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**SUBSTITUTE HOUSE BILL 1033**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Roach, Morrell and Simpson; by request of Insurance Commissioner)

READ FIRST TIME 02/10/05.

1 AN ACT Relating to insurable interests and employer-owned life  
2 insurance; amending RCW 48.18.010, 48.18.030, and 48.18.060; and adding  
3 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 insurances other than ocean marine and foreign trade  
12 insurances.~~

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

15 (1) Any individual of competent legal capacity may ~~((procure or~~  
16 ~~effect an insurance contract upon)) insure his or her own life or body  
17 for the benefit of any person. ~~((But no))~~ A person ~~((shall procure or~~  
18 ~~cause to be procured any insurance contract upon)) may not insure the~~~~

1 life or body of another individual unless the benefits under ~~((such))~~  
2 the contract are payable to the individual insured or ~~((his))~~ the  
3 individual's personal representative~~((s))~~, or to a person having, at  
4 the time when ~~((such))~~ the contract was made, an insurable interest in  
5 the individual insured.

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

13 (3)(a) "Insurable interest" as used in this section and in RCW  
14 48.18.060 includes only the following interests ~~((as follows))~~:

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

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

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

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

35 ~~((+e))~~ (d) Subject to rules adopted under subsection (4) of this  
36 section, upon joint application with a nonprofit organization for, or  
37 transfer to a nonprofit organization of, an insurance policy on the

1 life of a person naming the organization as owner and beneficiary, a  
2 nonprofit organization's interest in the life of a person if:

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

7 (ii) The nonprofit organization:

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

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

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

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

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

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

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

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

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

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

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

14 (1) "Employer-owned life insurance policy" as used in this section  
15 and section 5 of this act means an insurance policy purchased by an  
16 employer on the life of an employee, for the benefit of a person other  
17 than the employee or the employee's personal representative.

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

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

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

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

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

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

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

33 (5) An employer has an insurable interest in and may insure the  
34 lives of the employer's nonmanagement employees and its retired  
35 employees only if:

36 (a)(i) The coverage is limited to an amount reasonably commensurate

1 with the employer's projected unfunded liabilities to nonmanagement and  
2 retired employees for employee benefit plans, calculated according to  
3 accepted actuarial principles;

4 (ii) The employee benefit plan is financed in whole or in part by  
5 the coverage; and

6 (iii) The nonmanagement and retired employees are eligible for  
7 benefits under the benefit plan being financed in whole or in part by  
8 the coverage; and

9 (b) The consent required in subsection (2) of this section is not  
10 withdrawn.

11 (6) Consent may be withdrawn by nonmanagement employees and retired  
12 employees:

13 (a) At the time an insured individual's employment terminates. The  
14 employer must notify the individual of his or her right to withdraw  
15 consent. The individual has thirty days from notification to withdraw  
16 consent. If the individual's consent is withdrawn, the employer must  
17 terminate the policy on that individual. The employer is not required  
18 to provide the notification or allow the individual to withdraw consent  
19 if the individual possesses a present or prospective right to receive  
20 any of the benefits under an employee benefit plan being financed in  
21 whole or in part by the coverage; and

22 (b) At any time after the termination of an insured individual's  
23 employment, if the employee benefit plan is no longer being financed in  
24 whole or in part by the coverage, or if the benefits are reduced or  
25 eliminated. The employer must notify the individual of his or her  
26 right to withdraw consent. The individual has thirty days from  
27 notification to withdraw consent. If the individual's consent is  
28 withdrawn, the employer must terminate the policy on that individual.

29 **Sec. 4.** RCW 48.18.060 and 1947 c 79 s .18.06 are each amended to  
30 read as follows:

31 ~~((No))~~ A life or disability insurance contract upon an  
32 individual(~~(, except a contract of group life insurance or of group or~~  
33 ~~blanket disability insurance as defined in this code, shall)) may not  
34 be made or ~~((effectuated))~~ take effect unless at the time ~~((of the~~  
35 ~~making of))~~ the contract is made the individual insured(~~(, being of~~  
36 ~~competent legal capacity to contract, in writing applies therefor or~~~~

1 ~~consents thereto,~~) applies for or consents to the contract in writing,  
2 except in the following cases:

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

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

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

11 (4) A contract of group life insurance may be effectuated upon an  
12 individual, except as otherwise provided in section 3 of this act.

13 NEW SECTION. Sec. 5. A new section is added to chapter 48.18 RCW  
14 to read as follows:

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

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