

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2353

By: Kinnamon

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 1991, Section 3604, which relates to insurable interest with respect to personal insurance; modifying insurable interest in an individual to include an employer or certain trusts; providing grounds for consent; limiting amount of insurable interest of an employer or trust; defining term; providing for application and existence of an insurable interest; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 3604, is amended to read as follows:

Section 3604. A. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. Except as provided in subsection D of this section, no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a

person having, at the time when such contract was made, an insurable interest in the individual insured.

B. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

C. "Insurable interest" with reference to personal insurance includes only interests as follows:

1. In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

2. In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; ~~and~~

3. An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual; ~~and~~

4. a. An employer, or a trust which is sponsored by an employer for the benefit of its employees, shall have an insurable interest in each of the lives of the employees, directors or retired employees of the employer. Notwithstanding paragraph 2 of subsection C of this section or Section 4101 of this title, and amendments thereto, the employer or trust may insure the life of any such employee, director or retired

employee for the benefit of such employer or trust on an individual or group basis with the consent of the insured.

b. The consent requirement of Section 3607 of this title shall be deemed to be satisfied if:

- (1) the employee, director or retired employee is provided with a written notice that the employer or trust intends to obtain life insurance coverage with respect to such person's life, and
- (2) the employee, director or retired employee fails to provide written notification to the employer or trust, within thirty (30) days from the date that the notice was transmitted, that such person does not consent to the employer obtaining life insurance coverage on such person's life. It shall be unlawful for the employer or trust to retaliate against any person for refusing to consent to the issuance of life insurance on such person's life.

c. The insurable interest of the employer or trust in nonmanagement and retired employees shall be limited to an amount of aggregate projected death benefits commensurate with the aggregate projected liabilities to such employees under all employee welfare benefit plans, as defined in Section 1002(1) of Title 29 of the United States Code. Calculations of life insurance benefits and welfare benefit liabilities shall be made in accordance with generally accepted actuarial principles. Matching of life insurance benefits and welfare benefit liabilities may be done on cash flow, present value or other appropriate basis.

- d. For purposes of this section, "employer" means any individual, sole proprietorship, partnership, limited liability company, corporation or any other entity that is legally doing business in this state; the term shall also include all entities or persons which are controlled by or affiliated with any of the foregoing. The determination of whether any entity or person is controlled by or affiliated with another shall be made by applying the principles set forth in subsection (b) or (c) of Section 414 of Title 26 of the United States Code, as in effect on January 1, 1993, except that all references therein to eighty percent (80%) shall be changed to fifty-one percent (51%). "Employee" means any common law employee of an employer.
- e. This section shall not be interpreted to limit other insurable interests which may exist by statute or at common law.
- f. The provisions of this section shall apply to all insurance contracts in force on or after the effective date of this act.
- g. Determination of the existence and extent of the insurable interest under any life insurance policy shall be made at the time the contract of insurance becomes effective, provided however, the insurable interest need not exist at the time the loss occurs.

D. Life insurance contracts may be entered into in which the person paying the consideration for the insurance has no insurable interest in the life of the individual insured, where charitable, benevolent, educational or religious institutions, or their agencies, are designated as the beneficiaries thereof. In no event shall an individual be named as a beneficiary to such a policy. In making such contracts the person paying the premium shall make and

sign the application therefor as owner and shall designate a charitable, benevolent, educational or religious institution, or an agency thereof, as the beneficiary or beneficiaries of such contract. The application or any subsequent change of beneficiary designation shall be signed also by the individual whose life is to be insured. Such contracts shall be valid and binding among the parties thereto, notwithstanding the absence otherwise of an insurable interest in the life of the individual insured.

E. Life insurance contracts may be entered into in which the members of an alumni association of an institution of higher education accredited by the Oklahoma State Regents for Higher Education are insured under a group insurance policy and either the institution is the designated beneficiary thereof or the association is the designated beneficiary with the stipulation that the association will use the proceeds of such policies for direct grants to the institution or for scholarships for students of such institutions. In no event shall an individual be named as a beneficiary to such a policy. In making such contracts, the person paying the premium shall make and sign the application therefor as owner and shall designate an institution or alumni association as the beneficiary or beneficiaries of such contract. The application or any subsequent change of beneficiary designation shall be signed also by the individual whose life is to be insured. Such contracts shall be valid and binding among the parties thereto, notwithstanding the absence of an insurable interest in the life of the individual insured.

SECTION 2. This act shall become effective July 1, 1994.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-8192

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