

Life Companies, Agents, Brokers Call for Action to Halt Speculative Uses of Life Insurance

NAILBA joined the American Council of Life Insurers (ACLI), the Association for Advanced Life Underwriting (AALU), and the National Association of Insurance and Financial Advisors (NAIFA), in a call for changes to state regulation to protect the vital, social purposes of life insurance from transactions known as stranger-originated life insurance (STOLI).

In STOLI arrangements, speculators who have no relationship to insured persons initiate coverage on older people and fund the premium payments for investment purposes. These arrangements circumvent the intent behind state insurable interest laws, which are in place to ensure that the person taking out an insurance policy has an interest in the insured's continued good health.

In one STOLI scheme, the expiration of a policy's two-year incontestability period triggers a transfer of ownership or control of the policy to the investors who will receive the death benefit when the insured dies. In still another scheme, policy transfers don't take place, but arrangements are made for policy death benefit payments to go to investors.

"STOLI arrangements are contrived transactions, where policies are obtained that circumvent the intent of state insurable interest laws," said ACLI President and CEO Frank Keating. "STOLI is in direct opposition to the true intent of life insurance. It does nothing to protect an individual's family and estate in the case of a death. It is not being used as part of an employer's long-term planning to cover key employees, or provide benefits to workers."

"Our position on STOLI is strong, clear and firm—we are seeking actions by the states to prohibit STOLI and simultaneously protect life insurance taken out to benefit individuals, families, and businesses, and employees, as well as legitimate life settlements," said AALU President Dermot Healey. "Life insurance should not be taken out for the benefit of stranger investors who do not and should not have an insurable interest under the laws of the states."

A focal point of the industry's efforts is the National Association of Insurance Commissioners (NAIC), where regulators are considering amendments to the NAIC Viatical Settlement Model Law to close loopholes that allow STOLI transactions

First adopted in 1993 by the NAIC, the model was designed to govern the sale by terminally ill individuals of their life insurance policies to unrelated third parties and has been broadened to apply to other life settlements.

However, in recent years shrewd investors and hedge funds have exploited loopholes in the law which have given rise to STOLI.

North Dakota Insurance Commissioner Jim Poolman is working on amendments to the viatical model to try to prohibit STOLI.

"The industry applauds Commissioner Poolman for his efforts to address STOLI

transactions,” said NAIFA President John Davidson. “At the same time we are working with regulators to ensure that any amendments to the model law do not halt legitimate insurance financing or legitimate life or viatical settlements in which policyholders who have properly obtained coverage to protect their families or businesses no longer need it and sell their policies.”

Individual state insurance departments have taken their own steps to address STOLI. Recently, the Utah insurance department issued a bulletin questioning the transactions adherence to their state’s insurable interest laws. Earlier this year, the New York Insurance Department issued a similar bulletin. Last year, both the NAIC and the National Conference of Insurance Legislators adopted resolutions condemning another form of STOLI in which investors used charities to purchase insurance for private investment purposes.

“Clearly there is a consensus building among state regulators and legislators that STOLI transactions do harm to the letter and spirit of state insurable interest laws,” said NAILBA Chairman John Felton. “These laws exist for an extremely valid and a longstanding purpose: to prevent people from wagering on the death of strangers. We hope that other states will soon follow.”