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SENATE BILL 5393

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State of Washington

58th Legislature

2003 Regular Session

By Senators Benton and Prentice; by request of Insurance Commissioner

Read first time 01/23/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to insurable interests and employer-owned life and  
2 disability insurance; amending RCW 48.18.010, 48.18.030, and 48.18.060;  
3 and adding new sections to chapter 48.18 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.18.010 and 1947 c 79 s .18.01 are each amended to  
6 read as follows:

7 ~~((The applicable provisions of this chapter shall apply to~~  
8 ~~insurances other than ocean marine and foreign trade insurances. This~~  
9 ~~chapter shall not apply to life or disability insurance policies not~~  
10 ~~issued for delivery in this state nor delivered in this state.)) This  
11 chapter applies to insurance and insurance transactions in this state,  
12 performed in this state, or affecting persons located within this  
13 state. This chapter does not apply to ocean marine and foreign trade  
14 insurances.~~

15 **Sec. 2.** RCW 48.18.030 and 1992 c 51 s 1 are each amended to read  
16 as follows:

17 (1) Any individual of competent legal capacity may ~~((procure or~~  
18 ~~effect an insurance contract upon)) insure his or her own life or body~~

1 for the benefit of any person. (~~But no~~) A person (~~shall procure or~~  
2 ~~cause to be procured any insurance contract upon~~) may not insure the  
3 life or body of another individual unless the benefits under (~~such~~)  
4 the contract are payable to the individual insured or (~~his~~) the  
5 individual's personal representative(~~s~~), or to a person having, at  
6 the time when (~~such~~) the contract was made, an insurable interest in  
7 the individual insured.

8 (2) If the beneficiary, assignee or other payee under any contract  
9 made in violation of this section receives from the insurer any  
10 benefits (~~thereunder~~) accruing upon the death, (~~disablement~~)  
11 disability, or injury of the individual insured, the individual insured  
12 or (~~his~~) the individual's executor or administrator(~~, as the case~~  
13 ~~may be,~~) may maintain an action to recover (~~such~~) any benefits from  
14 the person (~~so~~) receiving them.

15 (3)(a) "Insurable interest" as used in this section and in RCW  
16 48.18.060 includes only the following interests (~~as follows~~):

17 (~~a~~) (i) In the case of individuals related closely by blood or  
18 by law, a substantial interest engendered by love and affection; and

19 (~~b~~) (ii) In the case of other persons, a lawful and substantial  
20 economic interest in having the life, health, or bodily safety of the  
21 individual insured continue, as distinguished from an interest  
22 (~~which~~) that would arise only by, or would be enhanced in value by,  
23 the death, (~~disablement~~) disability, or injury of the individual  
24 insured.

25 (~~c~~) (b) An individual (~~heretofore or hereafter~~) who is party  
26 to a contract or option for the purchase or sale of an interest in a  
27 business partnership or firm, or of shares of stock of a close  
28 corporation or of an interest in (~~such~~) those shares, has an  
29 insurable interest in the life of each individual party to (~~such~~) the  
30 contract and for the purposes of (~~such~~) that contract only, in  
31 addition to any insurable interest (~~which~~) that may otherwise exist  
32 as to the life of such individual.

33 (~~d~~) (c) A guardian, trustee, or other fiduciary has an  
34 insurable interest in the life of any person for whose benefit the  
35 fiduciary holds property, and in the life of any other individual in  
36 whose life (~~such~~) the person has an insurable interest.

37 (~~e~~) (d) Subject to rules adopted under subsection (4) of this  
38 section, upon joint application with a nonprofit organization for, or

1 transfer to a nonprofit organization of, an insurance policy on the  
2 life of a person naming the organization as owner and beneficiary, a  
3 nonprofit organization's interest in the life of a person if:

4 (i) The nonprofit organization was established exclusively for  
5 religious, charitable, scientific, literary, or educational purposes,  
6 or to promote amateur athletic competition, to conduct testing for  
7 public safety, or to prevent cruelty to children or animals; and

8 (ii) The nonprofit organization:

9 (A) Has existed for a minimum of five years; or

10 (B) Has been issued a certificate of exemption to conduct a  
11 charitable gift annuity business under RCW 48.38.010, or is authorized  
12 to conduct a charitable gift annuity business under RCW 28B.10.485; or

13 (C) Has been organized, and at all times has been operated,  
14 exclusively for benefit of, to perform the functions of, or to carry  
15 out the purposes of one or more nonprofit organizations described in  
16 ~~((e))~~ (d)(ii)(A) or (B) of this subsection and is operated,  
17 supervised, or controlled by or in connection with one or more ~~((such))~~  
18 of those nonprofit organizations; and

19 (iii) For a joint application, the person is not an employee,  
20 officer, or director of the organization who receives significant  
21 compensation from the organization and who became affiliated with the  
22 organization in that capacity less than one year before the joint  
23 application.

