

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0750.01 Chuck Brackney

SENATE BILL 11-182

SENATE SPONSORSHIP

Carroll, Cadman, Giron, Guzman, Spence

HOUSE SPONSORSHIP

Liston, Barker, Court, Massey, Pabon, Pace

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF AN INSURABLE INTEREST**
102 **REQUIREMENT FOR LIFE INSURANCE POLICIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the "Insurable Interest Act", which establishes a requirement that purchasers of life insurance policies have an insurable interest in the insured party.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 7 of title 10, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 7**
5 **INSURABLE INTEREST ACT**

6 (1) "BUSINESS ENTITY" MEANS A LEGAL ENTITY, INCLUDING A
7 JOINT VENTURE, PARTNERSHIP, CORPORATION, LIMITED LIABILITY
8 COMPANY, OR BUSINESS TRUST.

9 (2) "LEGITIMATE VIATICAL SETTLEMENT CONTRACT" MEANS A
10 VIATICAL SETTLEMENT CONTRACT THAT COMPLIES WITH COLORADO LAW
11 GOVERNING VIATICAL SETTLEMENT CONTRACTS AND IS NOT OTHERWISE
12 PART OF OR IN FURTHERANCE OF AN ACT, PRACTICE, OR ARRANGEMENT
13 THAT IS PROHIBITED BY THIS ARTICLE.

14 (3) "PERSON" MEANS ANY NATURAL PERSON, BUSINESS ENTITY,
15 ASSOCIATION, OR TRUST.

16 (4) "POLICY" MEANS AN INDIVIDUAL OR GROUP POLICY, GROUP
17 CERTIFICATE, CONTRACT, OR ARRANGEMENT OF LIFE INSURANCE
18 AFFECTING THE RIGHTS OF A RESIDENT OF THIS STATE OR BEARING A
19 REASONABLE RELATION TO THIS STATE, REGARDLESS OF WHETHER
20 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE.

21 (5) "SETTLOR" MEANS A PERSON WHO EXECUTES A TRUST
22 INSTRUMENT, INCLUDING A PERSON FOR WHOM A FIDUCIARY OR AGENT IS
23 ACTING.

24 (6) "STRANGER ORIGINATED LIFE INSURANCE" MEANS A PRACTICE
25 OR PLAN TO INITIATE A LIFE INSURANCE POLICY FOR THE BENEFIT OF A
26 THIRD-PARTY INVESTOR WHO, AT THE TIME OF POLICY ORIGINATION, HAS
27 NO INSURABLE INTEREST IN THE INSURED. STRANGER ORIGINATED LIFE

1 INSURANCE PRACTICES INCLUDE CASES IN WHICH LIFE INSURANCE IS
2 PURCHASED WITH RESOURCES OR GUARANTEES FROM OR THROUGH A
3 PERSON OR ENTITY WHO, AT THE TIME OF INCEPTION, COULD NOT
4 LAWFULLY INITIATE THE POLICY THEMSELVES AND WHERE, AT THE TIME
5 OF INCEPTION, THERE IS AN ARRANGEMENT OR AGREEMENT, WHETHER
6 VERBAL OR WRITTEN, TO DIRECTLY OR INDIRECTLY TRANSFER THE
7 OWNERSHIP OF THE POLICY OR THE POLICY BENEFITS TO A THIRD PARTY.
8 TRUSTS THAT ARE CREATED TO GIVE THE APPEARANCE OF INSURABLE
9 INTEREST AND ARE USED TO INITIATE POLICIES FOR INVESTORS VIOLATE
10 INSURABLE INTEREST LAWS AND THE PROHIBITION ON WAGERING ON LIFE.

11 **10-7-703. Insurance on the life of another.** A PERSON SHALL
12 NOT PROCURE OR CAUSE TO BE PROCURED OR EFFECTED A POLICY UPON
13 THE LIFE OF ANOTHER INDIVIDUAL UNLESS THE BENEFITS UNDER THE
14 POLICY ARE PAYABLE TO THE INSURED, TO THE PERSONAL
15 REPRESENTATIVE OF THE INSURED'S ESTATE, OR TO A PERSON HAVING, AT
16 THE TIME THE POLICY IS ISSUED, AN INSURABLE INTEREST IN THE
17 INDIVIDUAL INSURED.

