

By Senator Atwater

25-652-05

1                                   A bill to be entitled  
2           An act relating to insurable interests;  
3           amending s. 627.404, F.S.; authorizing a trust,  
4           partnership, limited liability company, or  
5           similar entity approved by a university meeting  
6           specified criteria to own or purchase life  
7           insurance on a consenting person; prescribing  
8           guidelines and requirements for such life  
9           insurance; requiring approval by the Department  
10          of Financial Services; providing an effective  
11          date.

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

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15           Section 1. Subsection (3) is added to section 627.404,  
16 Florida Statutes, to read:

17           627.404 Insurable interest; personal insurance.--

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

30           1. The approved trust, partnership, limited liability  
31 company, or similar entity must be, in part, formed for the

1 purpose of generating funds for one or more designated public  
2 or private universities in this state which receive state  
3 funds or their affiliated foundations.

4 2. The approved trust, partnership, limited liability  
5 company, or similar entity must procure or cause to be  
6 procured a combination of life insurance policies and annuity  
7 contracts on the life of consenting individual insureds.  
8 Payments under the annuity contracts must be reasonably  
9 anticipated to fund the premiums on the life insurance  
10 policies for the second and succeeding years.

11 3. At least 99 percent of all funds used by the  
12 approved trust, partnership, limited liability company, or  
13 similar entity to procure the life insurance policies and  
14 annuity contracts must be from qualified institutional buyers  
15 as defined by Rule 144A of the Federal Securities Act of 1933  
16 or proceeds from annuity contracts or other insurance policies  
17 procured with the funds invested by qualified institutional  
18 buyers, and interest income thereon.

19 4. The investment in the approved trust, partnership,  
20 limited liability company, or similar entity by qualified  
21 institutional buyers shall be pursuant to a nonpublic offering  
22 or a public offering through a registered broker/dealer under  
23 the Securities Exchange Act of 1934.

24 5. A qualified institutional buyer may not procure or  
25 hold any direct interest in the life insurance policies or the  
26 annuity contracts, or the benefits therefrom, except as part  
27 of a securitized transaction, subject to chapter 517 or to  
28 federal securities laws.

29 6. The public or private university in this state  
30 which receives state funds or its affiliated foundations as  
31 designated by the individual insured must, at the time of the

1 acquisition of the life insurance policies by the approved  
2 trust, partnership, limited liability company, or similar  
3 entity, reasonably anticipate receiving death benefit proceeds  
4 of each life insurance policy on such individual insured after  
5 the return of the amount invested and yield accrued and  
6 payable to the qualified institutional buyers in accordance  
7 with the securities offering or other disclosure materials.  
8 The reasonably anticipated minimum percentage or amount of the  
9 death benefit proceeds of the life insurance policies to be  
10 ultimately received by the designated public or private  
11 university in this state which receives state funds or its  
12 affiliated foundations must be disclosed in the relevant  
13 securities offering or other disclosure materials used in any  
14 offering.

15 7. The individual insured and each designated public  
16 or private university in this state which receives state funds  
17 or its affiliated foundations must be informed prior to the  
18 ownership or purchase of life insurance on the individual  
19 insured by the approved trust, partnership, limited liability  
20 company, or similar entity of the minimum percentage or amount  
21 of the proceeds of the life insurance policy which is  
22 reasonably anticipated to be ultimately paid to the designated  
23 organization.

24 8. The individual insured must provide an affidavit  
25 stating that neither the individual insured, nor any relative  
26 of the individual insured as defined in s. 112.312(21), nor  
27 any entity controlled by the individual insured or relative,  
28 other than a public or private university in this state which  
29 receives state funds or its affiliated foundations, received  
30 any monetary remuneration in consideration for the individual  
31 insured's consent to purchase the life insurance policy,

1 except third-party expenses incurred in connection with the  
2 grant of such consent.

3 (b) Transactions involving the procurement or funding  
4 of the procurement of a life insurance policy or annuity  
5 contract pursuant to paragraph (a) are prohibited without the  
6 prior approval of the Department of Financial Services in  
7 consultation with the Office of Financial Regulation and the  
8 Office of Insurance Regulation, which approval may be provided  
9 only upon a determination that the planned transaction meets  
10 the requirements of paragraph (a), is fiscally prudent, and is  
11 determined to be in the best interest of the people of this  
12 state. Upon approval, a trust, partnership, limited liability  
13 company, or similar entity that meets the requirements of  
14 paragraph (a) has an insurable interest in the life of the  
15 individual insured.

16 (c) With respect to the approved trust, partnership,  
17 limited liability company, or similar entity described in  
18 paragraph (a), except in the case of a material default of, or  
19 commencement of a delinquency proceeding against, the life  
20 insurer or annuity company, or the life insurer or annuity  
21 company exercising its right to contest the life insurance  
22 policy or annuity contract:

23 1. The life insurance policies procured or caused to  
24 be procured by such entity may not be assigned or transferred  
25 by such entity;

26 2. The ownership or beneficiary designation in favor  
27 of such entity of the life insurance policies procured or  
28 caused to be procured by such entity may not be changed; or

29 3. A policy loan under the life insurance policies  
30 procured or caused to be procured by such entity may not be  
31 taken out by such entity

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unless such entity applies for and obtains a license under s. 626.9912 prior to such transfer or assignment of ownership, change in beneficiary, or policy loan. All transactions under s. 626.9912 are subject to chapter 571.

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

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SENATE SUMMARY

Authorizes a trust, partnership, limited liability company, or similar entity approved by a university that receives state funds and qualifies under s. 501(c)(3) of the Internal Revenue Code, or an affiliated foundation of the university, to hold or purchase life insurance on a person consenting thereto. Provides standards, guidelines, and limitations on that action.