

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

Economic and Business Development

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.*

HOUSE
3rd Reading Unam ended
May 9, 2011

HOUSE
2nd Reading Unam ended
May 6, 2011

SENATE
3rd Reading Unam ended
May 2, 2011

SENATE
Am ended 2nd Reading
April 29, 2011

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 **10-7-701. Short title.** THIS PART 7 SHALL BE KNOWN AND MAY BE
7 CITED AS THE "INSURABLE INTEREST ACT".

8 **10-7-702. Definitions.** AS USED IN THIS PART 7, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "BUSINESS ENTITY" MEANS A LEGAL ENTITY, INCLUDING A
11 JOINT VENTURE, PARTNERSHIP, CORPORATION, LIMITED LIABILITY
12 COMPANY, OR BUSINESS TRUST.

13 (2) "PERSON" MEANS ANY NATURAL PERSON, BUSINESS ENTITY,
14 ASSOCIATION, OR TRUST.

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

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

23 (5) "STRANGER ORIGINATED LIFE INSURANCE" MEANS AN ACT,
24 PRACTICE, OR ARRANGEMENT TO INITIATE A LIFE INSURANCE POLICY FOR
25 THE BENEFIT OF A THIRD-PARTY INVESTOR WHO, AT THE TIME OF POLICY
26 ORIGINATION, HAS NO INSURABLE INTEREST IN THE INSURED. STRANGER
27 ORIGINATED LIFE INSURANCE PRACTICES INCLUDE CASES IN WHICH LIFE

1 INSURANCE IS PURCHASED WITH RESOURCES OR GUARANTEES FROM OR
2 THROUGH A PERSON OR ENTITY WHO, AT THE TIME OF INCEPTION, COULD
3 NOT LAWFULLY INITIATE THE POLICY THEMSELVES AND WHERE, AT THE
4 TIME OF INCEPTION, THERE IS AN ARRANGEMENT OR AGREEMENT,
5 WHETHER VERBAL OR WRITTEN, TO DIRECTLY OR INDIRECTLY TRANSFER
6 THE OWNERSHIP OF THE POLICY OR THE POLICY BENEFITS TO A THIRD
7 PARTY. TRUSTS THAT ARE CREATED TO GIVE THE APPEARANCE OF
8 INSURABLE INTEREST AND ARE USED TO INITIATE POLICIES FOR INVESTORS
9 VIOLATE INSURABLE INTEREST LAWS AND THE PROHIBITION ON WAGERING
10 ON LIFE. "STRANGER ORIGINATED LIFE INSURANCE" DOES NOT INCLUDE
11 LAWFUL VIATICAL SETTLEMENT CONTRACTS AS PERMITTED BY PART 6 OF
12 ARTICLE 7 OF TITLE 10, PROVIDED THAT SUCH CONTRACTS ARE NOT FOR
13 THE PURPOSE OF EVADING REGULATION UNDER THIS ARTICLE.

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

21 **10-7-704. Insurable interest.** (1) AN INSURABLE INTEREST, WITH
22 REFERENCE TO INSURANCE ON THE LIFE OF ANOTHER, EXISTS ONLY AS
23 FOLLOWS:

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

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

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

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

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

14 (c) AN INDIVIDUAL PARTY TO A CONTRACT FOR THE PURCHASE OR
15 SALE OF AN INTEREST IN A BUSINESS ENTITY _____ HAS AN INSURABLE
16 INTEREST IN THE LIFE OF EACH OTHER INDIVIDUAL PARTY TO THE
17 CONTRACT, BUT ONLY FOR THE PURPOSE OF CARRYING OUT THE INTENT
18 AND PURPOSE OF THE CONTRACT;

19 (d) A TRUSTEE OF A TRUST HAS AN INSURABLE INTEREST IN THE
20 LIFE OF AN INSURED UNDER A LIFE INSURANCE POLICY AS PROVIDED IN
21 SECTION 15-16-501, C.R.S.; _____

22 (e) A GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY, ACTING IN A
23 FIDUCIARY CAPACITY, HAS AN INSURABLE INTEREST IN THE LIFE OF ANY
24 PERSON FOR WHOSE BENEFIT THE FIDUCIARY HOLDS PROPERTY AND IN THE
25 LIFE OF ANY OTHER INDIVIDUAL IN WHOSE LIFE THE PERSON HAS AN
26 INSURABLE INTEREST SO LONG AS THE LIFE INSURANCE PROCEEDS ARE
27 USED PRIMARILY FOR THE BENEFIT OF PERSONS HAVING AN INSURABLE

