

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Rivera offered the following:

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3 **Amendment (with title amendment)**

4 On page 28, between line(s) 27 and 28, insert:

5 Section 12. Effective January 1, 2005, subsections (3),
6 (4), and (5) are added to section 627.404, Florida Statutes, to
7 read:

8 627.404 Insurable interest; personal insurance.--

9 (3) Any trust, partnership, limited liability company, or
10 similar entity that is approved in writing by a charitable
11 organization that meets the requirements of s. 501(c)(3) of the
12 Internal Revenue Code of 1986, as amended, or by an organization
13 to which a charitable contribution could be made under
14 s.170(c)(1), (2), or (3) of the Internal Revenue Code of 1986,
15 as amended, may own or purchase life insurance on an insured who

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16 consents in writing to the ownership or purchase of that
17 insurance, subject to the following:

18 (a) The approved trust, partnership, limited liability
19 company, or similar entity must be, in part, formed for the
20 purpose of generating funds for one or more approving
21 organizations that meet the requirements of s. 501(c)(3) of the
22 Internal Revenue Code of 1986, as amended, or organizations to
23 which a charitable contribution could be made under
24 s.170(c)(1),(2), or (3) of the Internal Revenue Code of 1986, as
25 amended, that are designated by the consenting individual
26 insureds.

27 (b) The approved trust, partnership, limited liability
28 company, or similar entity may procure or cause to be procured a
29 combination of life insurance policies and annuity contracts on
30 the life of consenting individual insureds. Payments under the
31 annuity contracts shall be reasonably anticipated to fund the
32 premiums on the life insurance policies for the second and
33 succeeding years.

34 (c) At least 99 percent of all funds used by the approved
35 trust, partnership, limited liability company, or similar entity
36 to procure the life insurance policies and annuity contracts
37 must be from qualified institutional buyers as defined by Rule
38 144A of the Federal Securities Act of 1933 or proceeds from the
39 annuity contracts or other insurance policies and interest
40 income thereon.

41 (d) The investment in the approved trust, partnership,
42 limited liability company, or similar entity by qualified
43 institutional buyers shall be pursuant to a nonpublic offering

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44 or a public offering through a registered broker or dealer under
45 the Securities Exchange Act of 1934.

46 (e) No qualified institutional buyer may procure or hold
47 any direct interest in the life insurance policies or the
48 annuity contracts, or the benefits from such policies or
49 contracts, except as part of a secured transaction, subject to
50 chapter 517 or to federal securities laws.

51 (f) The organization that meets the requirements of s.
52 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
53 organization to which a charitable contribution could be made
54 under s. 170(c)(1), (2), or (3) of the Internal Revenue Code of
55 1986, as amended,, as designated by the individual insured,
56 must, at the time of the acquisition of the life insurance
57 policies by the approved trust, partnership, limited liability
58 company, or similar entity, reasonably anticipate receiving not
59 less than 90 percent of the death benefit proceeds of each life
60 insurance policy on such individual insured after the return of
61 the amount invested and yield accrued and payable to the
62 qualified institutional buyers in accordance with the securities
63 offering or other disclosure materials. The reasonably
64 anticipated minimum percentage or amount of the death benefit
65 proceeds of the life insurance policies to be ultimately
66 received by the designated organization must be disclosed in the
67 relevant securities offering or other disclosure materials used
68 in any offering.

69 (g) The individual insured and each designated
70 organization that meets the requirements of s. 501(c)(3) of the
71 Internal Revenue Code of 1986, as amended, or organization to

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72 which a charitable contribution could be made under s.
73 170(c)(1), (2), or (3) of the Internal Revenue Code of 1986, as
74 amended, must be informed, prior to the ownership or purchase of
75 life insurance on the individual insured by the approved trust,
76 partnership, limited liability company, or similar entity, of
77 the minimum percentage or amount of the proceeds of the life
78 insurance policy that is reasonably anticipated to be ultimately
79 paid to the designated organization.

80 (h) The individual insured must provide an affidavit
81 stating that neither the individual insured or any relative of
82 the individual insured as defined in s. 112.312(21) nor any
83 entity controlled by the individual insured or relative, other
84 than an organization that meets the requirements of s. 501(c)(3)
85 of the Internal Revenue Code of 1986, as amended, or an
86 organization to which a charitable contribution could be made
87 under s. 170(c)(1), (2), or (3) of the Internal Revenue Code of
88 1986, as amended, received any monetary remuneration in
89 consideration for the individual insured's consent to purchase
90 the life insurance policy, except third-party expenses incurred
91 in connection with the grant of such consent.

92 (i) At the time of the life insurance application, the
93 designated organization that meets the requirements of s.
94 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
95 organization to which a charitable contribution could be made
96 under s. 170(c)(1), (2), or (3) of the Internal Revenue Code of
97 1986, as amended, must have been in existence for 3 years and
98 have assets in excess of \$5 million, or the individual insured

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99 must be an accredited investor as defined by Rule 501 of
100 Regulation D of the Federal Securities Act of 1933.

101 (4) With respect to the designated trust, partnership,
102 limited liability company, or similar entity described in
103 subsection (3), except in the case of a material default or
104 commencement of a delinquency proceeding of the life insurer or
105 annuity company or in the case of the life insurer or annuity
106 company exercising its right to contest the life insurance
107 policy or annuity contract:

108 (a) The life insurance policies procured or caused to be
109 procured by such entity may not be assigned or transferred by
110 such entity;

111 (b) The ownership or beneficiary designation in favor of
112 such entity of the life insurance policies procured or caused to
113 be procured by such entity may not be changed; or

114 (c) A policy loan under the life insurance policies
115 procured or caused to be procured by such entity may not be
116 taken out by such entity,

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118 unless such entity applies for and obtains a license pursuant to
119 the provisions of s. 626.9912 prior to such transfer or
120 assignment of ownership, change in beneficiary, or policy loan.

121 (5) A trust, partnership, limited liability company, or
122 similar entity that meets the requirements of subsection (3) has
123 an insurable interest in the life of the individual insured.

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126 ===== T I T L E A M E N D M E N T =====

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HOUSE AMENDMENT

Bill No. CS/CS/SB 2038

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127 On page 2, line 21,
128 remove: all of said line,
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130 and insert:
131 the provision; amending s. 627.404, F.S.; authorizing certain
132 entities to purchase or own life insurance policies on insureds
133 under certain circumstances; providing criteria and
134 requirements; providing limitations; providing an exception;
135 amending s. 627.4091, F.S.;

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