

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2008

By: Branan

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7 AS INTRODUCED

8 An Act relating to insurance; amending 36 O.S. 2001,  
9 Section 3604, which relates to insurable interest;  
10 making language gender neutral; expanding certain  
11 definition; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

19 a. the individual insured who established the trust,

20 b. each individual in whose life the owner of the trust  
21 for federal income tax purposes has an insurable  
22 interest, and

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

1        5.    a.    An employer, or a trust which is sponsored by an  
2                    employer for the benefit of its employees, shall have  
3                    an insurable interest in each of the lives of the  
4                    employees, directors, or retired employees of the  
5                    employer.    Notwithstanding paragraph 2 of subsection C  
6                    of this section or Section 4101 of this title, and  
7                    amendments thereto, the employer or trust may insure  
8                    the life of any employee, director, or retired  
9                    employee for the benefit of the employer or trust on  
10                   an individual or group basis only with the written  
11                   consent of the insured.

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

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

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

1 c. It shall be unlawful for the employer or trust to  
2 retaliate against any person for refusing to consent  
3 to the issuance of insurance on the person.

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

18 e. For purposes of this section:

19 (1) "employer" means any individual, sole  
20 proprietorship, partnership, limited liability  
21 company, corporation, or other legal entity that  
22 is legally doing business in this state; the term  
23 shall also include all entities or persons which  
24 are controlled by or affiliated with any of the

1           foregoing. The determination of whether any  
2           entity or person is controlled by or affiliated  
3           with another shall be made by applying the  
4           principles set forth in subsection (b) or (c) of  
5           Section 414 of Title 26 of the United States  
6           Code, as in effect on January 1, 1993, except  
7           that all references therein to eighty percent  
8           (80%) shall be changed to fifty-one percent  
9           (51%), and

10           (2) "employee" means any common law employee of an  
11           employer.

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

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

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

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

11 E. Life insurance contracts may be entered into in which the  
12 members of an alumni association of an institution of higher  
13 education accredited by the Oklahoma State Regents for Higher  
14 Education are insured under a group insurance policy and either the  
15 institution is the designated beneficiary thereof or the association  
16 is the designated beneficiary with the stipulation that the  
17 association will use the proceeds of the policies for direct grants  
18 to the institution or for scholarships for students of such  
19 institutions. In no event shall an individual be named as a  
20 beneficiary to such a policy. In making such contracts, the person  
21 paying the premium shall make and sign the application therefor as  
22 owner and shall designate an institution or alumni association as  
23 the beneficiary or beneficiaries of such contract. The application  
24 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.

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