

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 amendments)**

4 Between lines 748 and 749, insert:

5 Section 11. 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 s.  
14 170(c)(1), (2), or (3) of the Internal Revenue Code of 1986, as  
15 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 s.  
24 170(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 must,  
56 at the time of the acquisition of the life insurance policies by  
57 the approved trust, partnership, limited liability company, or  
58 similar entity, reasonably anticipate receiving not less than 90  
59 percent of the death benefit proceeds of each life insurance  
60 policy on such individual insured after the return of the amount  
61 invested and yield accrued and payable to the qualified  
62 institutional buyers in accordance with the securities offering  
63 or other disclosure materials. The reasonably anticipated  
64 minimum percentage or amount of the death benefit proceeds of  
65 the life insurance policies to be ultimately received by the  
66 designated organization must be disclosed in the relevant  
67 securities offering or other disclosure materials used in any  
68 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  
93 the life insurance application, the designated organization that  
94 meets the requirements of s. 501(c)(3) of the Internal Revenue  
95 Code of 1986, as amended, or organization to which a charitable  
96 contribution could be made under s. 170(c)(1), (2), or (3) of  
97 the Internal Revenue Code of 1986, as amended, must have been in  
98 existence for 3 years and must have assets in excess of \$5  
99 million, or the individual insured must be an accredited

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100 investor as defined by Rule 501 of Regulation D of the Federal  
101 Securities Act of 1933.

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

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

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

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

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

122 (5) A trust, partnership, limited liability company, or  
123 similar entity that meets the requirements of subsection (3) has  
124 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 =====

127 Remove line 51, and insert:

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HOUSE AMENDMENT

Bill No. HB 557 CS

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128 future repeal; amending s. 627.404, F.S.; authorizing certain  
129 entities to purchase or own life insurance policies on insureds  
130 under certain circumstances; providing criteria and  
131 requirements; providing limitations; providing an exception;  
132 amending s. 627.4091, F.S.; providing  
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