

1 ENGROSSED SENATE
2 BILL NO. 2102

By: Sparks of the Senate

3 and

4 Martin (Scott) of the
5 House

6
7 [insurance - insurable interest -

8 effective date]

9
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 36 O.S. 2001, Section 3604, is
12 amended to read as follows:

13 Section 3604. A. 1. Any individual of competent legal
14 capacity may procure or effect an insurance contract upon his or her
15 own life or body for the benefit of any person. Except as provided
16 in subsection D of this section, no person shall procure or cause to
17 be procured any insurance contract upon the life or body of another
18 individual unless the benefits under the contract are payable to the
19 individual insured or a personal representatives, or to a person
20 having, at the time when the contract was made, an insurable
21 interest in the individual insured.

22 2. In the absence of an agreement to the contrary, a policy
23 procured and owned by a corporation, partnership, association,
24 limited liability company, or other legal entity on the life or body

1 of an officer, director, manager, member, or employee, other than a
2 sole proprietor, upon the termination of the insurable interest, the
3 owner of the policy shall, if permitted by the terms of the policy,
4 offer to sell, transfer, or assign the policy to the insured in
5 exchange for the cash surrender value of the policy or, if there is
6 no cash value, in exchange for an amount equal to the total of any
7 premiums paid for the policy, minus any dividends received, plus
8 interest. This offer shall be made in writing to the insured after
9 termination of the insurable interest. The offer shall state the
10 time for acceptance which shall not be less than thirty (30) days
11 after receipt of the offer by the insured. If the insured rejects
12 the offer or fails to accept the offer in the time provided, the
13 owner of the policy may continue to own the policy subject to its
14 terms.

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

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

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

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

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

13 4. A trustee of a trust, whenever established, shall be deemed
14 to have an insurable interest in:

15 a. the individual insured who established the trust,

16 b. each individual in whose life the owner of the trust
17 for federal income tax purposes has an insurable
18 interest, and

19 c. each individual in whose life a beneficiary of the
20 trust has an insurable interest; and

21 5. a. An employer, or a trust which is sponsored by an
22 employer for the benefit of its employees, shall have
23 an insurable interest in each of the lives of the
24 employees, directors, or retired employees of the

1 employer. Notwithstanding paragraph 2 of subsection C
2 of this section or Section 4101 of this title, and
3 amendments thereto, the employer or trust may insure
4 the life of any employee, director, or retired
5 employee for the benefit of the employer or trust on
6 an individual or group basis only with the written
7 consent of the insured.

8 b. The consent requirement of Section 3607 of this title
9 shall be accomplished as follows:

10 (1) the employer shall notify the employee, director,
11 or retired employee by a written notice that the
12 employer or trust would like to obtain life
13 insurance coverage with respect to the person's
14 life, and

15 (2) if the employee, director, or retired employee
16 fails to provide written consent to the employer
17 or trust, the employer or trust shall not
18 purchase or obtain such insurance.

19 c. It shall be unlawful for the employer or trust to
20 retaliate against any person for refusing to consent
21 to the issuance of insurance on the person.

22 d. The insurable interest of the employer or trust in
23 nonmanagement and retired employees shall be limited
24 to an amount agreed to by the employee or, in the

1 absence of an agreement, an amount of aggregate
2 projected death benefits commensurate with the
3 aggregate projected liabilities to the employee under
4 all employee welfare benefit plans, as defined in
5 Section 1002(1) of Title 29 of the United States Code.
6 Calculations of life insurance benefits and welfare
7 benefit liabilities shall be made in accordance with
8 generally accepted actuarial principles. Matching of
9 life insurance benefits and welfare benefit
10 liabilities may be done on cash flow, present value,
11 or other appropriate basis.

12 e. For purposes of this section:

13 (1) "employer" means any individual, sole
14 proprietorship, partnership, limited liability
15 company, corporation, or other legal entity that
16 is legally doing business in this state; the term
17 shall also include all entities or persons which
18 are controlled by or affiliated with any of the
19 foregoing. The determination of whether any
20 entity or person is controlled by or affiliated
21 with another shall be made by applying the
22 principles set forth in subsection (b) or (c) of
23 Section 414 of Title 26 of the United States
24 Code, as in effect on January 1, 1993, except

1 that all references therein to eighty percent
2 (80%) shall be changed to fifty-one percent
3 (51%), and

4 (2) "employee" means any common law employee of an
5 employer.

6 f. This section shall not be interpreted to limit other
7 insurable interests which may exist by statute or at
8 common law.

9 g. Determination of the existence and extent of the
10 insurable interest under any life insurance policy
11 shall be made at the time the contract of insurance
12 becomes effective, provided however, the insurable
13 interest need not exist at the time the loss occurs.

14 D. Life insurance contracts may be entered into in which the
15 person paying the consideration for the insurance has no insurable
16 interest in the life of the individual insured, where charitable,
17 benevolent, educational or religious institutions, or their
18 agencies, are designated as the beneficiaries thereof. In no event
19 shall an individual be named as a beneficiary. In making these
20 contracts, the person paying the premium shall make and sign the
21 application therefor as owner and shall designate a charitable,
22 benevolent, educational, or religious institution, or an agency
23 thereof, as the beneficiary or beneficiaries of the contract. The
24 application or any subsequent change of beneficiary designation

1 shall be signed by the individual whose life is to be insured.

2 These contracts shall be valid and binding among the parties,
3 notwithstanding the absence otherwise of an insurable interest in
4 the life of the individual insured.

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

23 SECTION 2. This act shall become effective November 1, 2008.

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