

House Bill 1484 (AS PASSED HOUSE AND SENATE)

By: Representative Tumlin of the 38th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 clarify the circumstances under which an insurable interest exists with respect to personal
3 insurance; to codify the common law with respect to certain insurable interests; to change
4 certain provisions concerning prerequisites for replacement life insurance exceeding
5 insurance being surrendered; to change special employee group provisions of group life
6 insurance; to alter required policy provisions for group life insurance; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
11 striking Code Section 33-24-3, relating to insurable interest of personal insurance, and
12 inserting in its place the following:

13 "33-24-3.

14 (a) An insurable interest, with reference to personal insurance, is an interest based upon
15 a reasonable expectation of pecuniary advantage through the continued life, health, or
16 bodily safety of another person and consequent loss by reason of such person's death or
17 disability or a substantial interest engendered by love and affection in the case of
18 individuals closely related by blood or by law.

19 (b) An individual has an unlimited insurable interest in his or her own life, health, and
20 bodily safety and may lawfully take out a policy of insurance on his or her own life, health,
21 or bodily safety and have the policy made payable to whomsoever such individual pleases,
22 regardless of whether the beneficiary designated has an insurable interest.

23 (c) The trustee of a trust established by an individual settlor has an insurable interest in the
24 life of that individual settlor and has the same insurable interest in the life of any other
25 individual as does such individual settlor. The trustee of a trust has the same insurable
26 interest in the life of any other individual as does any beneficiary of the trust with respect

1 to proceeds of insurance on the life of such individual or any portion of such proceeds that
 2 are allocable to such beneficiary's interest in such trust. If multiple beneficiaries of a trust
 3 have an insurable interest in the life of the same individual, the trustee of such trust has the
 4 same aggregate insurable interest in such individual's life as such beneficiaries with respect
 5 to proceeds of insurance on the life of such individual or any portion of such proceeds that
 6 is allocable in the aggregate to such beneficiaries' interest in the trust.

7 ~~(c)~~(d) A corporation, foreign or domestic, has an insurable interest in the life of any
 8 individual:

9 (1) Holding at least 10 percent of the issued and outstanding shares of such corporation;

10 or

11 (2) In whom the shareholders holding a majority of the issued and outstanding shares
 12 have an insurable interest, whether arising out of their status as shareholders of the
 13 corporation or otherwise,

14 and in the life or physical or mental ability of any of its directors, officers, or employees
 15 or the directors, officers, or employees of any of its subsidiaries or any other person whose
 16 death or physical or mental disability might cause financial loss to the corporation; or,
 17 pursuant to any contractual arrangement with any shareholder concerning the reacquisition
 18 of shares owned by him or her at the time of his or her death or disability, on the life or
 19 physical or mental ability of that shareholder for the purpose of carrying out such
 20 contractual arrangement; or, pursuant to any contract obligating the corporation as part of
 21 compensation arrangements or pursuant to a contract obligating the corporation as
 22 guarantor or surety, on the life of the principal obligor. The trustee of a trust established
 23 by a corporation for the sole benefit of the corporation has the same insurable interest in
 24 the life or physical or mental ability of any person as does the corporation. The trustee of
 25 a trust established by a corporation providing life, health, disability, retirement, or similar
 26 benefits to employees of the corporation or its affiliates and acting in a fiduciary capacity
 27 with respect to such employees, retired employees, or their dependents or beneficiaries has
 28 an insurable interest in the lives of employees for whom such benefits are to be provided.
 29 As used in this subsection, the term 'employee' shall include any and all directors, officers,
 30 employees, or retired employees. The term 'employee' shall include any former employee,
 31 but only for the purpose of replacing existing life insurance that will be surrendered in
 32 exchange for new life insurance in an amount not exceeding the insurance being
 33 surrendered.

