

3901-9-04

Insurance company questions on life insurance applications to identify and prevent stranger originated life insurance.

(A) Purpose

The purpose of this rule is to provide guidance to life insurance companies regarding the types of questions that must be included on life insurance applications pursuant to division (B) of section 3916.05 of the Revised Code to identify and prevent stranger-originated life insurance ("STOLI").

(B) Authority

This rule is adopted pursuant to sections 3901.04, 3901.041, 3916.05 and 3916.20 of the Revised Code.

(C) Applicability and scope

This rule applies to all insurers engaged in the business of insurance in this state that issue life insurance policies.

(D) Definitions

(1) "Life insurance applications" mean all applications for life insurance marketed, solicited, sold, or issued in this state except for the following:

(a) Application for credit life insurance;

(b) Applications for life insurance policies to be owned by a qualified retirement plan;

(c) Applications for term life insurance.

(d) Applications for group insurance other than the application submitted for the master group contract;

(e) Applications used in worksite marketing and direct-response solicitations.

(f) Applications for policies with a death benefit not exceeding fifty thousand dollars;

(g) An application to replace a policy when the application is to be submitted to the same insurer that issued the existing policy or contract, so long as the replacement policy's death benefit does not exceed fifty thousand dollars;

(h) An application for reinstatement of a previously issued policy, so long as the reinstated policy's death benefit does not exceed fifty thousand dollars;

- (i) An application to make changes to an in-force policy, so long as the in-force policy's death benefit does not exceed fifty thousand dollars.

(E) Questions related to the characteristics of stranger-originated life insurance policies ("STOLI")

- (1) Each application for a policy of life insurance issued in this state shall include questions reasonably structured to identify and prevent policies from being purchased for the purpose of selling or entering into a viatical or life settlement.
- (2) Questions are to be designed to determine whether the application relates to a transaction that includes characteristics that are evidence of a "STOLI" transaction. Characteristics of such transactions may include, but are not limited to, the following:
 - (a) The applicant has entered into or intends at the time of application to enter into, a viatical settlement contract with respect to the policy for which the applicant is applying;
 - (b) Policy premiums to be paid for the policy the applicant is applying for will be funded by a premium financing agreement that is not secured by the applicant's personal assets;
 - (c) The applicant has entered into an agreement with another person to guarantee any liability incurred in connection with a premium financing agreement, or an agreement to have another person stand ready to purchase the policy being applied for, including through an assumption or forgiveness of the loan;
 - (d) At the time of application for a policy the person to be insured under the policy has undergone, or has agreed to undergo, a life expectancy evaluation by a person other than the insurance company to which the application is to be submitted, in connection with the application, underwriting, or issuance of the policy that is being applied for; or
 - (e) At the time of application for a policy there is in existence a financial arrangement, trust or other device that appears intended to conceal either the initial ownership or beneficial interest of the policy being applied for or the future ownership of or beneficial interest in the policy.

(F) Using more than one policy form and applications

- (1) A company that issues more than one policy form in this state is not required to include identical questions related to the characteristics of "STOLI" on all of

its applications for life insurance. Questions may vary based on the type of product being applied for, the amount of insurance being applied for and the likelihood that such policy is a "STOLI" transaction.

- (2) A company may comply with this rule by use of one or more forms of an addendum to its application forms in use.

(G) Requirements for applications

- (1) Unless excepted by paragraph (D)(1) of this rule, all applications for life insurance issued, delivered or used in this state must include questions related to "STOLI".
- (2) A company that filed an application with the superintendent prior to the effective date of this rule shall determine whether the application complies with this rule.
- (3) If the company determines, in good faith, that the application complies with this rule, no action is required with respect to that application.
- (4) If the company determines that the application does not comply with this rule, the insurer shall file the application in amended form, or file its form addendum, with the superintendent within twelve months following the effective date of this rule.

(H) Penalties

Violations of this rule may be an unfair and deceptive trade practice under sections 3901.19 to 3901.26 of the Revised Code.

(I) Severability

If any paragraph, subparagraph, term, or provision of this rule be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other paragraph, subparagraph, term, or provision of this rule, but the remaining paragraphs, subparagraphs, terms, and provisions shall be and continue in full force and effect.

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	3916.05, 3916.20
Rule Amplifies:	3916.05, 3916.16, 3916.20