

Chapter 284-97 WAC

LIFE SETTLEMENT REGULATION

WAC

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WAC 284-97-010 Purpose and scope. (1) The purpose of this chapter is to effectuate chapter 48.102 RCW, by establishing minimum standards and disclosure requirements to be met by life settlement providers and life settlement brokers with respect to life settlement contracts advertised, solicited, or issued for delivery in this state, and licensing requirements for life settlement providers and life settlement brokers.

(2) This regulation is not exclusive, and acts or omissions, whether or not specific in this chapter, may also be violations of other sections of the insurance code or other regulations promulgated thereunder.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-010, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-010, filed 10/20/95, effective 11/20/95.]

WAC 284-97-015 Definitions. For purposes of this chapter:

(1) "Domestic life settlement provider" means a provider as defined in RCW 48.102.006(19) who if:

(a) A natural person either resides or has their principal place of business in this state, or both; or

(b) A legal entity that either has their principal place of business in this state, or is incorporated in or otherwise formed under the laws of the state of Washington, or both.

(2) "NAIC" means the National Association of Insurance Commissioners.

(3) "Nonresident or foreign life settlement provider" means a provider as defined in RCW 48.102.006(19) who if:

(a) A natural person does not either reside or have their principal place of business in this state, or both; or

(b) A legal entity who does not either have their principal place of business in this state, or is not incorporated in or otherwise formed under the laws of the state of Washington, or both.

(4) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows filers to create and submit rate, rule, and form filings electronically to the commissioner.

(5) "Solicitation" means, for example; proposing, negotiating, signing, or doing any act in furtherance of making or

proposing to make a life settlement contract. Solicitation specifically includes advertising by mail, use of the print or electronic media, telephone, or any other method of presenting, distributing, issuing, circulating, or permitting to be issued or circulated any information or material in connection with a life settlement contract.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-015, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-015, filed 10/20/95, effective 11/20/95.]

WAC 284-97-020 Licensing requirements for life settlement providers. (1) The application form and instructions for obtaining a license as a life settlement provider are on the commissioner's web site at www.insurance.wa.gov.

(2) The application for a license as a life settlement provider shall furnish all of the applicable following information:

(a) The name of the applicant, its address, and organizational structure.

(b) Copies of its organizational documents, including but not limited to its: Articles of incorporation and any amendments thereto, certificate of incorporation and any amendments thereto, bylaws and any amendments thereto, partnership agreement and any amendments thereto, articles of association and any amendments thereto, certificate of formation of a limited liability company and any amendments thereto, and limited liability company agreement and any amendments thereto.

(c) The identity of all: Stockholders holding ten percent or more of the voting securities; investors holding a ten percent or greater interest; partners; corporate officers; trustees; if an association, all of the members; all of the members of a limited liability company; and parent and affiliate entities, together with a chart showing the relationship of the applicant to any parent, affiliated or subsidiary entities.

(d) A list of all stockholders holding ten percent or more of the voting securities, investors holding a ten percent or greater interest, partners, and officers of any parent or affiliate entities.

(e) Biographical affidavits of all its officers, directors, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association).

(f) For domestic life settlement providers, third-party verification reports from an acceptable vendor for all its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association). A vendor is acceptable if registered with the National Association of Insurance Commissioners' Uniform Certificate of Authority Application (NAIC UCAA) registry.

(g) A list of states in which the life settlement provider is licensed on the date of application, a copy of each effective license, and a list of the states in which it is or was doing business.

(h) A list of all business licenses from the federal and any state government, which has been issued to the applicant, together with a certificate of incorporation from the Washington secretary of state, and a statement showing the current status of any such licenses, such as whether it has been revoked or suspended.

(i) A report stating whether any regulatory action, by any level of state or federal government, is pending or has been taken against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(j) A report stating whether any criminal action or civil action has been taken, or is pending, against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(k) A copy of its most recent financial and operating reports, audited and unaudited.

(l) Copies of documents filed with the federal Securities and Exchange Commission.

