

By the Committee on Judiciary; and Senator Posey

590-05781-08

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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; 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 if, in each of the situations described in
57 subsection (5), the life insurance proceeds are primarily for the
58 benefit of trust beneficiaries having an insurable interest in

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59 the life of the insured.

60 6. A guardian, trustee, or other fiduciary, acting in a
61 fiduciary capacity, has an insurable interest in the life of any
62 person for whose benefit the fiduciary holds property, and in the
63 life of any other individual in whose life the person has an
64 insurable interest so long as the life insurance proceeds are
65 primarily for the benefit of persons having an insurable interest
66 in the life of the insured.

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

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

81 9. A business entity has an insurable interest in the life,
82 body, and health of any of the owners, directors, officers,
83 partners, and managers of the business entity or any subsidiary
84 of the business entity, or key employees or key persons of the
85 business entity or subsidiary, provided that consent is obtained
86 in writing from the key employees or persons before the insurance
87 is purchased. The business entity or subsidiary may not retaliate

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88 or take adverse action against any key employee or person who
89 does not consent to the issuance of insurance on the key employee
90 or key person's life.

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

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

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

116 (6) For purposes of this section, the signature of the

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117 proposed insured, having capacity to contract, on the application
118 for insurance shall constitute his or her written 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 amended,~~
123 ~~may own or purchase life insurance on an insured who consents to~~
124 ~~the ownership or purchase of that insurance.~~

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

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