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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2010	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 30 - 95
and insert:

(a) Determine whether the contract of life insurance is or was procured or effected in compliance with s. 627.404;

(b) Determine whether any contract of life insurance is, or remains, a proper investment;

(c) Investigate the financial strength of the life insurance company;

(d) Determine whether to exercise any policy option available under the contract for life insurance;



965462

13 (e) Diversify any such contract for life insurance or the
14 assets of the trust with respect to the contract for life
15 insurance; or

16 (f) Inquire about or investigate the health or financial
17 condition of any insureds.

18 (2) For purposes of this section, a "qualified person" is a
19 person who is insured or a proposed insured, or the spouse of
20 that person, who has provided the trustee with the funds used to
21 acquire or pay premiums with respect to a policy of insurance on
22 the life of that person or the spouse of that person, or on the
23 lives of that person and the spouse of that person.

24 (3) The trustee is not liable to the beneficiaries of the
25 trust or any other person for any loss sustained with respect to
26 a contract for life insurance to which this section applies.

27 (4) Unless otherwise provided in the trust instrument,
28 paragraph (1)(a) applies to any contract for life insurance on
29 the life of a qualified person.

30 (5) Unless otherwise provided in the trust instrument,
31 paragraphs (1)(b)-(f) apply if:

32 (a) The trust instrument, by reference to this section,
33 makes this section applicable to contracts for life insurance
34 held by the trust; or

35 (b) The trustee gives notice that this section applies to a
36 contract for life insurance held by the trust.

37 1. The notice of the application of this section shall be
38 given to the qualified beneficiaries and shall contain a copy or
39 restatement of this section.

40 2. Notice given pursuant to any of the provisions of part
41 III of this chapter to a person who represents the interests of



965462

42 any of the persons set forth in subparagraph 1. shall be treated
43 as notice to the person so represented.

44 3. Notice shall be given in the manner provided in s.
45 736.0109.

46 4. If any person notified pursuant to this paragraph
47 delivers a written objection to the application of this section
48 to the trustee within 30 days after the date on which the
49 objector received such notice, paragraphs (1)(b)-(f) shall not
50 apply until the objection is withdrawn.

51 5. There shall exist a rebuttable presumption that any
52 notice sent by United States mail is received 3 days after
53 depositing the notice in the United States mail system with
54 proper postage prepaid.

55 (6) This section does not apply to any contract for life
56 insurance purchased from any affiliate of the trustee, or with
57 respect to which the trustee or any affiliate of the trustee
58 receives any commission unless the duties have been delegated to
59 another person in accordance with s. 518.112. For purposes of
60 this subsection, an "affiliate" is any person who controls, is
61 controlled by, or is under common control with the trustee.

62 (7) Paragraph (1)(a) does not apply if the trustee applied
63 for or accepted ownership of a contract of life insurance and
64 the trustee had knowledge that:

65 (a) The benefits were not payable to a person specified in
66 s. 627.404 when the contract of life insurance was issued; or

67 (b) The contract of life insurance is or was purchased with
68 resources or guarantees directly or indirectly provided by a
69 person who, at the time of the inception of such contract, did
70 not have an insurable interest in the insured as defined by s.



965462

71 627.404, and, at the time of the inception of such contract,
72 there is a verbal or written arrangement, agreement, or plan
73 with a third party to transfer ownership of the policy or policy
74 benefits in a manner that would be in violation of state law.

75 Section 2. Paragraph (b) of subsection (2) and paragraph
76 (b) of subsection (3) of section 518.112, Florida Statutes, are
77 amended to read:

78 518.112 Delegation of investment functions.—

79 (2)

80 (b) The delegable investment functions under this
81 subsection include:

82 1. A determination of whether the insurance contract was
83 procured or effected in compliance with s. 627.404;

84
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete line 14

88 and insert:

89 specified purposes; providing that certain provisions
90 of state law do not apply under specified
91 circumstances; amending s. 518.112, F.S.;