

By Senator Posey

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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.

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

14  
15 Section 1. Section 627.404, Florida Statutes, is amended to  
16 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 be  
21 procured or effected an insurance contract on the life or body of  
22 another individual unless the benefits under such contract are  
23 payable to the individual insured or his or her personal  
24 representatives, or to any person having, at the time such  
25 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

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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 has  
39 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 the  
49 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; in an individual closely related by blood or law to  
55 the grantor; or in an individual in whom the grantor otherwise  
56 has an 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.

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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 the  
62 life of any other individual in whose life such person has an  
63 insurable interest.

64       7. A charitable organization meeting the requirements of s.  
65 501(c)(3) of the Internal Revenue Code of 1986, as amended, has  
66 an insurable interest in the life of any person who consents in  
67 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 does  
76 not consent to the issuance of insurance on the participant's  
77 life.

78       9. A business entity has an insurable interest in the life,  
79 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 incur  
85 a substantial pecuniary loss.

86       (3)(1) An insurer shall be entitled to rely upon all  
87 statements, declarations, and representations made by an

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88 applicant for insurance relative to the insurable interest which  
89 such applicant has in the insured; and no insurer shall incur any  
90 legal liability except as set forth in the policy, by virtue of  
91 any untrue statements, declarations, or representations so relied  
92 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.

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

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

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

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

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