(m) A detailed plan of operations for the applicant's business, including but not limited to information regarding or identification of the following items in connection with the applicant's life settlement business:

- (i) Escrow accounts and banks;
- (ii) Advertising, brokerage, or distribution system to be used;
- (iii) Marketing techniques to be used;
- (iv) Marketing training program; and
- (v) Contract offering and servicing facilities.

(n) For a nonresident provider, an appointment of the commissioner to receive service of process and a designation of the person to whom the commissioner shall forward legal process.

(o) A copy of the applicant's antifraud plan that meets the requirements of RCW 48.102.140.

(p) Such other information as the commissioner may reasonably require.

(3) To qualify for authority to transact business as a life settlement provider the applicant must possess unimpaired capital, and thereafter maintain unimpaired capital, in the amount of not less than one hundred fifty thousand dollars.

[Statutory Authority: RCW 48.02.060 and 48.102.170. 11-24-011 (Matter No. R 2011-20), § 284-97-020, filed 11/29/11, effective 12/30/11. Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-020, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-020, filed 10/20/95, effective 11/20/95.]

WAC 284-97-025 Annual reporting requirements for life settlement providers. (1) Every licensed life settlement provider must file with the commissioner an annual statement on or before March 1st for the immediately preceding calendar year ending December 31st. For good cause shown, the commissioner may grant an extension of time to file if the

request for extension is received by the commissioner more than five business days prior to March 1st.

(2) The annual statement forms and instructions are on the commissioner's web site at www.insurance.wa.gov.

(3) In addition to any other requirements, for any policy settled within five years of policy issuance, the annual statement shall specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year.

(4) Annual statements filed by a life settlement provider with the commissioner must be filed in electronic form. Electronic form shall mean in pdf format and according to the instructions on the commissioner's web site.

(5) As a demonstration of financial responsibility, life settlement providers must comply with WAC 284-07-100 through 284-07-230, except WAC 284-07-100 (5), (6), and (7), to the extent reasonably applicable, and the applicant shall not be required to file any report, letter, or other document required by WAC 284-07-100 through 284-07-230 with the National Association of Insurance Commissioners (NAIC).

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-025, filed 1/27/10, effective 2/27/10.]

WAC 284-97-030 Licensing life settlement brokers.

The application form and instructions for obtaining a license as a life settlement broker are on the commissioner's web site at www.insurance.wa.gov.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-030, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-030, filed 10/20/95, effective 11/20/95.]

WAC 284-97-035 Prompt reply to the commissioner required. Every licensed life settlement provider and broker licensed under chapter 48.102 RCW, must promptly reply in writing to an inquiry of the commissioner relative to the business of life settlements. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a complete and timely response constitutes a violation of this section.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-035, filed 1/27/10, effective 2/27/10.]

WAC 284-97-040 Contract and form filing requirements for life settlement providers and life settlement brokers. All life settlement contracts as defined in RCW 48.102.006(12) and disclosure forms required by RCW 48.102.080 must be filed with and be approved by the commissioner prior to use in this state. No other forms shall be filed with the commissioner.

(1)(a) Life settlement providers must file with the commissioner:

- (i) Their life settlement contract form completed in John Doe fashion; and
 - (ii) The disclosure form required by RCW 48.102.080
- (1).

(b) The life settlement contract form and disclosure form must be submitted as separate documents.

(c) Life settlement providers shall not file any other forms with the commissioner.

(d) Life settlement providers must submit the life settlement contract and disclosure forms filing through SERFF.

The SERFF filing instructions are in the *SERFF Industry Manual* on the SERFF web site at www.serff.com and the Washington state SERFF Life and Disability Rate and Form Filing General Instructions on the commissioner's web site at: www.insurance.wa.gov.

(2)(a) Life settlement brokers must file with the commissioner:

(i) The disclosure form required by RCW 48.102.080(1); and

(ii) The disclosure form required by RCW 48.102.080(3).

(b) These two disclosure forms must be submitted as separate documents.

(c) Life settlement brokers shall not file any other forms with the commissioner.

(d) Life settlement brokers must submit their disclosure form filings only in paper format.

