

By the Committee on Banking and Insurance; and Senator Atwater

597-2155-05

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. Any insurance or annuity product
3 purchased in conjunction with a transaction authorized by this
4 section shall be purchased through an agent licensed in this
5 state. At the time of the transaction, the insured must have a
6 minimum net worth of \$5 million.

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

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

27 1. The life insurance policies procured or caused to
28 be procured by such entity may not be assigned or transferred
29 by such entity;

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

4 3. A policy loan under the life insurance policies
5 procured or caused to be procured by such entity may not be
6 taken out by such entity

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8 unless such entity applies for and obtains a license under s.
9 626.9912 prior to such transfer or assignment of ownership,
10 change in beneficiary, or policy loan. All transactions under
11 s. 626.9912 are subject to chapter 571.

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

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15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 1616

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19 o Requires any insurance or annuity contract purchased
20 through a charitable life and annuity trust to be
21 purchased through an agent who is licensed in Florida.
22 o Requires an insured (on whose behalf the life insurance
23 policy is purchased) taking part in a charitable life and
24 annuity trust arrangement to have a net worth of at least
25 \$5 million at the time of the transaction.
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