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RWH/CL

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.).

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.).

- 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.
- 37
- 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.).
- 42
- 43       4. This act shall take effect immediately.

## STATEMENT

1  
2  
3 This bill supplements the “Viatical Settlements Act,” P.L.2005,  
4 c.229 (C.17B:30B-1 et seq.), to address concerns regarding  
5 stranger-originated life insurance, or “STOLI,” as it is sometimes  
6 called. STOLI is a practice in which a life insurance policy is  
7 purchased for the benefit of a third party who, at the time of policy  
8 issuance, has no insurable interest in the life of the insured. The  
9 long-standing legal principle of insurable interest generally requires  
10 that a person applying for a life insurance policy must have an  
11 interest in the continued life of the insured. This is most often  
12 because the insured is a blood relative or because an economic  
13 relationship exists between the parties. Since it has long been  
14 illegal and void as a wager on human life to seek to obtain  
15 insurance on a stranger, modern STOLI schemes have endeavored  
16 to hide the offensive ownership of the policy from insurers at  
17 inception and from viatical settlement companies when the policy is  
18 sought to be sold. STOLI transactions also often include acts of  
19 fraud in the application for new insurance, such as the applicant  
20 misrepresenting their net worth or the amount of in force insurance  
21 they have. STOLI practices include, but are not limited to, cases in  
22 which life insurance is purchased with resources or guarantees from  
23 or through a person or entity who, at the time of policy inception,  
24 could not lawfully initiate or procure the policy themselves and  
25 where, at the time of inception, there is an arrangement, verbal or  
26 written, to directly or indirectly transfer the ownership of the policy  
27 or policy benefits to a third party. Not only are STOLI schemes  
28 harmful because they circumvent insurable interest laws, they can  
29 also limit an insured’s ability to purchase life insurance later if he  
30 has used up his capacity for insurance on the STOLI arrangement.  
31 Specifically, the bill provides a definition of stranger-originated  
32 life insurance and explicitly states that stranger-originated life  
33 insurance is not a viatical settlement contract. The bill prohibits  
34 establishing trusts created to give the appearance of insurable  
35 interest and that are used to initiate or procure policies for investors.  
36 The bill prohibits any person from directly or indirectly engaging  
37 in any act, practice or arrangement that constitutes stranger-  
38 originated life insurance. The bill provides that a life insurer may  
39 contest a policy on the grounds that it was obtained by a stranger-  
40 originated life insurance practice, as defined by the bill, at any time,  
41 notwithstanding the existing statutory provision that limits  
42 contestability of a life insurance policy once it has been in force  
43 during the lifetime of the insured to a period of two years from the  
44 date of issue. The bill further provides that a contract, agreement,  
45 arrangement, or transaction, including, but not limited to, a  
46 financing agreement or any other arrangement or understanding  
47 entered into, whether written or verbal, for the furtherance or aid of  
48 a stranger-originated life insurance practice is void and  
49 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.

31

32

33

34

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

# ASSEMBLY, No. 1263

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator GERALD CARDINALE**

**District 39 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywoman Murphy**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/27/2020)**

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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.

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21 insurer may contest a life insurance policy on the grounds that it  
22 was obtained by a stranger-originated life insurance practice, as  
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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  
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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  
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46 this act.



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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,  
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19 intended to codify that holding, and to provide appropriate penalties  
20 for violations arising from stranger-originated life insurance  
21 practices.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1263

**STATE OF NEW JERSEY**

DATED: FEBRUARY 13, 2020

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 1263.

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.

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

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

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

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1263

# STATE OF NEW JERSEY

DATED: JULY 23, 2020

The Senate Commerce Committee reports favorably Assembly Bill No. 1263.

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.

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

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# 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)



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

4 c. The commissioner may issue, in accordance with the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
6 1 et seq.), a cease and desist order upon a person that violates any  
7 provision of this act, any regulation or order adopted by the  
8 commissioner, or any written agreement entered into with the  
9 commissioner.

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

22 e. In addition to the penalties and other enforcement provisions  
23 of this act, any person who violates this act shall be subject to civil  
24 penalties of up to \$10,000 per violation which may be collected in a  
25 summary proceeding pursuant to the "Penalty Enforcement Law of  
26 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The commissioner's  
27 order may require a person found to be in violation of this act to  
28 make restitution to persons aggrieved by violations of this act.

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

32  
33 3. The Commissioner of Banking and Insurance shall  
34 promulgate regulations implementing the provisions of this act  
35 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
36 (C.52:14B-1 et seq.).

37  
38 4. This act shall take effect immediately.  
39  
40

41 STATEMENT

42  
43 This bill supplements the "Viatical Settlements Act," P.L.2005,  
44 c.229 (C.17B:30B-1 et seq.), to address concerns regarding  
45 stranger-originated life insurance, or "STOLI," as it is sometimes  
46 called. STOLI is a practice in which a life insurance policy is  
47 purchased for the benefit of a third party who, at the time of policy  
48 issuance, has no insurable interest in the life of the insured. The

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.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 1914

# STATE OF NEW JERSEY

DATED: JULY 23, 2020

The Senate Commerce Committee reports favorable Senate Bill No. 1914.

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.

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

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

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

# Governor Murphy Takes Action on Legislation

10/19/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bills and resolutions into law

**S-2584/A-3622 (Cunningham, Pou/Quijano, Vainieri Huttie, Murphy)** – Makes changes to membership and responsibilities of Campus Sexual Assault Commission

**A-1263/S-1914 (Schaer, Johnson/Pou, Cardinale)** – Prohibits act, practice or arrangement constituting stranger-originated life insurance

**A-2394/S-401 (Wimberly, Johnson, Holley/Turner, Cunningham)** – Requires law enforcement agencies in this State to establish minority recruitment and selection programs; establishes reporting requirement

**A-3367/S-1951 (Johnson, Kennedy, Benson/Smith, Codey)** – Concerns installation of electric vehicle charging stations in common interest communities

Governor Murphy conditionally vetoed the following bills:

**S-1163/A-4271 (Turner/Tucker, Conaway)** - Requires law enforcement officers to wear body cameras

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**S-2842/A-4625 (Sarlo/Egan)** - Permits raffles to be conducted remotely at large sporting venues

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**A-4312/S-101 (Reynolds-Jackson, Sumter, Tucker/Gill, Turner)** - Regulates use of body cameras worn by law enforcement officers

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Governor Murphy absolute vetoed the following bills:

**S-2704/A-4413 (Sweeney, Gopal, A.M. Bucco, Cruz-Perez/Bramnick, Burzichelli, DeCroce)** - Appropriates \$30 million to EDA from federal "Coronavirus Relief Fund" to assist food establishments impacted by Executive Order No. 158

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**A-4006/S-2404 (Chiaravalloti, Caputo, Mejia/Pou, Turner)** - Postpones New Jersey Quality Single Accountability Continuum (NJQSAC) review for certain school districts to accommodate disruption due to COVID-19 pandemic

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