

HOUSE RESEARCH

Bill Summary

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Overview

This bill prohibits certain contractual arrangements and other activities related to “stranger-originated life insurance” (“STOLI”).

Generally, in a stranger-initiated life insurance arrangement, an individual takes out a life insurance policy and then transfers the benefits of the policy to another individual or entity that does not have a prior relationship with the insured person, or an insurable interest in the insured person’s life. The other person or entity pays or loans the insured person a specified amount to apply for and agree to the insurance policy up front, and then makes payments toward the insurance premium. When the insured person dies, the other individual or entity may receive the benefits of the life insurance policy. In some cases, the policy is sold in a secondary market to investors.

Section

- 1 **Title.** Provides that this law will be cited as the “Insurable Interest Act.”
- 2 **Definitions.** Establishes definitions for a number of terms used throughout the bill, including “stranger-originated life insurance practices.”

Stranger-originated life insurance practices means an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. Examples are provided.

“Insurable interest” is defined elsewhere in the bill.

- 3 **Insurable interest required.** Provides substantive restrictions and requirements.

Subd. 1. Insurance on life of another. Prohibits a person from procuring or causing to be procured or effected a life insurance policy on the life of another individual, unless the policy benefits are payable to the insured individual, the personal representative of the insured individual’s estate, or another person with an

insurable interest in the individual at the time the policy is issued.

Subd. 2. What constitutes an insurable interest. Lists the interests that constitute an “insurable interest.” Interests not listed in the bill do not constitute an insurable interest.

Subd. 3. Insured’s own life. Clarifies that an individual has an insured interest in the individual’s own life, and may designate any person as a beneficiary of the policy, if the individual has the capacity to do so and the designation is not otherwise made as part of an agreement prohibited by the provisions of the bill.

Subd. 4. Reliance on statements. Permits an insurer to rely on reasonable statements, declarations, and representations made by an applicant for life insurance related to the existence of an insurable interest. An insurer is not legally liable for good faith reliance on these statements.

Subd. 5. Consent. Prohibits a life insurance policy from being effectuated unless the individual applies for and consents in writing to the policy and its terms. Another person may give consent under certain circumstances. The written consent requirement does not apply to noncontributory group life insurance policies.

4 Prohibited practices. Prohibits certain practices, including:

- (1) Procuring or causing to be procured or effected a life insurance policy that violates section 3 of the bill;
- (2) Engaging in STOLI practices or otherwise wagering on life;
- (3) Soliciting, marketing, or otherwise promoting the purchase of a life insurance policy for the purposes of or emphasizing the subsequent sale of the policy on the secondary market;
- (4) Entering into a premium finance agreement with any person or agency, or their affiliates, in which the lender or lender’s affiliates benefits directly or indirectly from the policy, policyowner, or any other person beyond the amounts necessary to pay the principal, interest, and service charges of the policy premium; and
- (5) Offering or entering into a settlement contract prior to the issuance of a policy that is the subject of a settlement contract or proposed settlement contract.

5 Prohibition; entry into life settlement contracts; legitimate insurance transactions.

Subd. 1. Prohibition; entry into life settlement contract. Prohibits a person from entering into a life settlement contract before, or at the time of, an application for a life insurance policy, or during the two-year period after it is issued.

Subd. 2. Presumption. Puts the burden of rebutting a rebuttable presumption created under this section on the policyholder and not on the insured.

Subd. 3. Legitimate insurance transactions. Provides that nothing in this act prohibits entering into, soliciting, or enforcing a legitimate life settlement contract. Provides that nothing in this act prevents any transaction that is not STOLI-related.

6 **Change of ownership or beneficiary requests.** Provides the process for modifying an owner or beneficiary of a life insurance policy. If such a request is made, the insurer may require the requester to complete a questionnaire related to the policy to determine if the request is related to STOLI practices. The contents of the questionnaire are provided.

7 **Fraudulent acts.** Provides a list of activities that constitute insurance fraud, penalized by imprisonment, a fine, and restitution.

8 **Remedies.** Provides a mechanism for a representative of an insured individual’s estate to recovery policy benefits paid to a beneficiary, assignee, or other payee as a result of an agreement made using STOLI practices or otherwise in violation of the provisions of this bill. Exemplary damages may also be awarded if a violation was willful.

This section also provides that a contract, agreement, arrangement, or transaction prohibited by the provisions of this act are voidable. An agreement that is “voidable” remains in effect until one party takes action to make the agreement void.

This section also clarifies that it does not pre-empt certain other legal activities or provisions of law.

9 **Repealer.** Repeals the following sections of law:

61A.073: Life insurance of for the benefit of charity; providing that certain charities may have an insurable interest under specified conditions.

61A.074: Insurable Interests; providing that a corporation or a trustee of a trust may have an insurable interest under specified conditions.

10 **Effective date.** Provides that the bill is effective for policies issued on or after August 1, 2009.