(3)(a) Every life settlement contract shall be in writing, in a type size of no less than ten points, shall be identified by a form number in the lower left-hand corner of the first page, and include the terms under which the life settlement provider will pay compensation (called by whatever name) to the owner in exchange for the assignment, transfer, sole devise, or bequest of the death benefit or assignment of ownership of the life insurance policy or certificate to the life settlement provider.

(b) Every life settlement contract shall provide for payment to the owner in a lump sum and shall be voidable at the option of the owner if the agreed value is not paid in full within fifteen days of the date the life settlement contract is executed by all parties thereto.

(c) Every life settlement contract shall provide for transfer of the entire life insurance policy: Provided, however, That if agreed to in writing by both the insurer and the owner, a stated dollar value which is less than the full face amount of the life insurance policy (less any outstanding loans) may be transferred if:

(i) The life settlement provider obtains a bond in favor of all beneficiaries of the policy other than the life settlement provider in an amount sufficient to guarantee the payment of all premium for the balance of the premium-paying period as calculated on the effective date of the life insurance policy; or

(ii) Another arrangement acceptable to the commissioner is made which guarantees that the insurance policy will remain in full force and effect for the protection of beneficiaries designated by the owner (other than the life settlement provider) until the death of the insured.

(4) The life settlement contract shall provide for rescission no less favorable to the owner than as set forth in RCW 48.102.110(9). It shall provide that if the insured dies during the period of time allowed for rescission, the contract is considered rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the life settlement provider. The contract shall provide a method for giving notice of rescission. If notice of

rescission is given by mail, it shall be deemed given when deposited in the United States mail, first class postage prepaid.

(5) The life settlement contract shall specify any effect entering into the contract will have upon the continued availability of supplemental benefits or riders that are or may be attached to the life insurance policy that is the subject of the life settlement contract, including assigning the responsibility for the continued payment of premiums. The benefits and riders considered shall include, but need not be limited to, the following:

(a) Guaranteed insurability options;

(b) Accidental death benefits, or accidental death and dismemberment benefits;

(c) Disability income or loss of income protection;

(d) Waiver of premium or monthly deduction waiver; and

(e) Family, spousal, or children's riders or benefits.

(6) No life settlement contract may contain any limitation or restriction on the use of the proceeds by the owner.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-040, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-040, filed 10/20/95, effective 11/20/95.]

WAC 284-97-050 Standards for evaluating reasonability of compensation. In order to assure that benefits offered to an owner who is terminally or chronically ill are reasonable in relation to the rate, fee, or other compensation that is charged, any payout shall be no less than the greater of the amounts defined in subsections (1) and (2) of this section.

(1) Payouts shall be no less than the following percentage of the expected death benefit under the insurance policy, net of loans. The following are minimum standards and shall not be presumed to be proof of fairness as to any specific transaction.

(a) If the insured's life expectancy is less than six months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner shall be no less than eighty percent.

(b) If the insured's life expectancy is at least six months, but less than twelve months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner shall be no less than seventy percent.

(c) If the insured's life expectancy is at least twelve months, but less than eighteen months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner shall be no less than sixty-five percent.

(d) If the insured's life expectancy is at least eighteen months, but less than twenty-five months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner, shall be no less than sixty percent.

(2) Payouts shall be no less than the greater of the cash surrender value or accelerated death benefit under the insurance policy.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter

No. R 2009-14), § 284-97-050, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-050, filed 10/20/95, effective 11/20/95.]

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-900, filed 1/27/10, effective 2/27/10.]

WAC 284-97-900 Savings clause. Amendments to WAC 284-97-010 through 284-97-050 effective on or after July 26, 2009, do not affect any rights acquired or liabilities or obligations incurred under WAC 284-97-010 through 284-97-050 that existed prior to July 26, 2009, nor affects any proceedings instituted under those sections.

WAC 284-97-910 Insurance company disclosure form. RCW 48.102.100 requires that insurers provide a notice to owners of individual life insurance policies at certain times. The following is the only document approved by the commissioner to give this notice.

