

Ben Koplan, CLU, CFP®

Lender-Required Life Insurance for “Uninsurable” Borrowers: 2025 Update

Failure to Survive (FTS) insurance is a brilliant and forward-thinking series of products developed in the London market for use in the U.S. life/health industry. In recent years, this product category has evolved into a lifeline for commercial lending transactions that hinge on life insurance coverage—even for borrowers deemed uninsurable by traditional carriers. The FTS model has continued to gain traction among banks, SBA lenders, and insurance brokers seeking flexible solutions to complex lending challenges, especially as market and regulatory landscapes have shifted dramatically in 2025.

The Role of FTS Insurance in Commercial Loans

FTS insurance, sometimes called impaired risk term, non-medical issue, or special risk coverage, was designed to address a critical market gap: providing credible life insurance solutions in situations where the financial obligation of a business loan, buy/sell arrangement, or key person dependency would otherwise remain uninsured due to a borrower's substantial health or background concerns. The instrument's primary value lies in its ability to keep loan transactions moving forward, preserving business opportunity without exposing lenders to unmitigated loss.

The underlying mechanics of FTS remain similar to term insurance, but application protocols are streamlined for speed and accessibility. Unlike traditional fully underwritten life products, which may take months and are often barred by medical impairment, FTS insurance usually requires only a brief digital application, third-party electronic health record reviews, and attestation from a licensed agent that conventional coverage has been declined or priced prohibitively. This expedited process aligns with lender timeframes, particularly under the collateral assignment requirements common to commercial and SBA lending environments.

The 2025 Regulatory Backdrop

The regulatory context in 2025 is especially relevant for FTS users. At the federal level, SBA loan guidance (SOP 50 10 8, effective June 1, 2025) has re-emphasized the importance of life insurance as both a risk mitigator for lenders and a condition for loan approval wherever the death of a key owner-operator would materially affect loan repayment.

Key regulatory points include:

- **Owner Dependency:** Life insurance is required when the borrower business is wholly or substantially reliant on one owner's active participation for success and loan viability. In all

such cases, the death of the principal without an insurance solution exposes the loan to default—a risk now squarely addressed in SBA reviews and audits.

- **Uninsurability Documentation:** When owners or principals are uninsurable due to medical or background issues, lenders must collect written, formal documentation from licensed life insurance providers confirming the inability to secure conventional coverage or that such coverage is prohibitively expensive. This documentation must be kept with credit files and may be referenced in future regulatory or guarantee reviews.
- **Collateral Assignment:** If FTS or any alternative coverage is arranged, it must be assigned to the lender as collateral, not as beneficiary, to comply with assignment protocols. Lenders are charged with monitoring that coverage remains in force and will be notified of any risk of lapse or cancellation.

Alongside federal rules, 2025 also saw continued regulatory review at the state level and by the National Association of Insurance Commissioners (NAIC), particularly around consumer disclosure, data privacy, and anti-fraud controls for lender-required life products. There is heightened scrutiny of high-fee, lender-placed, or force-placed products, with requirements for clarity of borrower charges, fee limits, and robust borrower consent.

Product Design and Suitability

Modern FTS policies feature simplified-issue design with no exams, no labs, and typically fast issue, sometimes within 72 hours, subject to digital data checks and certification that no standard coverage is available. Coverage terms often range from 1 to 10 years, matching the expected loan period, and face amount limits are common, generally not exceeding \$5 million or the related loan exposure.

Insurance carriers maintain discretion to include medical condition exclusions or rate-ups for certain risks, and decline terms for extreme cases (e.g., active terminal illness). Increasingly, product features include automated monitoring, declining term coverage to align with amortization, and optional riders for critical or terminal illness.

Practical Application and Documentation

FTS insurance is best reserved as a last-resort solution following a genuine attempt to secure standard coverage—a documentation process strongly encouraged and often mandated for SBA, franchised, and private lender transactions. The presence of detailed insurance declination letters or evidence of uninsurability strengthens audit trails and assists in downstream regulatory and SBA guarantee reviews. Lenders are advised to systematically document all insurance communications, verify compliance with assignment requirements, and ensure that all premiums remain current throughout the loan term.

Business acquirers, owners, and brokers should also familiarize themselves with new SBA 2025 guidance affecting eligibility (notably the restriction to U.S. citizens and the exclusion of LPRs for SBA loan participation), loan guarantee fee structures, and strict equity injection requirements. These factors affect overall loan feasibility and sometimes interplay with the appropriateness of life insurance assignment as collateral.

Conclusion

In summary, Failure to Survive insurance in 2025 stands as a sophisticated, rapidly underwritten solution for preserving commercial transactions when borrower insurability poses a challenge. Its continued success relies not only on product agility, but—critically—on rigorous documentation, compliance with evolving regulatory demands, and precise borrower-lender-broker communication. FTS remains an indispensable option for closing deals without sacrificing underwriting integrity or regulatory standards.

References

- SBA SOP 50 10 8 (2025)
- NAIC Model Act Guidelines (Summer 2025)
- Current State Lending and Insurance Statutes

For additional information please contact:

LifeEase Business Insurance Solutions

Ryan Goodson, CLU, Managing Director

Email: ryan@lifeease.com

Direct: (805) 246-9248

Mobile: (813) 924-0479

Learn More: lifeease.com

Meet: <https://meetings.hubspot.com/ryan-goodson>

Ben Koplan, CLU, CFP®

Email: ben@lifeease.com

Direct: (805) 246-9240

Cell: (818) 903-2790

Learn More: lifeease.com

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