

SB 5196 - H AMD 555

By Representative Schual-Berke

ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that there is a long-
4 standing principle that corporations have an insurable interest in the
5 lives of key personnel. Nationally, some corporations have begun to
6 insure the lives of personnel that have not met the insurable interest
7 standard of Washington. Entry-level workers have been insured by their
8 corporate employer for the benefit of the corporate employer. The
9 legislature intends to clarify this subject and preclude corporations
10 from insuring the lives of employees when the employees are not key
11 personnel and the corporations have no insurable interest in the lives
12 of those employees.

13 **Sec. 2.** RCW 48.18.010 and 1947 c 79 s .18.01 are each amended to
14 read as follows:

15 ~~((The applicable provisions of this chapter shall apply to
16 insurances other than ocean marine and foreign trade insurances. This
17 chapter shall not apply to life or disability insurance policies not
18 issued for delivery in this state nor delivered in this state.))~~ This
19 chapter applies to insurances other than ocean marine and foreign trade
20 insurances.

21 **Sec. 3.** RCW 48.18.030 and 1992 c 51 s 1 are each amended to read
22 as follows:

23 (1) Any individual of competent legal capacity may ~~((procure or
24 effect an insurance contract upon))~~ insure his or her own life or body
25 for the benefit of any person. ~~((But no))~~ A person ~~((shall procure or
26 cause to be procured any insurance contract upon))~~ may not insure the
27 life or body of another individual unless the benefits under ~~((such))~~
28 the contract are payable to the individual insured or ~~((his))~~ the

1 individual's personal representative(~~s~~), or to a person having, at
2 the time when (~~such~~) the contract was made, an insurable interest in
3 the individual insured.

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

11 (3)(a) "Insurable interest" as used in this section and in RCW
12 48.18.060 includes only the following interests (~~as follows~~):

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

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

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

29 (~~d~~) (c) A guardian, trustee, or other fiduciary has an
30 insurable interest in the life of any person for whose benefit the
31 fiduciary holds property, and in the life of any other individual in
32 whose life (~~such~~) the person has an insurable interest.

33 (~~e~~) (d) Subject to rules adopted under subsection (4) of this
34 section, upon joint application with a nonprofit organization for, or
35 transfer to a nonprofit organization of, an insurance policy on the
36 life of a person naming the organization as owner and beneficiary, a
37 nonprofit organization's interest in the life of a person if:

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

5 (ii) The nonprofit organization:

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

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

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

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

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

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

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

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

37 (5) Nothing in this section permits the personal representative of
38 the insured's estate to recover the proceeds of a policy on the life of

1 a deceased insured person that was applied for jointly by, or
2 transferred to, an organization covered by subsection (3)((+e+)) (d) of
3 this section, where the organization was named owner and beneficiary of
4 the policy.

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

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.18 RCW
11 to read as follows:

12 (1) "Employer-owned life insurance policy" as used in this section
13 and section 6 of this act means an insurance policy purchased by an
14 employer on the life of an employee, for the benefit of a person other
15 than the employee or the employee's personal representative.

16 (2) An employer-owned life insurance policy may not be made or take
17 effect unless at the time the contract is made the individual insured
18 consents to the contract in writing.

19 (3) An employer may not retaliate in any manner against an employee
20 for providing written notice that he or she does not want to be insured
21 under an employer-owned life insurance policy.

22 (4) No later than thirty days after the date on which an employer
23 purchases an employer-owned life insurance policy on the life of an
24 employee, the employer must provide to the employee a written notice
25 that contains the following information:

26 (a) A statement that the employer carries an employer-owned life
27 insurance policy on the life of the employee;

28 (b) The identity of the insurance carrier of the policy;

29 (c) The maximum face amount of the policy at issue; and

30 (d) The identity of the beneficiary of the policy.

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

33 ~~((No))~~ A life or disability insurance contract upon an
34 individual ~~(, except a contract of group life insurance or of group or
35 blanket disability insurance as defined in this code, shall))~~ may not
36 be made or ~~((effectuated))~~ take effect unless at the time ~~((of the~~

1 ~~making of))~~ the contract is made the individual insured(~~(, being of~~
2 ~~competent legal capacity to contract, in writing applies therefor or~~
3 ~~consents thereto,))~~ applies for or consents to the contract in writing,
4 except in the following cases:

5 (1) A spouse may (~~effectuate such insurance upon~~) insure the life
6 of the other spouse.

7 (2) Any person having an insurable interest in the life of a minor,
8 or any person upon whom a minor is dependent for support and
9 maintenance, may (~~effectuate insurance upon~~) insure the life of the
10 minor.

11 (3) A contract of group or blanket disability insurance may be
12 effectuated upon an individual.

13 (4) A contract of group life insurance may be effectuated upon an
14 individual, except as otherwise provided in section 4 of this act.

15 NEW SECTION. Sec. 6. A new section is added to chapter 48.18 RCW
16 to read as follows:

17 With respect to employer-owned life insurance policies, this act
18 shall apply only to policies issued and delivered after the effective
19 date of this act.

20 NEW SECTION. Sec. 7. A new section is added to chapter 48.18 RCW
21 to read as follows:

22 The commissioner shall adopt rules to implement RCW 48.18.010,
23 48.18.030, and 48.18.060 and sections 4 and 6 of this act.

24 NEW SECTION. Sec. 8. The insurance commissioner shall report to
25 the legislature on or before December 31, 2006, on steps taken to
26 implement this act and whether the protections afforded in this act are
27 adequate to protect consumers."

28 Correct the title.

EFFECT: Provides an intent statement. Requires rulemaking to
implement the act. Requires a report to the Legislature regarding
implementation of the act on or before December 31, 2006.

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