

1 A bill to be entitled
 2 An act relating to insurable interests; amending s.
 3 627.404, F.S.; providing definitions; providing for the
 4 requirement of an insurable interest in an insured at the
 5 time of an insurance contract; providing for actions by
 6 the insured to recover benefits under such a contract paid
 7 to a person lacking such an interest at the time such
 8 contract was executed; requiring the consent of the person
 9 insured for certain contracts; providing exceptions;
 10 providing applicability; providing intent; providing an
 11 effective date.

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

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 15 Section 1. Section 627.404, Florida Statutes, is amended
 16 to read:

17 627.404 Insurable interest; personal insurance.--

18 (1) Any individual of legal capacity may procure or effect
 19 an insurance contract on his or her own life or body for the
 20 benefit of any person, but no person shall procure or cause to
 21 be procured or effected an insurance contract on the life or
 22 body of another individual unless the benefits under such
 23 contract are payable to the individual insured or his or her
 24 personal representatives, or to any person having, at the time
 25 such contract was made, an insurable interest in the individual
 26 insured. The insurable interest need not exist after the
 27 inception date of coverage under the contract.

28 (2) For purposes of this section, the term:

29 (a) "Business entity" includes, but is not limited to, a
 30 joint venture, partnership, corporation, limited liability
 31 company, and business trust.

32 (b) "Insurable interest" as to life, health, or disability
 33 insurance, includes only the following interests:

34 1. An individual has an insurable interest in his or her
 35 own life, body, and health.

36 2. An individual has an insurable interest in the life,
 37 body, and health of another person to whom the individual is
 38 closely related by blood or by law and in whom the individual
 39 has a substantial interest engendered by love and affection.

40 3. An individual has an insurable interest in the life,
 41 body, and health of another person if such individual has an
 42 expectation of a substantial pecuniary advantage through the
 43 continued life, health, and safety of that other person and
 44 consequent substantial pecuniary loss by reason of the death,
 45 injury, or disability of that other person.

46 4. An individual party to a contract for the purchase or
 47 sale of an interest in any business entity has an insurable
 48 interest in the life of each other party to such contract for
 49 the purpose of such contract only.

50 5. A trust, or the trustee of a trust, has an insurable
 51 interest in the life of an individual insured under a life
 52 insurance policy owned by the trust, or the trustee of the trust
 53 acting in a fiduciary capacity, if the insured is the grantor of
 54 the trust; an individual closely related by blood or law to the
 55 grantor; or an individual in whom the grantor otherwise has an
 56 insurable interest, and the life insurance proceeds are

57 primarily for the benefit of trust beneficiaries having an
58 insurable interest in the life of the insured.

59 6. A guardian, trustee, or other fiduciary, acting in a
60 fiduciary capacity, has an insurable interest in the life of any
61 person for whose benefit the fiduciary holds property, and in
62 the life of any other individual in whose life such person has
63 an insurable interest.

64 7. A charitable organization meeting the requirements of
65 s. 501(c)(3) of the Internal Revenue Code of 1986, as amended,
66 has an insurable interest in the life of any person who consents
67 in writing to the organization's ownership or purchase of that
68 insurance.

69 8. A trustee or custodian of assets held in any plan
70 governed by the Employee Retirement Income Security Act of 1974,
71 29 U.S.C. ss. 1001 et seq., or in any other retirement or
72 employee benefit plan, has an insurable interest in the life of
73 any participant in the plan with the written consent of the
74 prospective insured. An employer, trustee, or custodian may not
75 retaliate or take adverse action against any participant who
76 does not consent to the issuance of insurance on the
77 participant's life.

78 9. A business entity has an insurable interest in the
79 life, body, or health of any of the owners, directors, officers,
80 partners, and managers of the business entity or any subsidiary
81 of the business entity, and in key employees of the business
82 entity or key persons whose services and qualifications are such
83 that the death, injury, or disability of the key employee or key
84 person would cause the business entity or its subsidiary to

85 incur a substantial pecuniary loss.

86 (3)~~(1)~~ An insurer shall be entitled to rely upon all
87 statements, declarations, and representations made by an
88 applicant for insurance relative to the insurable interest which
89 such applicant has in the insured; and no insurer shall incur
90 any legal liability except as set forth in the policy, by virtue
91 of any untrue statements, declarations, or representations so
92 relied upon in good faith by the insurer.

93 (4) If the beneficiary, assignee, or other payee under any
94 insurance contract directly or indirectly procured by a person
95 not having an insurable interest in the insured at the time such
96 contract was made receives from the insurer any benefits
97 thereunder by reason of the death, injury, or disability of the
98 insured, the insured or his or her personal representative or
99 other lawfully acting agent may maintain an action to recover
100 such benefits from the person receiving them.

101 (5) No contract of insurance upon a person, other than a
102 policy of group life insurance or group or blanket accident,
103 health, or disability insurance, shall be made unless, on or
104 before the time of the making of the contract, the person
105 insured, having legal capacity to contract, applies for or
106 consents in writing to the making of the contract, except in the
107 following cases:

108 (a) A spouse may effectuate a policy of insurance upon the
109 other spouse.

110 (b) Any person having an insurable interest in the life of
111 a minor or any person upon whom a minor is dependent for support
112 and maintenance may effectuate a policy of insurance on the

113 minor.

114 (c) Family policies may be issued insuring any two or more
 115 members of a family pursuant to an application signed by either
 116 parent, a stepparent, or a husband or wife.

117 (6) For purposes of this section, the signature of the
 118 proposed insured, having capacity to contract, on the
 119 application for insurance shall constitute his or her written
 120 consent.

121 (7) This section shall not apply to any policy of life
 122 insurance to which s. 624.402(8) applies.

123 ~~(2) A charitable organization that meets the requirements~~
 124 ~~of s. 501(c)(3) of the Internal Revenue Code of 1986, as~~
 125 ~~amended, may own or purchase life insurance on an insured who~~
 126 ~~consents to the ownership or purchase of that insurance.~~

127 Section 2. The amendments to s. 627.404, Florida Statutes,
 128 made by this act are intended to clarify existing law.

129 Section 3. This act shall take effect July 1, 2008.