1 INTEREST IN THE LIFE OF INSURED; == ==

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

7 (g) A TRUSTEE, SPONSOR, OR CUSTODIAN OF ASSETS HELD IN ANY
8 PLAN GOVERNED BY THE "EMPLOYEE RETIREMENT INCOME SECURITY ACT
9 OF 1974", 29 U.S.C. SEC. 1001 ET SEQ., OR IN ANY OTHER RETIREMENT OR
10 EMPLOYEE BENEFIT PLAN, HAS AN INSURABLE INTEREST IN THE LIFE OF
11 ANY PARTICIPANT IN THE PLAN, BUT ONLY IF CONSENT IS OBTAINED IN
12 WRITING FROM THE PARTICIPANT BEFORE THE INSURANCE IS PURCHASED.
13 AN EMPLOYER, TRUSTEE, SPONSOR, OR CUSTODIAN MAY NOT RETALIATE
14 OR TAKE ADVERSE ACTION AGAINST A PARTICIPANT WHO DOES NOT
15 CONSENT TO THE ISSUANCE OF INSURANCE ON THE PARTICIPANT'S LIFE.

16 (h) A BUSINESS ENTITY HAS AN INSURABLE INTEREST IN THE LIFE
17 OF ANY OF THE OWNERS, DIRECTORS, OFFICERS, PARTNERS, OR MANAGERS
18 OF THE BUSINESS ENTITY OR ANY AFFILIATE OR SUBSIDIARY OF THE
19 BUSINESS ENTITY, OR KEY EMPLOYEES OR KEY PERSONS OF THE BUSINESS
20 ENTITY, AFFILIATE, OR SUBSIDIARY, BUT ONLY IF CONSENT IS OBTAINED IN
21 WRITING FROM THE KEY EMPLOYEES OR KEY PERSONS BEFORE THE
22 INSURANCE IS PURCHASED. THE BUSINESS ENTITY, AFFILIATE, OR
23 SUBSIDIARY MAY NOT RETALIATE OR TAKE ADVERSE ACTION AGAINST ANY
24 KEY EMPLOYEE OR KEY PERSON WHO DOES NOT CONSENT TO THE ISSUANCE
25 OF INSURANCE ON THE KEY EMPLOYEE OR KEY PERSON'S LIFE. FOR
26 PURPOSES OF THIS PARAGRAPH (h), "KEY EMPLOYEE" OR "KEY PERSON"
27 MEANS AN INDIVIDUAL WHOSE POSITION OR COMPENSATION IS DESCRIBED

1 IN SECTION 101 (j) (2) (A) (ii) OF THE FEDERAL "INTERNAL REVENUE
2 CODE OF 1986", AS AMENDED.

3 (i) A FINANCIAL INSTITUTION OR OTHER PERSON TO WHOM A DEBT
4 IS OWED, WHETHER FOR THE PURPOSES OF PREMIUM FINANCING OR
5 OTHERWISE, HAS AN INSURABLE INTEREST IN THE LIFE OF THE BORROWER
6 OR ANY OF THE OWNERS, DIRECTORS, OFFICERS, PARTNERS, OR MANAGERS
7 OF THE BORROWER; KEY EMPLOYEES, GUARANTORS, OR KEY PERSONS OF
8 THE BORROWER; OR ANY OF THE FOREGOING OF AN AFFILIATE OR A
9 GUARANTOR OF THE BORROWER, BUT ONLY IF CONSENT IS OBTAINED IN
10 WRITING FROM SUCH PERSONS BEFORE THE INSURANCE IS PURCHASED;
11 EXCEPT THAT SUCH INSURABLE INTEREST IS LIMITED TO THE AMOUNT OF
12 THE DEBT OWED PLUS REASONABLE INTEREST AND SERVICE CHARGES.
13 THE PROCEEDS PAYABLE UPON THE DEATH OF AN INSURED IN EXCESS OF
14 THE TOTAL OUTSTANDING DEBT OWED SHALL BE PAID TO THE ESTATE OF
15 THE INDIVIDUAL INSURED.

16 **10-7-705. Insured's own life.** AN INDIVIDUAL HAS AN INSURABLE
17 INTEREST IN THE INDIVIDUAL'S OWN LIFE, AND AN INDIVIDUAL OF
18 COMPETENT LEGAL CAPACITY WHO PROCURES OR EFFECTS A POLICY ON
19 THE INDIVIDUAL'S OWN LIFE MAY DESIGNATE ANY PERSON AS THE
20 BENEFICIARY AND, UNLESS THE INDIVIDUAL ELECTS AN IRREVOCABLE
21 BENEFICIARY DESIGNATION, CHANGE THE BENEFICIARY AT ANY TIME
22 THEREAFTER.

