

P.L. 2020, CHAPTER 105, *approved October 19, 2020*  
Assembly, No. 1263

- 1   **AN ACT** concerning certain life insurance contracts and  
2       supplementing P.L.2005, c.229 (C.17B:30B-1 et seq.).  
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- 4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*  
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- 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.).



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

6       b. Any person damaged by the acts of a person in violation of  
7 this act may bring a civil action against the person committing the  
8 violation in a court of competent jurisdiction.

9       c. The commissioner may issue, in accordance with the  
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
11 1 et seq.), a cease and desist order upon a person that violates any  
12 provision of this act, any regulation or order adopted by the  
13 commissioner, or any written agreement entered into with the  
14 commissioner.

15       d. When the commissioner finds that an activity in violation of  
16 this act presents an immediate danger to the public that requires an  
17 immediate final order, the commissioner may issue an emergency  
18 cease and desist order reciting with particularity the facts  
19 underlying the findings. The emergency cease and desist order shall  
20 be effective immediately upon service of a copy of the order on the  
21 respondent and shall remain effective for 90 days. If the  
22 commissioner begins non-emergency cease and desist proceedings,  
23 the emergency cease and desist order shall remain effective, absent  
24 an order by a court of competent jurisdiction pursuant to the  
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
26 1 et seq.).

27       e. In addition to the penalties and other enforcement provisions  
28 of this act, any person who violates this act shall be subject to civil  
29 penalties of up to \$10,000 per violation which may be collected in a  
30 summary proceeding pursuant to the "Penalty Enforcement Law of  
31 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The commissioner's  
32 order may require a person found to be in violation of this act to  
33 make restitution to persons aggrieved by violations of this act.

34       f. A violation of this act shall be considered an unfair trade  
35 practice pursuant to N.J.S.17B:30-1 et seq. and shall be subject to  
36 the penalties contained in N.J.S.17B:30-17.

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38       3. The Commissioner of Banking and Insurance shall  
39 promulgate regulations implementing the provisions of this act  
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
41 (C.52:14B-1 et seq.).

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43       4. This act shall take effect immediately.



## STATEMENT

This bill supplements the “Viatical Settlements Act,” P.L.2005, c.229 (C.17B:30B-1 et seq.), to address concerns regarding stranger-originated life insurance, or “STOLI,” as it is sometimes called. STOLI is a practice in which a life insurance policy is purchased for the benefit of a third party who, at the time of policy issuance, has no insurable interest in the life of the insured. The long-standing legal principle of insurable interest generally requires that a person applying for a life insurance policy must have an interest in the continued life of the insured. This is most often because the insured is a blood relative or because an economic relationship exists between the parties. Since it has long been illegal and void as a wager on human life to seek to obtain insurance on a stranger, modern STOLI schemes have endeavored to hide the offensive ownership of the policy from insurers at inception and from viatical settlement companies when the policy is sought to be sold. STOLI transactions also often include acts of fraud in the application for new insurance, such as the applicant misrepresenting their net worth or the amount of in force insurance they have. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of policy inception, could not lawfully initiate or procure the policy themselves and where, at the time of inception, there is an arrangement, verbal or written, to directly or indirectly transfer the ownership of the policy or policy benefits to a third party. Not only are STOLI schemes harmful because they circumvent insurable interest laws, they can also limit an insured’s ability to purchase life insurance later if he has used up his capacity for insurance on the STOLI arrangement.

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

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



1       The Commissioner of Banking and Insurance may seek an  
2       injunction in a court of competent jurisdiction and may apply for  
3       temporary and permanent orders that the commissioner determines  
4       are necessary to restrain any person from committing a violation of  
5       the bill. Any person damaged by the acts of a person in violation of  
6       the bill may bring a civil action against the person committing the  
7       violation in a court of competent jurisdiction. The commissioner  
8       may issue a cease and desist order for a violation of the bill's  
9       provisions or an order adopted by the commissioner. If the  
10      commissioner finds that an activity in violation of the bill presents  
11      an immediate danger to the public that requires an immediate final  
12      order, the commissioner may issue an emergency cease and desist  
13      order reciting with particularity the facts underlying the findings.

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

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

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