

New Jersey Enacts Anti-STOLI Law

December 15, 2020

We have previously reported on [New Jersey's effort to enact legislation](#) prohibiting stranger-originated life insurance (STOLI) and the New Jersey case law leading up to that legislation. See June 2019, December 2019, and April 2020 editions of *Expect Focus – Life, Annuity, and Retirement Solutions*. On October 19, 2020, New Jersey's governor signed the legislation into law. This law reflects an intent to codify the [New Jersey Supreme Court ruling](#) in *Sun Life Assurance Company v. Wells Fargo Bank, N.A.* There, the court concluded that a life insurance policy taken out with an investor trust as the policyholder violated New Jersey's statutory insurable interest requirement. The court concluded that STOLI policies were against public policy and void ab initio in New Jersey.

STOLI practices, under this new law, include “cases in which (a) a policy 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 himself, herself, or itself; and (b) at the time of policy inception, there exists an arrangement or agreement, to transfer, directly or indirectly, the ownership of that policy or the policy benefits to a third party.”

This law (i) prohibits anyone from engaging in any “act, practice or arrangement that constitutes” STOLI; (ii) renders “void and unenforceable” any “contract, agreement, arrangement, or transaction” including a “financing agreement” in “furtherance” or “aid” of STOLI; and (iii) provides that a “trust that is created to give the appearance of an insurable interest and that is used to initiate or procure policies for investors shall be in violation of the insurable interest laws of this State and the prohibition against wagering on life.”

The law provides a private right of action against persons who engage in acts in violation of the law. Additionally, an insurer can contest the validity of STOLI policies. A civil penalty of up to \$10,000 per violation may be imposed, and the law authorizes the Commissioner of Banking and Insurance to enforce the anti-STOLI provisions, such as seeking injunctive relief to restrain violations, issuing cease and desist orders, and ordering restitution to aggrieved persons.

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