18 **10-7-704. Insurable interest.** (1) AN INSURABLE INTEREST, WITH
19 REFERENCE TO INSURANCE ON THE LIFE OF ANOTHER, EXISTS ONLY AS
20 FOLLOWS:

21 (a) AN INDIVIDUAL HAS AN INSURABLE INTEREST IN THE LIFE OF
22 ANOTHER PERSON IN WHOM THE INDIVIDUAL HAS A SUBSTANTIAL
23 INTEREST ENGENDERED BY LOVE AND AFFECTION IN THE CONTINUATION
24 OF THE LIFE OF THE INSURED AND WHO ARE:

25 (I) RELATED WITHIN THE FIFTH DEGREE OR CLOSER, AS MEASURED
26 BY THE CIVIL LAW SYSTEM OF DETERMINING DEGREES OF RELATION,
27 EITHER BY BLOOD OR MARRIAGE TO THE INSURED;

1 (II) STEPCHILDREN OF THE INSURED OR THEIR DESCENDANTS; OR

2 (III) INDIVIDUALS WHO ARE DESIGNATED AS BENEFICIARIES OF
3 INSURANCE POLICIES FOR LIFE INSURANCE COVERAGE ON THE LIFE OF THE
4 INSURED UNDER A DESIGNATED BENEFICIARY AGREEMENT EXECUTED
5 PURSUANT TO ARTICLE 22 OF TITLE 15, C.R.S.;

6 (b) AN INDIVIDUAL HAS AN INSURABLE INTEREST IN THE LIFE OF
7 ANOTHER PERSON IF SUCH INDIVIDUAL HAS A LAWFUL AND SUBSTANTIAL
8 INTEREST IN THE CONTINUED LIFE OF THE INSURED, AS DISTINGUISHED
9 FROM AN INTEREST THAT WOULD ARISE ONLY FROM, OR WOULD BE
10 ENHANCED IN VALUE BY, THE DEATH OF THE INDIVIDUAL INSURED;

11 (c) AN INDIVIDUAL PARTY TO A CONTRACT FOR THE PURCHASE OR
12 SALE OF AN INTEREST IN A BUSINESS ENTITY, AND, IF APPLICABLE, A TRUST
13 OR THE TRUSTEE OF A TRUST OF WHICH THE INDIVIDUAL IS A SETTLOR, HAS
14 AN INSURABLE INTEREST IN THE LIFE OF EACH OTHER INDIVIDUAL PARTY
15 TO THE CONTRACT, BUT ONLY FOR THE PURPOSE OF CARRYING OUT THE
16 INTENT AND PURPOSE OF THE CONTRACT;

17 (d) A TRUSTEE OF A TRUST HAS AN INSURABLE INTEREST IN THE
18 LIFE OF AN INSURED UNDER A LIFE INSURANCE POLICY THAT IS OWNED BY
19 THE TRUSTEE OF THE TRUST ACTING IN A FIDUCIARY CAPACITY OR THAT
20 DESIGNATES THE TRUST ITSELF AS THE OWNER, IF, ON THE DATE
21 THE POLICY IS ISSUED:

22 (I) THE INSURED IS:

23 (A) A SETTLOR OF THE TRUST; OR

24 (B) AN INDIVIDUAL IN WHOM A SETTLOR OF THE TRUST HAS, OR
25 WOULD HAVE HAD IF LIVING AT THE TIME THE POLICY WAS ISSUED, AN
26 INSURABLE INTEREST; AND

27 (II) THE LIFE INSURANCE PROCEEDS ARE PRIMARILY FOR THE

1 BENEFIT OF ONE OR MORE TRUST BENEFICIARIES THAT HAVE:

2 (A) AN INSURABLE INTEREST IN THE LIFE OF THE INSURED; OR

3 (B) A SUBSTANTIAL INTEREST ENGENDERED BY LOVE AND
4 AFFECTION IN THE CONTINUATION OF THE LIFE OF THE INSURED AND, IF
5 NOT ALREADY INCLUDED UNDER SUB-SUBPARAGRAPH (A) OF THIS
6 SUBPARAGRAPH (II), WHO ARE RELATED WITHIN THE FIFTH DEGREE OR
7 CLOSER, AS MEASURED BY THE CIVIL LAW SYSTEM OF DETERMINING
8 DEGREES OF RELATION, EITHER BY BLOOD OR LAW, TO THE INSURED OR
9 ARE STEPCHILDREN OF THE INSURED;

