

1 A bill to be entitled
 2 An act relating to insurable interests; amending s.
 3 627.404, F.S.; authorizing certain trusts, partnerships,
 4 and limited liability companies to own or purchase life
 5 insurance on an insured under certain circumstances;
 6 providing requirements; requiring approval of the
 7 Department of Financial Services; prohibiting assigning or
 8 transferring, changing ownership or beneficiary
 9 designation, or taking out a loan against such policies
 10 under certain circumstances; providing for taking such
 11 actions under a license; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsections (3), (4), and (5) are added to
 16 section 627.404, Florida Statutes, to read:

17 627.404 Insurable interest; personal insurance.--

18 (3) Any trust, partnership, limited liability company, or
 19 similar entity that is approved in writing by a public or
 20 private university in this state that receives state funds, or
 21 affiliated foundations of such university, and meets the
 22 requirements of s. 501(c)(3) of the Internal Revenue Code of
 23 1986, as amended, or by a public or private university in this
 24 state that receives state funds, or the affiliated foundation of
 25 such university, to which a charitable contribution could be
 26 made under s. 170(c)(1), (2), or (3) of the Internal Revenue
 27 Code of 1986, as amended, may own or purchase life insurance on

28 an insured who consents in writing to the ownership or purchase
29 of that insurance, subject to the following:

30 (a) The approved trust, partnership, limited liability
31 company, or similar entity must be, in part, formed for the
32 purpose of generating funds for one or more designated public or
33 private universities in this state that receive state funds or
34 affiliated foundations of such universities.

35 (b) The approved trust, partnership, limited liability
36 company, or similar entity must procure or cause to be procured
37 a combination of life insurance policies and annuity contracts
38 on the life of consenting individual insureds. Payments under
39 the annuity contracts shall be reasonably anticipated to fund
40 the premiums on the life insurance policies for the second and
41 succeeding years.

42 (c) At least 99 percent of all funds used by the approved
43 trust, partnership, limited liability company, or similar entity
44 to procure the life insurance policies and annuity contracts
45 must be from qualified institutional buyers as defined by Rule
46 144A of the Federal Securities Act of 1933 or proceeds from
47 annuity contracts or other insurance policies procured with the
48 funds invested by qualified institutional buyers, and interest
49 income on such funds.

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

55 (e) No qualified institutional buyer may procure or hold
56 any direct interest in the life insurance policies or the
57 annuity contracts, or the benefits from such policies or
58 contracts, except as part of a securitized transaction, subject
59 to chapter 517 or federal securities laws.

60 (f) The public or private university in this state that
61 receives state funds, or affiliated foundations of such
62 university, as designated by the individual insured, must, at
63 the time of the acquisition of the life insurance policies by
64 the approved trust, partnership, limited liability company, or
65 similar entity, reasonably anticipate receiving death benefit
66 proceeds of each life insurance policy on such individual
67 insured after the return of the amount invested and yield
68 accrued and payable to the qualified institutional buyers in
69 accordance with the securities offering or other disclosure
70 materials. The reasonably anticipated minimum percentage or
71 amount of the death benefit proceeds of the life insurance
72 policies to be ultimately received by such designated
73 university, or affiliated foundations of such university, must
74 be disclosed in the relevant securities offering or other
75 disclosure materials used in any offering.

76 (g) The individual insured and each designated public or
77 private university in this state that receives state funds, or
78 affiliated foundations of such university, must be informed,
79 prior to the ownership or purchase of life insurance on the
80 individual insured by the approved trust, partnership, limited
81 liability company, or similar entity, of the minimum percentage
82 or amount of the proceeds of the life insurance policy that is

83 reasonably anticipated to be ultimately paid to the designated
84 organization.

85 (h) The individual insured must provide an affidavit
86 stating that the individual insured, any relative of the
87 individual insured as defined in s. 112.312(21), and any entity
88 controlled by the individual insured or relative, other than a
89 public or private university in this state that receives state
90 funds, or affiliated foundations of such university, did not
91 receive any monetary remuneration in consideration for the
92 individual insured's consent to purchase the life insurance
93 policy, except third party expenses incurred in connection with
94 the grant of such consent.

95 (4) Transactions involving the procurement or funding of
96 the procurement of a life insurance policy or annuity contract
97 pursuant to subsection (3) are prohibited without the prior
98 approval of the Department of Financial Services in consultation
99 with the Office of Financial Regulation and Office of Insurance
100 Regulation, which approval shall only be provided upon a
101 determination that the planned transaction meets the
102 requirements of subsection (3), is fiscally prudent, and is
103 determined to be in the best interest of the citizens of this
104 state. Upon approval, a trust, partnership, limited liability
105 company, or similar entity that meets the requirements of
106 subsection (3) has an insurable interest in the life of the
107 individual insured.

108 (5) With respect to the approved trust, partnership,
109 limited liability company, or similar entity described in
110 subsection (3), except in the case of a material default of, or

HB 1145

2005

111 commencement of a delinquency proceeding against, the life
112 insurer or annuity company or the life insurer or annuity
113 company exercising its right to contest the life insurance
114 policy or annuity contract:

115 (a) The life insurance policies procured or caused to be
116 procured by such entity may not be assigned or transferred by
117 such entity;

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

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

124
125 unless such entity applies for and obtains a license pursuant to
126 the provisions of s. 626.9912 prior to transferring or assigning
127 the policy, changing the ownership or beneficiary designation of
128 the policy, or taking out a loan against the policy. All
129 transactions under s. 626.9912 are subject to chapter 571.

130 Section 2. This act shall take effect upon becoming a law.