Important information about your life insurance policy
from the State of Washington Office of the Insurance Commissioner

Life insurance is a critical part of a broader financial plan. There are many options available, and you have the right to shop around and seek advice from different financial advisers in order to find the options best suited to your needs.

You are encouraged to consider the following possible alternatives to [requesting a surrender of your life insurance policy, requesting accelerated death benefits under your life insurance policy, or letting your life insurance policy lapse*]. These alternatives include, but are not limited to:

- **Accelerated Death Benefit:** Your policy may provide an early or accelerated discounted benefit payment if you have a terminal or chronic illness.
- **Cash Surrender:** Your policy may have a cash surrender value your life insurer would pay you if you cancel it.
- **Gift:** You may be able to gift your policy to your beneficiary, who would then assume responsibility for paying premiums.
- **Life Settlement:** You may be able to sell your life insurance policy to a third party for an amount that, under Washington law must be greater than the cash surrender value or accelerated death benefits under your policy. You pay no further premium. The third party becomes the policyholder and receives the benefit upon the insured's death.
- **Maintain Your Policy:** You may be able to maintain your life insurance policy in force by paying the premiums directly or using your current policy values to pay the premiums.
- **Policy Changes:** You may be able to reduce or eliminate future premium payments by obtaining a paid-up policy, by reducing optional coverages, or through other options available from your life insurer.
- **Policy Loan:** You may be able to take out a loan from your life insurance company using the cash value of your policy as collateral. Loan proceeds can be used to pay the premiums or for other purposes.
- **Third-Party Loan:** You may be able to get a loan from another party to pay your policy's premiums. In return, the lender may require an assignment of a portion or all of the policy's death benefits.

These options may or may not be available depending on your circumstances and the terms of your life insurance policy. Please see your policy or contact your life insurance company, financial advisor, agent or broker to determine your particular options. If you're a Washington state resident and have questions about life insurance and your rights, contact the Office of the Insurance Commissioner at 1-800-562-6900, or go to www.insurance.wa.gov. Ask questions if you don't understand your policy. Here's a list of commonly used terms:

Accelerated death benefit: A benefit allowing terminally ill or chronically ill life insurance policyholders to receive cash advances of all or part of the expected death benefit. The accelerated death benefit can be used for health care treatments or any other purpose.

Cash surrender value: This term is also called "cash value," "surrender value," and "policyholder's equity." The amount of cash due to a policyholder who requests the insurance company cancel their life insurance policy before it matures or death occurs.

Expected death benefit: The face amount of the policy, less any policy loan amounts, that the insurance company is expected to pay the beneficiaries named in the life insurance policy upon the death of the insured.

Lapse: Refers to a life insurance policy ending or expiring when a policyholder stops making premium payments.

Life settlement: Refers to a contract in which the policyholder sells his or her life insurance policy to a third party for a one-time cash payment which is greater than the cash surrender value, but less than the death benefit of the policy. A life settlement includes a viatical settlement, defined below.

Policy loan: A loan issued by an insurance company using the cash value of a person's life insurance policy as collateral.

Viatical settlement: An arrangement in which someone with a terminal illness sells his or her life insurance policy at an amount less than the death benefit. The ill person receives cash, and the buyer receives the full amount of the death benefit. This death benefit is payable once the former policyholder dies.

This brochure is for informational purposes only and does not constitute an endorsement of any of the options described above.

* A life insurance company should choose among these three phrases to state the appropriate phrase that fits the situation of the particular policy owner to whom the notice is being sent.

Life Settlement Regulation

284-97-920

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-910, filed 1/27/10, effective 2/27/10.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 284-97-920 Verification of coverage for life insurance policies form. RCW 48.102.110(2) provides that the request for verification of coverage must be made on a form approved by the commissioner. The following is the only verification of coverage form approved by the commissioner.