10 (e) A GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY, ACTING IN A
11 FIDUCIARY CAPACITY, HAS AN INSURABLE INTEREST IN THE LIFE OF ANY
12 PERSON FOR WHOSE BENEFIT THE FIDUCIARY HOLDS PROPERTY AND IN THE
13 LIFE OF ANY OTHER INDIVIDUAL IN WHOSE LIFE THE PERSON HAS AN
14 INSURABLE INTEREST SO LONG AS THE LIFE INSURANCE PROCEEDS ARE
15 USED PRIMARILY FOR THE BENEFIT OF PERSONS HAVING AN INSURABLE
16 INTEREST IN THE LIFE OF INSURED; == ==

17 (f) AN ORGANIZATION DESCRIBED IN SECTION 170 (c) OF THE
18 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, HAS AN
19 INSURABLE INTEREST IN THE LIFE OF ANY PERSON WHO CONSENTS IN
20 WRITING TO THE ORGANIZATION'S OWNERSHIP OR PURCHASE OF THAT
21 INSURANCE PURSUANT TO SECTION 10-7-115;

22 (g) A TRUSTEE, SPONSOR, OR CUSTODIAN OF ASSETS HELD IN ANY
23 PLAN GOVERNED BY THE "EMPLOYEE RETIREMENT INCOME SECURITY ACT
24 OF 1974", 29 U.S.C. SEC. 1001 ET SEQ., OR IN ANY OTHER RETIREMENT OR
25 EMPLOYEE BENEFIT PLAN, HAS AN INSURABLE INTEREST IN THE LIFE OF
26 ANY PARTICIPANT IN THE PLAN, BUT ONLY IF CONSENT IS OBTAINED IN
27 WRITING FROM THE PARTICIPANT BEFORE THE INSURANCE IS PURCHASED.

1 AN EMPLOYER, TRUSTEE, SPONSOR, OR CUSTODIAN MAY NOT RETALIATE
2 OR TAKE ADVERSE ACTION AGAINST A PARTICIPANT WHO DOES NOT
3 CONSENT TO THE ISSUANCE OF INSURANCE ON THE PARTICIPANT'S LIFE.

4 (h) A BUSINESS ENTITY HAS AN INSURABLE INTEREST IN THE LIFE
5 OF ANY OF THE OWNERS, DIRECTORS, OFFICERS, PARTNERS, OR MANAGERS
6 OF THE BUSINESS ENTITY OR ANY AFFILIATE OR SUBSIDIARY OF THE
7 BUSINESS ENTITY, OR KEY EMPLOYEES OR KEY PERSONS OF THE BUSINESS
8 ENTITY, AFFILIATE, OR SUBSIDIARY, BUT ONLY IF CONSENT IS OBTAINED IN
9 WRITING FROM THE KEY EMPLOYEES OR KEY PERSONS BEFORE THE
10 INSURANCE IS PURCHASED. THE BUSINESS ENTITY, AFFILIATE, OR
11 SUBSIDIARY MAY NOT RETALIATE OR TAKE ADVERSE ACTION AGAINST ANY
12 KEY EMPLOYEE OR KEY PERSON WHO DOES NOT CONSENT TO THE ISSUANCE
13 OF INSURANCE ON THE KEY EMPLOYEE OR KEY PERSON'S LIFE. FOR
14 PURPOSES OF THIS PARAGRAPH (h), "KEY EMPLOYEE" OR "KEY PERSON"
15 MEANS AN INDIVIDUAL WHOSE POSITION OR COMPENSATION IS DESCRIBED
16 IN SECTION 101 (j) (2) (A) (ii) OF THE FEDERAL "INTERNAL REVENUE
17 CODE OF 1986", AS AMENDED.

