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SENATE BILL NO. 1227

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 10, 2005)

(Patron Prior to Substitute—Senator Stosch)

A *BILL to amend and reenact § 38.2-301 of the Code of Virginia, relating to life insurance contracts procured by an individual other than the insured.*

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-301 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-301. Insurable interest required; life, accident and sickness insurance.

A. Any individual of lawful age may ~~procure or effect~~ *take out* an insurance contract upon himself for the benefit of any person. No person shall knowingly procure or cause to be procured any insurance contract upon another individual unless the benefits under the contract are payable to (i) the insured or his personal representative; ~~or (ii) a beneficiary designated by the insured; or (iii)~~ a person having an insurable interest in the insured at the time when the contract was made.

B. As used in this section and § 38.2-302, "insurable interest" means:

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

2. In the case of other persons, a lawful and substantial economic interest in the life, health, and bodily safety of the insured. "Insurable interest" shall not include an interest which arises only or is enhanced by the death, disability or injury of the insured;

3. In the case of employees of corporations, with respect to whom the corporate employer, *a trust established by the corporate employer*, or an employee benefit trust is the beneficiary under an insurance contract, the lawful and substantial economic interest required in subdivision 2 of this subsection shall be deemed to exist in (i) key employees; and (ii) other employees who have been employed by the corporation for ~~twelve~~ 12 consecutive months, provided that the amount of insurance coverage on such other employees shall be limited to an amount which is commensurate with employer-provided benefits to ~~such employees non-key employees as a group; and~~

4. *In the case of a party to a contract or option for the purchase or sale, including a redemption, of an interest in a business proprietorship, partnership or firm or of shares of stock of a corporation or of an interest in such shares, the lawful and substantial economic interest required in subdivision 2 shall be deemed to exist in each individual party to such contract or option and for the purpose of such contract or option only, in addition to any insurable interest that may otherwise exist as to the life of such individual;*

5. *In the case of a trustee, other than the trustee of a domestic business trust or foreign business trust, as defined in § 13.1-1201, the lawful and substantial economic interest required in subdivision 2 shall be deemed to exist in (i) the individual insured who established the trust, (ii) each individual in whose life the owner of the trust for federal income tax purposes has an insurable interest, and (iii) each individual in whose life a beneficiary of the trust has an insurable interest; and*

6. In the case of an organization described in § 501 (c) of the Internal Revenue Code, the lawful and substantial economic interest required in subdivision 2 of this subsection shall be deemed to exist where (i) the insured or proposed insured has either assigned all or part of his ownership rights in a policy or contract to such an organization or has executed a written consent to the issuance of a policy or contract to such organization and (ii) such organization is named in the policy or contract as owner or as beneficiary.

2. That the provisions of this act shall not apply to policies or contracts of life insurance where: (i) a charitable organization headquartered in Virginia executed a nondisclosure and exclusivity agreement prior to December 31, 2004, (ii) such charitable organization was the holder of a charity certificate issued by a business trust prior to December 31, 2004, and (iii) the policies or contracts are written pursuant to such agreement on the lives of individuals who, prior to December 31, 2004, were donors to such charitable organization, or an organization under common control with such organization.