VERIFICATION OF COVERAGE FOR LIFE INSURANCE POLICIES

SUBMITTED TO: _____ **NAIC#** _____
 Name of Insurance Company

POLICY NUMBER: _____

SUBMITTED FROM: _____
 Name of Life Settlement Broker/Provider

ADDRESS: _____

TELEPHONE NUMBER: _____

CONTACT: _____ **TITLE:** _____

IF INFORMATION IS CORRECT, INSURER REPRESENTATIVE MAY PLACE A CHECKMARK IN THE BOX. OTHERWISE PROVIDE CORRECTED INFORMATION THROUGHOUT THIS FORM. AN ASTERISK INDICATES INFORMATION THE LIFE SETTLEMENT PROVIDER/BROKER MUST PROVIDE.

POLICY OWNER'S AND INSURED'S INFORMATION

	This column to be completed by Life Settlement Broker/Provider	This column to be used by Insurance Company
Owner's Name	*	
Address	*	
City, state, ZIP code	*	
Tax ID or Social Security number	*	
Insured's name	*	
Insured's date of birth	*	
Second insured's name (if applicable)	*	
Second insured's date of birth (if applicable)	*	
I hereby consent by my signature below to release information requested by this form by the insurance company to the life settlement broker/provider.		
Signature of owner		Date signed

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IS THE POLICY IN FORCE?

YES

NO

IF NO, SIGN, AND DATE ON PAGE 4 AND RETURN TO THE LIFE SETTLEMENT BROKER OR PROVIDER THAT SUBMITTED THE VERIFICATION OF COVERAGE.

POLICY TYPE, RIDERS AND OPTIONS:

***TERM**

WHOLE LIFE

UNIVERSAL LIFE

VARIABLE LIFE

If a question is not applicable to the type of policy, write N/A in the column.

	This column to be completed by Life Settlement Broker/Provider	This column to be used by Insurance Company
Original issue date	*	
Maturity date of policy		
State of issue	*	
Does the policy have an irrevocable beneficiary?	*	
Is the policy currently assigned?	*	
Was the policy ever converted or reinstated?		
Is the policy in the contestability period?	*	
Is the policy in the suicide period?	*	

Life Settlement Regulation

	This column to be completed by Life Settlement Broker/Provider	This column to be used by Insurance Company
Please list all riders and indicate if any are in the contestable or suicide period.	*	

POLICY VALUES

	This column to be completed by Life Settlement Broker/Provider	This column to be used by Insurance Company
Policy values as of (insert date)		
Current face amount of policy	*	
Amount of accumulated dividends		
Current face amount of riders		
Amount of any outstanding loans	*	
Amount of outstanding interest on policy loans		
Current net death benefit	*	
Current account value	*	
Current cash surrender value	*	
Is policy participating?	*	
If yes, what is the current dividend option?		

PREMIUM INFORMATION

	This column to be completed by Life Settlement Broker/Provider	This column to be used by Insurance Company
Current payment mode	*	
Current modal premium	*	
Date last premium paid	*	
Date next premium due	*	
Current monthly cost of insurance as of (insert date)		
Date of last cost of insurance deduction		

TO BE COMPLETED BY LIFE SETTLEMENT BROKER/PROVIDER

The information submitted for verification by the life settlement broker/provider is correct and accurate to the best of my knowledge and has been obtained through the policy owner and/or insured.

Signature

Printed name

TO BE COMPLETED BY INSURANCE COMPANY

The information provided by verification by the insurance company is correct and accurate to the best of my knowledge as of _____ (date).

Insurance company: _____ NAIC # _____

Printed name: _____ Title: _____

Telephone number: _____ Fax number: _____

Signature: _____

Please provide information about where the forms listed below should be submitted for processing.

Name: _____ Title: _____

Company Name: _____

Mailing Address: _____

City, State, ZIP: _____

Overnight Address: _____

City, State, ZIP: _____

Telephone number: _____ Fax number: _____

FORMS REQUEST

Please provide the forms checked below:

- Absolute Assignment/Change of Ownership/Life Assignment
- Change of Beneficiary
- Release of Irrevocable Beneficiary (if applicable)
- Waiver of Premium Claim Form
- Disability Waiver of Premium Approval Letter
- Release of Assignment
- Change of Death Benefit Option Form (if UL)
- Allocation Change Form (if Variable)
- Annual Report
- Current In Force Illustration

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[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-920, filed 1/27/10, effective 2/27/10.]