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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 2102
As Amended

SENATE BILL NO. 2102 - By: SPARKS of the Senate and MARTIN (Scott) of the House.

[insurance - insurable interest - effective date]

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

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

Section 3604. A. 1. Any individual of competent legal capacity may procure or effect an insurance contract upon his or her 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 the contract are payable to the individual insured or a personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the individual insured.

2. In the absence of an agreement to the contrary, a policy procured and owned by a corporation, partnership, association, limited liability company, or other legal entity on the life or body of an officer, director, manager, member, or employee, other than a sole proprietor, upon the termination of the insurable interest, the

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

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

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

21 1. In the case of individuals related closely by blood or by
22 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

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

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

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

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

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

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

15 e. For purposes of this section:
16 (1) "employer" means any individual, sole
17 proprietorship, partnership, limited liability
18 company, corporation, or other legal entity that
19 is legally doing business in this state; the term
20 shall also include all entities or persons which
21 are controlled by or affiliated with any of the
22 foregoing. The determination of whether any
23 entity or person is controlled by or affiliated

1 with another shall be made by applying the
2 principles set forth in subsection (b) or (c) of
3 Section 414 of Title 26 of the United States
4 Code, as in effect on January 1, 1993, except
5 that all references therein to eighty percent
6 (80%) shall be changed to fifty-one percent
7 (51%), and

8 (2) "employee" means any common law employee of an
9 employer.

10 f. This section shall not be interpreted to limit other
11 insurable interests which may exist by statute or at
12 common law.

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

18 D. Life insurance contracts may be entered into in which the
19 person paying the consideration for the insurance has no insurable
20 interest in the life of the individual insured, where charitable,
21 benevolent, educational or religious institutions, or their
22 agencies, are designated as the beneficiaries thereof. In no event
23 shall an individual be named as a beneficiary. In making these

1 contracts, the person paying the premium shall make and sign the
2 application therefor as owner and shall designate a charitable,
3 benevolent, educational, or religious institution, or an agency
4 thereof, as the beneficiary or beneficiaries of the contract. The
5 application or any subsequent change of beneficiary designation
6 shall be signed by the individual whose life is to be insured.
7 These contracts shall be valid and binding among the parties,
8 notwithstanding the absence otherwise of an insurable interest in
9 the life of the individual insured.

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

1 also by the individual whose life is to be insured. These contracts
2 shall be valid and binding among the parties thereto,
3 notwithstanding the absence of an insurable interest in the life of
4 the individual insured.

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

6 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
7 2-21-08 - DO PASS, As Amended and Coauthored.