23 **10-7-706. Reliance on statements.** AN INSURER IS ENTITLED TO
24 RELY UPON ALL REASONABLE STATEMENTS, DECLARATIONS, AND
25 REPRESENTATIONS MADE BY AN APPLICANT FOR LIFE INSURANCE RELATIVE
26 TO THE EXISTENCE OF AN INSURABLE INTEREST. NO INSURER INCURS
27 LEGAL LIABILITY, EXCEPT AS SET FORTH IN THE POLICY, BY VIRTUE OF

1 UNTRUE STATEMENTS, DECLARATIONS, OR REPRESENTATIONS RELIED UPON
2 IN GOOD FAITH BY THE INSURER.

3 **10-7-707. Consent of insured.** (1) A POLICY UPON THE LIFE OF
4 AN INDIVIDUAL, OTHER THAN A POLICY OF NONCONTRIBUTORY GROUP LIFE
5 INSURANCE, SHALL NOT BE EFFECTED UNLESS, AT OR BEFORE THE TIME THE
6 POLICY IS EFFECTUATED, THE INDIVIDUAL INSURED, HAVING LEGAL
7 CAPACITY TO CONTRACT, APPLIES FOR OR CONSENTS IN WRITING TO THE
8 POLICY AND ITS TERMS. CONSENT MAY BE GIVEN BY ANOTHER PERSON IN
9 THE FOLLOWING CASES:

10 (a) A SPOUSE MAY CONSENT TO INSURANCE ON THE OTHER SPOUSE;

11 (b) A PARENT OR A PERSON HAVING LEGAL CUSTODY OF A MINOR
12 MAY CONSENT TO THE ISSUANCE OF A POLICY ON A DEPENDENT CHILD;

13 (c) A COURT-APPOINTED GUARDIAN OF A PERSON MAY CONSENT TO
14 THE ISSUANCE OF A POLICY ON THE PERSON UNDER GUARDIANSHIP;

15 (d) A COURT-APPOINTED CONSERVATOR OF A PERSON'S ESTATE
16 MAY CONSENT TO THE ISSUANCE OF A POLICY ON THE PERSON WHOSE
17 ESTATE IS UNDER CONSERVATORSHIP;

18 (e) AN ATTORNEY-IN-FACT MAY CONSENT TO THE ISSUANCE OF A
19 POLICY ON THE PERSON THAT APPOINTED THE ATTORNEY-IN-FACT FOR THE
20 LIMITED PURPOSE OF REPLACING ONE OR MORE POLICIES WITH ONE OR
21 MORE NEW POLICIES IF, AS THE RESULT OF THE REPLACEMENT, THE
22 AGGREGATE AMOUNT OF LIFE INSURANCE ON THE PERSON REMAINS THE
23 SAME OR DECREASES;

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

26 (g) A COURT OF GENERAL JURISDICTION MAY GIVE CONSENT TO
27 THE ISSUANCE OF A POLICY UPON A SHOWING OF FACTS THAT THE COURT

1 CONSIDERS SUFFICIENT TO JUSTIFY THE ISSUANCE OF THE POLICY.

2 **10-7-708. Prohibited practices.** (1) IT IS UNLAWFUL FOR ANY
3 PERSON TO PROCURE, OR CAUSE TO BE PROCURED OR EFFECTED, A POLICY
4 IN VIOLATION OF SECTION 10-7-703. SUCH CONDUCT IS AN UNFAIR OR
5 DECEPTIVE ACT OR PRACTICE PURSUANT TO SECTION 10-3-1104.

6 (2) IT IS UNLAWFUL FOR ANY PERSON TO ENGAGE IN STRANGER
7 ORIGINATED LIFE INSURANCE OR OTHERWISE WAGER ON LIFE. SUCH
8 CONDUCT IS AN UNFAIR OR DECEPTIVE PRACTICE PURSUANT TO SECTION
9 10-3-1104.

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

16 **10-7-710. Legitimate insurance transactions.** (1) EXCEPT
17 WHERE A LIFE INSURANCE POLICY IS PROCURED OR EFFECTED IN VIOLATION
18 OF SECTION 10-7-708, NOTHING IN THIS ARTICLE PREVENTS:

19 (a) AN OWNER OF A POLICY, WHETHER OR NOT THE OWNER OF THE
20 POLICY IS ALSO THE SUBJECT OF THE INSURANCE, FROM ENTERING INTO A
21 VIATICAL SETTLEMENT CONTRACT;

22 (b) ANY PERSON FROM SOLICITING A PERSON TO ENTER INTO A
23 VIATICAL SETTLEMENT CONTRACT; OR

24 (c) AN OWNER OR BENEFICIARY FROM ENFORCING THE PAYMENT
25 OF ALL BENEFITS AND PROCEEDS OF THE POLICY OBTAINED UNDER A
26 VIATICAL SETTLEMENT CONTRACT.

27 **SECTION 2.** 10-3-1104 (1), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF THE FOLLOWING NEW
2 PARAGRAPHS to read:

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

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

9 (ll) ENGAGING IN STRANGER ORIGINATED LIFE INSURANCE.

10 **SECTION 3. Applicability.** This act shall apply to policies
11 written on or after the effective date of this act.

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