24 (4) The commissioner may adopt rules governing joint applications  
25 for, and transfers of, life insurance under subsection (3)~~((e))~~ (d)  
26 of this section. The rules may include:

27 (a) Standards for full and fair disclosure that set forth the  
28 manner, content, and required disclosure for the sale of life insurance  
29 issued under subsection (3)~~((e))~~ (d) of this section; and

30 (b) For joint applications, a grace period of thirty days during  
31 which the insured person may direct the nonprofit organization to  
32 return the policy and the insurer to refund any premium paid to the  
33 party that, directly or indirectly, paid the premium; and

34 (c) Standards for granting an exemption from the five-year  
35 existence requirement of subsection (3)~~((e))~~ (d)(ii)(A) of this  
36 section to a private foundation that files with the insurance  
37 commissioner documents, stipulations, and information as the insurance

1 commissioner may require to carry out the purpose of subsection  
2 (3)((+e+)) (d) of this section.

3 (5) Nothing in this section permits the personal representative of  
4 the insured's estate to recover the proceeds of a policy on the life of  
5 a deceased insured person that was applied for jointly by, or  
6 transferred to, an organization covered by subsection (3)((+e+)) (d) of  
7 this section, where the organization was named owner and beneficiary of  
8 the policy.

9 This subsection applies to all life insurance policies applied for  
10 by, or transferred to, an organization covered by subsection (3)((+e+))  
11 (d) of this section, regardless of the time of application or transfer  
12 and regardless of whether the organization would have been covered at  
13 the time of application or transfer.

14 NEW SECTION. Sec. 3. A new section is added to chapter 48.18 RCW  
15 to read as follows:

16 (1) "Employer-owned insurance policy" as used in this section and  
17 section 4 of this act means a life or disability insurance policy  
18 purchased by an employer on an employee, for the benefit of a person  
19 other than the individual insured or the individual's personal  
20 representative.

21 (2) An employer-owned insurance policy is not valid unless at the  
22 time the contract is made and throughout the term of the contract the  
23 employer has an insurable interest in the employee, as defined by RCW  
24 48.18.030(3), for the full face value of the policy.

25 (3) When the insurable interest required by RCW 48.18.030(3) is  
26 based solely upon the employment relationship between the employee and  
27 the employer, the insurable interest ceases upon termination of that  
28 employment relationship.

29 NEW SECTION. Sec. 4. A new section is added to chapter 48.18 RCW  
30 to read as follows:

31 (1) Except as provided in subsection (2) of this section, no later  
32 than thirty days after the date on which an employer purchases an  
33 employer-owned insurance policy on an employee, the employer must  
34 provide to each employee for whom the employer carries a policy a  
35 written notice that contains the following information:

- 1 (a) A statement that the employer carries an employer-owned
- 2 insurance policy on the life of the employee;
- 3 (b) The identity of the insurance carrier of the policy;
- 4 (c) The benefit amount of the policy; and
- 5 (d) The identity of the beneficiary of the policy.
- 6 (2) For current employees covered by an employer-owned insurance
- 7 policy as of the effective date of this section, the employer must
- 8 provide the notice required under subsection (1) of this section no
- 9 later than ninety days after the effective date of this section.

10 **Sec. 5.** RCW 48.18.060 and 1947 c 79 s .18.06 are each amended to  
11 read as follows:

12 ((No)) An individual life, group life, or disability insurance  
13 contract ((upon an individual)), except a contract of ((group life  
14 insurance or of group or)) blanket disability insurance as defined in  
15 this code, ((shall)) may not be made or ((effectuated)) take effect  
16 unless at the time ((of the making of)) the contract is made the  
17 individual insured((, being of competent legal capacity to contract, in  
18 writing applies therefor or consents thereto)) is legally competent to  
19 contract and he or she applies for or consents to the contract in  
20 writing, except in the following cases:

21 (1) A spouse may ((effectuate such insurance upon)) insure the life  
22 of the other spouse.

23 (2) Any person having an insurable interest in the life of a minor,  
24 or any person upon whom a minor is dependent for support and  
25 maintenance, may ((effectuate insurance upon)) insure the life of the  
26 minor.

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