

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Rivera offered the following:

3 **Amendment (with title amendment)**

4 On page 28, between lines 27 and 28, insert:

5 Section 12. Subsections (3) and (4) are added to section
6 627.404, Florida Statutes, to read:

7 627.404 Insurable interest; personal insurance.--

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

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

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

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

39 (d) The investment in the approved trust, partnership,
40 limited liability company, or similar entity by qualified
41 institutional buyers shall be pursuant to a nonpublic offering
42 or a public offering through a registered broker or dealer under
43 the Securities Exchange Act of 1934.

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

49 (f) The organization that meets the requirements of s.
50 501(c)(3) of the Internal Revenue Code of 1986, as amended, or
51 the organization to which a charitable contribution could be
52 made under s. 170(c)(1), (2), or (3) of the Internal Revenue
53 Code of 1986, as amended, as designated by the individual
54 insured, must, at the time of the acquisition of the life
55 insurance policy, reasonably anticipate receiving not less than
56 90 percent of the death proceeds of each life insurance policy
57 on such individual after the return of the investment and yield
58 to the qualified institutional buyers in accordance with the
59 securities offering or other disclosure materials. The
60 reasonably anticipated minimum percentage or amount of the
61 proceeds of the life insurance policies to be ultimately
62 received by the designated organization must be included in the
63 relevant securities offering or other disclosure materials used
64 in any offering.

65 (g) The individual insured and each designated
66 organization meeting the requirements of s. 501(c)(3) of the
67 Internal Revenue Code of 1986, as amended, or each organization
68 to which a charitable contribution could be made under s.
69 170(c)(1), (2), or (3) of the Internal Revenue Code of 1986, as
70 amended, must be informed of the minimum percentage or amount of
71 the proceeds of the life insurance policy that is reasonably

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72 anticipated to be ultimately paid to the designated organization
73 prior to the ownership or purchase of life insurance on the
74 individual insured by the approved trust, partnership, limited
75 liability company, or similar entity.

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

88 (i) At the time of the life insurance application, the
89 designated organization meeting the requirements of s. 501(c)(3)
90 of the Internal Revenue Code of 1986, as amended, or the
91 organization to which a charitable contribution could be made
92 under s. 170(c)(1), (2), or (3) of the Internal Revenue Code of
93 1986, as amended, must have been in existence for three years
94 and must have assets in excess of \$5 million, or the individual
95 insured must be an accredited investor as defined by Rule 501 of
96 Regulation D of the Federal Securities Act of 1933.

97 (4) With respect to the designated trust, partnership,
98 limited liability company, or similar entity described in
99 subsection (3), except in the case of a material default or

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100 commencement of a delinquency proceeding of the life insurer or
101 the annuity company, or in the case of the life insurer or
102 annuity company exercising its right to contest the life
103 insurance policy or annuity contract:

104 (a) The life insurance policies procured or caused to be
105 procured by such entity may not be assigned or transferred by
106 such entity;

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

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

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114 unless such entity applies for and obtains a license pursuant to
115 the provisions of s. 626.9912 prior to such transfer of
116 ownership, change in beneficiary, or policy loan.

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118
119 ===== T I T L E A M E N D M E N T =====

120 On page 2, remove line 21 and insert:
121 the provision; amending s. 627.404, F.S.; authorizing certain
122 entities to purchase or own life insurance policies on insureds
123 under certain circumstances; providing criteria and
124 requirements; providing limitations; providing an exception;
125 amending s. 627.4091, F.S.;