

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 an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Section 627.404, Florida Statutes, is amended  
 15 to read:

16           627.404 Insurable interest; personal insurance.--

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

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

28           (a) "Business entity" includes, but is not limited to, a

29 joint venture, partnership, corporation, limited liability  
30 company, and business trust.

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

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

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

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

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

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

57 are 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 so long as the life insurance proceeds are  
64 primarily for the benefit of persons having an insurable  
65 interest in the life of the insured.

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

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

80 9. A business entity has an insurable interest in the  
81 life, body, and health of any of the owners, directors,  
82 officers, partners, and managers of the business entity or any  
83 subsidiary of the business entity, or key employees or key  
84 persons of the business entity or subsidiary, provided that

85 consent is obtained in writing from such key employees or  
86 persons before the insurance is purchased. The business entity  
87 or subsidiary may not retaliate or take adverse action against  
88 any key employee or person who does not consent to the issuance  
89 of insurance on the key employee or key person's life.

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

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

105 (5) A contract of insurance upon a person, other than a  
106 policy of group life insurance or group or blanket accident,  
107 health, or disability insurance, may not be effectuated unless,  
108 on or before the time of entering into such contract, the person  
109 insured, having legal capacity to contract, applies for or  
110 consents in writing to the contract and its terms, except that  
111 any person having an insurable interest in the life of a minor  
112 younger than 15 years of age or any person upon whom a minor

113 younger than 15 years of age is dependent for support and  
 114 maintenance may effectuate a policy of insurance on the minor.

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

119 (7) This section does not apply to any policy of life  
 120 insurance to which s. 624.402(8) applies.

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

125 Section 2. The amendments to section 627.404, Florida  
 126 Statutes, made by this act are intended to clarify existing law.

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