

HOUSE BILL REPORT

ESHB 1230

As Passed House:

March 12, 2003

Title: An act relating to insurable interests and employer-owned life and disability insurance.

Brief Description: Regulating insurable interests and employer-owned life and disability insurance.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson, Benson, Schual-Berke, Conway, Cooper, Ruderman and Rockefeller; by request of Insurance Commissioner).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/29/03, 2/28/03 [DPS].

Floor Activity:

Passed House: 3/12/03, 95-0.

Brief Summary of Engrossed Substitute Bill

- Requires an employer to provide an employee with specified disclosures with respect to employer-owned insurance policies.
- Requires that an insured consent in writing before he or she is included in a group life insurance policy.
- Prohibits employer retaliation if an employee will not consent to an employer owned life insurance policy.
- Clarifies the scope of the jurisdiction of the Insurance Commissioner with respect to the regulation of insurance contracts.
- Makes non-substantive, technical revisions of current statutes.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority

Member; Cairnes, Carrell, Cooper, Hatfield, Hunter, Roach and Santos.

Staff: Thamas Osborn (786-7129).

Background:

Controversial employer practices. In the last several years, the media has reported on the practice by some corporations of obtaining life insurance on low-level, non-salaried employees without their knowledge or consent. In one such case, a corporate employer received a large cash benefit upon the death of an insured blue-collar employee, thus causing consternation among the decedent's relatives who neither knew of the policy nor received any benefit from it.

Regulatory authority of the Insurance Commissioner. The Office of the Insurance Commissioner (OIC) is authorized to regulate both the form and content of life and disability insurance contracts that are either *issued* or *delivered* in Washington.

Contractual restrictions. A person may enter into an insurance contract in order to insure the life of another, but only if:

- The benefits are payable to the insured person or that person's personal representative; or
- the person procuring the contract has an "insurable interest" in the person insured.

Insurable interest. The term "insurable interest" is defined to include:

- A substantial personal or emotional interest in an insured stemming from close family ties;
- a substantial economic interest in the continuing life, health, or safety of an insured;
- specified financial interests related to certain contracts, business relationships, and stock option arrangements;
- certain interests of guardians, trustees or other fiduciaries with respect to beneficiaries; and
- the interests of a nonprofit organization with respect to certain life insurance policies.

Consent of the insured. Subject to specified exceptions, an individual may not be insured under a life or disability insurance contract unless the individual is legally *competent* and *consents* in writing to the contract. Exceptions to this rule include:

- Group life or group disability insurance contracts;
- insurance obtained by one spouse with respect to the other; and
- insurance obtained on the life of a minor when obtained by a parent, guardian, or other person with an insurable interest in the life of the minor.

Summary of Engrossed Substitute Bill:

Employer disclosures. An employer who purchases a life or disability insurance policy on an employee must provide the employee with disclosures regarding the policy, which include the identification of the insurer, the benefit amount, and the identity of the beneficiary. These disclosures must be provided to the employee within 30 days of the employer's purchase of the policy.

Consent of the insured. The general rule requiring that an insured consent in writing to the issuance of a life or disability insurance policy is expanded to include *group life* insurance policies. Under current law, group life policies are not subject to the consent requirement.

Employer retaliation. Employers are prohibited from retaliating against an employee who will not consent to inclusion in an employer-owned life insurance policy.

Prospective application. With respect to employer-owned life insurance policies, the regulatory provisions in the bill apply only to those policies issued and delivered after the effective date of the act.

Regulatory authority of the OIC. The bill clarifies that the authority of the OIC to regulate insurance contracts includes all types of insurance other than ocean marine insurance and foreign trade insurance.

Technical changes. Numerous non-substantive, technical changes are made, involving the renumbering of statutory sections and editorial revisions that clarify existing language.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) The bill focuses on the problem of employers obtaining life insurance on employees without their knowledge or consent. It also deals with employer-owned life insurance that continues after the employee leaves the employer or which is obtained when the employer does not have an insurable interest in the employee. Such an insurable interest should be required. Many corporations engage in such practices and reap tax benefits. The bill prohibits such practices and creates needed regulation.

Testimony Against: (Original bill) This is a bad bill that differs from the model act and would adversely affect many employers who use the proceeds from such life insurance policies to fund other employee benefits. Passage of this bill would threaten the solvency

of some employee benefit programs. The impact of the bill is far too broad and would prohibit many corporate policies that are beneficial.

Testified: (In support) Bill Daley, Office of the Insurance Commissioner.

(With concerns) John Rathbun, National Association of Insurance Financial Advisors; and Basil Badley, American Council of Life Insurers.