18 (i) A FINANCIAL INSTITUTION OR OTHER PERSON TO WHOM A DEBT
19 IS OWED, WHETHER FOR THE PURPOSES OF PREMIUM FINANCING OR
20 OTHERWISE, HAS AN INSURABLE INTEREST IN THE LIFE OF THE BORROWER
21 OR ANY OF THE OWNERS, DIRECTORS, OFFICERS, PARTNERS, OR MANAGERS
22 OF THE BORROWER; KEY EMPLOYEES, GUARANTORS, OR KEY PERSONS OF
23 THE BORROWER; OR OF AN AFFILIATE OF THE BORROWER, BUT ONLY IF
24 CONSENT IS NOT OBTAINED IN WRITING FROM SUCH PERSONS BEFORE THE
25 INSURANCE IS PURCHASED; EXCEPT THAT SUCH INSURABLE INTEREST IS
26 LIMITED TO THE AMOUNT OF THE DEBT OWED PLUS REASONABLE INTEREST
27 AND SERVICE CHARGES.

1 **10-7-705. Insured's own life.** AN INDIVIDUAL HAS AN INSURABLE
2 INTEREST IN THE INDIVIDUAL'S OWN LIFE, AND AN INDIVIDUAL OF
3 COMPETENT LEGAL CAPACITY WHO PROCURES OR EFFECTS A POLICY ON
4 THE INDIVIDUAL'S OWN LIFE MAY DESIGNATE ANY PERSON AS THE
5 BENEFICIARY AT THE TIME OF ORIGIN OR MAY, UNLESS THE BENEFICIARY
6 DESIGNATION IS IRREVOCABLE, CHANGE THE BENEFICIARY AT ANY TIME
7 THEREAFTER.

8 **10-7-706. Reliance on statements.** AN INSURER IS ENTITLED TO
9 RELY UPON ALL REASONABLE STATEMENTS, DECLARATIONS, AND
10 REPRESENTATIONS MADE BY AN APPLICANT FOR LIFE INSURANCE RELATIVE
11 TO THE EXISTENCE OF AN INSURABLE INTEREST. NO INSURER INCURS
12 LEGAL LIABILITY, EXCEPT AS SET FORTH IN THE POLICY, BY VIRTUE OF
13 UNTRUE STATEMENTS, DECLARATIONS, OR REPRESENTATIONS RELIED UPON
14 IN GOOD FAITH BY THE INSURER.

15 **10-7-707. Consent of insured.** (1) A POLICY UPON THE LIFE OF
16 AN INDIVIDUAL, OTHER THAN A POLICY OF NONCONTRIBUTORY GROUP LIFE
17 INSURANCE, SHALL NOT BE EFFECTED UNLESS, AT OR BEFORE THE TIME THE
18 POLICY IS EFFECTUATED, THE INDIVIDUAL INSURED, HAVING LEGAL
19 CAPACITY TO CONTRACT, APPLIES FOR OR CONSENTS IN WRITING TO THE
20 POLICY AND ITS TERMS. CONSENT MAY BE GIVEN BY ANOTHER PERSON IN
21 THE FOLLOWING CASES:

- 22 (a) A SPOUSE MAY CONSENT TO INSURANCE ON THE OTHER SPOUSE;
- 23 (b) A PARENT OR A PERSON HAVING LEGAL CUSTODY OF A MINOR
24 MAY CONSENT TO THE ISSUANCE OF A POLICY ON A DEPENDENT CHILD;
- 25 (c) A COURT-APPOINTED GUARDIAN OF A PERSON MAY CONSENT TO
26 THE ISSUANCE OF A POLICY ON THE PERSON UNDER GUARDIANSHIP;
- 27 (d) A COURT-APPOINTED CONSERVATOR OF A PERSON'S ESTATE

1 MAY CONSENT TO THE ISSUANCE OF A POLICY ON THE PERSON WHOSE
2 ESTATE IS UNDER CONSERVATORSHIP;

3 (e) AN ATTORNEY-IN-FACT MAY CONSENT TO THE ISSUANCE OF A
4 POLICY ON THE PERSON THAT APPOINTED THE ATTORNEY-IN-FACT FOR THE
5 LIMITED PURPOSE OF REPLACING ONE OR MORE POLICIES WITH ONE OR
6 MORE NEW POLICIES IF, AS THE RESULT OF THE REPLACEMENT, THE
7 AGGREGATE AMOUNT OF LIFE INSURANCE ON THE PERSON REMAINS THE
8 SAME OR DECREASES;

9 (f) A TRUSTEE OF A REVOCABLE TRUST MAY CONSENT TO THE
10 ISSUANCE OF A POLICY ON THE LIFE OF A SETTLOR OF THE TRUST; AND

11 (g) A COURT OF GENERAL JURISDICTION MAY GIVE CONSENT TO
12 THE ISSUANCE OF A POLICY UPON A SHOWING OF FACTS THAT THE COURT
13 CONSIDERS SUFFICIENT TO JUSTIFY THE ISSUANCE OF THE POLICY.

