gain, do or permit its employees or agents to engage in any of the following acts:
 - (a)
 - (i) present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by a life settlement provider or life settlement producer, a financing entity, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:
 - (A) an application for the issuance of a policy or life settlement;
 - (B) the underwriting of a policy or life settlement;
 - (C) a claim for payment or other benefit under a policy or life settlement;
 - (D) a premium paid on a policy;
 - (E) a payment or change of beneficiary or ownership pursuant to a policy or life settlement;
 - (F) the reinstatement or conversion of a policy;
 - (G) the solicitation, offer, effectuation, or sale of a policy or life settlement;
 - (H) the issuance of written evidence of a policy or life settlement; or
 - (I) a financing transaction;
 - (ii) employ a device, scheme, or artifice to defraud in the business of life settlements;
 - (iii) enter into any plan or practice that involves stranger-originated life insurance; or
 - (iv) employ a device, scheme, or artifice resulting in a violation of Section 31A-21-104 in the solicitation, application, or issuance of a policy that is the subject of a life settlement;
 - (b) in furtherance of a fraud or to prevent detection of a fraud:
 - (i) remove, conceal, alter, destroy, or sequester from the commissioner assets or records of a person engaged in the business of life settlements;
 - (ii) misrepresent or conceal the financial condition of a licensee, a financing entity, an insurer, or other person;
 - (iii) transact the business of life settlements in violation of this chapter; or
 - (iv) file with the commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the commissioner or analogous officer;
 - (c) embezzle, steal, misappropriate, or convert money, premiums, credits, or other property of a life settlement provider, an owner, an insurer, an insured, an owner of a policy, or other person engaged in the business of life settlements or insurance;
 - (d) recklessly enter into, negotiate, or otherwise deal in a life settlement, the subject of which is a policy obtained when one or more persons intend to defraud the policy's issuer, the life settlement provider, or the owner by:
 - (i) presenting false information concerning a fact material to the policy; or
 - (ii) concealing, to mislead another, information concerning a fact material to the policy;
 - (e) facilitate a change of the state or jurisdiction of ownership of a policy or the state of residency of an owner to a state or jurisdiction that does not have a law similar to this chapter for the express purpose of evading or avoiding this chapter; or
 - (f) attempt to commit, assist, aid, abet, or conspire to commit an act or omission described in this Subsection (2).

- (3) A person may not knowingly or intentionally interfere with the enforcement of this chapter or an investigation of a possible violation of this chapter.
- (4) A person engaged in the business of life settlements may not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.
- (5)
 - (a) An application or contract for a life settlement, however transmitted, shall contain the following or a substantially similar statement: "A person that knowingly presents false information in an application for insurance or a life settlement is guilty of a crime and may be subject to fines and confinement in prison."
 - (b) The lack of the statement described in Subsection (5)(a) is not a defense in a prosecution for violation of this section.

Amended by Chapter 355, 2009 General Session