

SENATE, No. 1914

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

SYNOPSIS

Prohibits act, practice or arrangement constituting stranger-originated life insurance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/22/2020)

1 AN ACT concerning certain life insurance contracts and
2 supplementing P.L.2005, c.229 (C.17B:30B-1 et seq.).
3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*
6

7 1. a. No person shall directly or indirectly engage in any act,
8 practice or arrangement that constitutes stranger-originated life
9 insurance.

10 b. A contract, agreement, arrangement, or transaction,
11 including, but not limited to, a financing agreement or any other
12 arrangement or understanding entered into, whether written or
13 verbal, for the furtherance or aid of a stranger-originated life
14 insurance policy or practice shall be void and unenforceable at the
15 outset.

16 c. A trust that is created to give the appearance of an insurable
17 interest and that is used to initiate or procure policies for investors
18 shall be in violation of the insurable interest laws of this State and
19 the prohibition against wagering on life.

20 d. Notwithstanding the provisions of N.J.S.17B:25-4, a life
21 insurer may contest a life insurance policy on the grounds that it
22 was obtained by a stranger-originated life insurance practice, as
23 defined in this section, at any time.

24 e. (1) As used in this section, “stranger-originated life
25 insurance” or “STOLI” means an act, practice or arrangement to
26 initiate or procure the issuance of a policy in this State for the
27 benefit of a third-party investor who, at the time of policy inception
28 has no insurable interest under the laws of this State in the life of
29 the insured.

30 (2) STOLI practices shall include, but shall not be limited to,
31 cases in which: (a) a policy is purchased with resources or
32 guarantees from or through a person or entity who, at the time of
33 policy inception, could not lawfully initiate or procure the policy
34 himself, herself, or itself; and (b) at the time of policy inception,
35 there exists an arrangement or agreement, to transfer, directly or
36 indirectly, the ownership of that policy or the policy benefits to a
37 third party.

38 f. A STOLI arrangement shall not include an otherwise lawful
39 viatical settlement contract as permitted by the “Viatical
40 Settlements Act,” P.L.2005, c.229 (C.17B:30B-1 et seq.).
41

42 2. a. The Commissioner of Banking and Insurance may seek
43 an injunction in a court of competent jurisdiction and may apply for
44 temporary and permanent orders that the commissioner determines
45 are necessary to restrain the person from committing a violation of
46 this act.

1 long-standing legal principle of insurable interest generally requires
2 that a person applying for a life insurance policy must have an
3 interest in the continued life of the insured. This is most often
4 because the insured is a blood relative or because an economic
5 relationship exists between the parties. Since it has long been
6 illegal and void as a wager on human life to seek to obtain
7 insurance on a stranger, modern STOLI schemes have endeavored
8 to hide the offensive ownership of the policy from insurers at
9 inception and from viatical settlement companies when the policy is
10 sought to be sold. STOLI transactions also often include acts of
11 fraud in the application for new insurance, such as the applicant
12 misrepresenting their net worth or the amount of in force insurance
13 they have. STOLI practices include, but are not limited to, cases in
14 which life insurance is purchased with resources or guarantees from
15 or through a person or entity who, at the time of policy inception,
16 could not lawfully initiate or procure the policy themselves and
17 where, at the time of inception, there is an arrangement, verbal or
18 written, to directly or indirectly transfer the ownership of the policy
19 or policy benefits to a third party. Not only are STOLI schemes
20 harmful because they circumvent insurable interest laws, they can
21 also limit an insured's ability to purchase life insurance later if he
22 has used up his capacity for insurance on the STOLI arrangement.

23 Specifically, the bill provides a definition of stranger-originated
24 life insurance and explicitly states that stranger-originated life
25 insurance is not a viatical settlement contract. The bill prohibits
26 establishing trusts created to give the appearance of insurable
27 interest and that are used to initiate or procure policies for investors.

28 The bill prohibits any person from directly or indirectly engaging
29 in any act, practice or arrangement that constitutes stranger-
30 originated life insurance. The bill provides that a life insurer may
31 contest a policy on the grounds that it was obtained by a stranger-
32 originated life insurance practice, as defined by the bill, at any time,
33 notwithstanding the existing statutory provision that limits
34 contestability of a life insurance policy once it has been in force
35 during the lifetime of the insured to a period of two years from the
36 date of issue. The bill further provides that a contract, agreement,
37 arrangement, or transaction, including, but not limited to, a
38 financing agreement or any other arrangement or understanding
39 entered into, whether written or verbal, for the furtherance or aid of
40 a stranger-originated life insurance practice is void and
41 unenforceable at the outset.

42 The Commissioner of Banking and Insurance may seek an
43 injunction in a court of competent jurisdiction and may apply for
44 temporary and permanent orders that the commissioner determines
45 are necessary to restrain any person from committing a violation of
46 the bill. Any person damaged by the acts of a person in violation of
47 the bill may bring a civil action against the person committing the
48 violation in a court of competent jurisdiction. The commissioner
49 may issue a cease and desist order for a violation of the bill's
50 provisions or an order adopted by the commissioner. If the

1 commissioner finds that an activity in violation of the bill presents
2 an immediate danger to the public that requires an immediate final
3 order, the commissioner may issue an emergency cease and desist
4 order reciting with particularity the facts underlying the findings.

5 In addition to the penalties and other enforcement provisions of
6 the bill, any person who violates the bill shall be subject to civil
7 penalties of up to \$10,000 per violation and the commissioner's
8 order may require a person found to be in violation of the bill to
9 make restitution to persons aggrieved by the violations.
10 Additionally, a violation shall be considered an unfair trade practice
11 pursuant to N.J.S.17B:30-1 et seq. and shall be subject to the
12 penalties contained in N.J.S.17B:30-17.

13 A recent decision of the New Jersey Supreme Court, Sun Life
14 Assur. Co. vs. Wells Fargo Bank, N.A., 238 N.J. 157 (2019),
15 reaffirmed the long-standing tenet that a life insurance policy
16 procured with the intent to benefit persons without an insurable
17 interest in the life of the insured violates public policy of the State,
18 and further held that such a policy is void at the outset. This bill is
19 intended to codify that holding, and to provide appropriate penalties
20 for violations arising from stranger-originated life insurance
21 practices.