14 **10-7-708. Prohibited practices.** (1) IT IS UNLAWFUL FOR ANY
15 PERSON TO PROCURE, OR CAUSE TO BE PROCURED OR EFFECTED, A POLICY
16 IN VIOLATION OF SECTION 10-7-703. SUCH CONDUCT IS AN UNFAIR OR
17 DECEPTIVE ACT OR PRACTICE PURSUANT TO SECTION 10-3-1104.

18 (2) IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN STRANGER
19 ORIGINATED LIFE INSURANCE OR OTHERWISE WAGER ON LIFE. SUCH
20 CONDUCT IS AN UNFAIR OR DECEPTIVE PRACTICE PURSUANT TO SECTION
21 10-3-1104.

22 **10-7-709. Actions to recover death benefits.** IF THE
23 BENEFICIARY, ASSIGNEE, OR OTHER PAYEE RECEIVED THE DEATH BENEFITS
24 UNDER A LIFE INSURANCE POLICY PROCURED OR EFFECTED IN VIOLATION
25 OF THIS ARTICLE, THE PERSONAL REPRESENTATIVE OF THE INSURED'S
26 ESTATE OR OTHER LAWFULLY ACTING AGENT MAY MAINTAIN AN ACTION
27 TO RECOVER THE DEATH BENEFITS FROM THE PERSON RECEIVING THEM.

1 **10-7-710. Legitimate insurance transactions.** (1) NOTHING IN
2 THIS ARTICLE PREVENTS:

3 (a) A POLICY OWNER, WHETHER OR NOT THE POLICY OWNER IS
4 ALSO THE SUBJECT OF THE INSURANCE, FROM ENTERING INTO A
5 LEGITIMATE VIATICAL SETTLEMENT CONTRACT;

6 (b) ANY PERSON FROM SOLICITING A PERSON TO ENTER INTO A
7 LEGITIMATE VIATICAL SETTLEMENT CONTRACT;

8 (c) A PERSON FROM ENFORCING THE PAYMENT OF PROCEEDS FROM
9 THE INTEREST OBTAINED UNDER A LEGITIMATE LIFE SETTLEMENT
10 CONTRACT; OR

11 (d) THE ASSIGNMENT, SALE, TRANSFER, DEVISE, OR BEQUEST, WITH
12 RESPECT TO THE DEATH BENEFIT OR OWNERSHIP OF ANY PORTION OF THE
13 POLICY, PROVIDED THE ASSIGNMENT, SALE, TRANSFER, DEVISE, OR
14 BEQUEST IS CONNECTED TO A LEGITIMATE VIATICAL SETTLEMENT
15 CONTRACT AND NOT PART OF OR IN FURTHERANCE OF STRANGER
16 ORIGINATED LIFE INSURANCE.

17 **SECTION 2.** 10-3-1104 (1), Colorado Revised Statutes, is
18 amended BY THE ADDITION OF THE FOLLOWING NEW
19 PARAGRAPHS to read:

20 **10-3-1104. Unfair methods of competition - unfair or deceptive**
21 **acts or practices.** (1) The following are defined as unfair methods of
22 competition and unfair or deceptive acts or practices in the business of
23 insurance:

24 (kk) VIOLATION OF SECTION 10-7-703 OF THE "INSURABLE
25 INTEREST ACT", PART 7 OF ARTICLE 7 OF THIS TITLE;

26 (ll) ENGAGING IN STRANGER ORIGINATED LIFE INSURANCE.

27 **SECTION 3. Applicability.** This act shall apply to policies

1 written on or after the effective date of this act.

2 **SECTION 4. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.