34 ~~(c.1)~~ (e) The insurable interest of a corporation or trustee which has been established
 35 pursuant to subsection ~~(c)~~ (d) of this Code section shall be conveyed automatically to
 36 another corporation or to the trustee of a trust established by such other corporation for its
 37 sole benefit which has acquired by purchase, merger, or otherwise all or part of the first

1 corporation's business. A corporation or the trustee of a trust established by such
 2 corporation for its sole benefit may exchange any policy of insurance issued to itself or to
 3 another corporation or the trustee of a trust established by such other corporation for its
 4 sole benefit from which the exchanging corporation has acquired by purchase, merger, or
 5 otherwise all or part of such other corporation's business for a new policy of insurance
 6 issued to itself without establishing a new insurable interest at the time of such exchange.

7 (f) A shareholder in a corporation has an insurable interest in the life of any other
 8 shareholder pursuant to any contractual arrangement between or among such shareholders
 9 concerning the purchase by surviving shareholders of shares owned by a deceased or
 10 disabled shareholder, for the purpose of carrying out such contractual arrangement.

11 (g) A partnership, limited liability company, business trust, or other business entity
 12 established under the laws of any state or of the United States shall have the same insurable
 13 interests as a corporation, as set forth in subsections (d) and (e) of this Code section,
 14 including, without limitation, insurable interests in such entity's partners, members, or
 15 holders of other equity ownership interests and in officers, directors, employees, and those
 16 of any subsidiaries of any such entity. The partners of a partnership, the owners of a
 17 limited liability company, and the owners of equity interests in any form of business entity
 18 have the same insurable interest in the lives of the other partners, members, or equity
 19 interest owners as do shareholders of corporations.

20 ~~(d)~~(h) An insurable interest must exist at the time the contract of personal insurance
 21 becomes effective but need not exist at the time the loss occurs.

22 ~~(e)~~(i) Any personal insurance contract procured or caused to be procured upon another
 23 individual is void unless the benefits under the contract are payable to the individual
 24 insured or such individual's personal representative or to a person having, at the time when
 25 the contract was made, an insurable interest in the individual insured. In the case of a void
 26 contract, the insurer shall not be liable on the contract but shall be liable to repay to the
 27 person or persons who have paid the premiums all premium payments without interest.

28 ~~(f)~~(j) A charitable institution as defined under Sections 501(c)(3), 501(c)(6), 501(c)(8), and
 29 501(c)(9) of the Internal Revenue Code of 1986 shall have an insurable interest in the life
 30 of any donor.

31 (k) The insurable interests set forth in this Code section are not exclusive but are
 32 cumulative of and not in lieu of insurable interests existing in common law and not
 33 expressly set forth in this Code section. No part of this Code section specifically
 34 recognizing any insurable interest shall create any presumption or implication that such
 35 insurable interest did not exist prior to July 1, 2006. To the contrary, an insurable interest
 36 shall be presumed with respect to any life insurance policy issued prior to July 1, 2006, to
 37 any person whose insurable interest is recognized in this Code section."

SECTION 2.

Said title is further amended by striking the introductory paragraph and paragraph (1) of Code Section 33-24-6.1, relating to prerequisites for replacement life insurance exceeding insurance being surrendered, and inserting in lieu thereof the following:

"Notwithstanding the provisions of subsection ~~(c)~~ (d) of Code Section 33-24-3, subsection (d) of Code Section 33-24-6, or paragraph (11) of Code Section 33-27-3 which relate to the replacement of existing life insurance, any new life insurance may exceed the insurance being surrendered:

(1) When an entity has a proper interest pursuant to subsection ~~(c)~~ ~~or (c.1)~~ (d) or (e) of Code Section 33-24-3 and the authority to effectuate life insurance pursuant to the provisions of paragraph (4), (5), or (6) of subsection (a) of Code Section 33-24-6; and"

SECTION 3.

Said title is further amended by striking paragraph (10) of Code Section 33-27-1, relating to group life insurance generally, and inserting in lieu thereof the following:

"(10) SPECIAL EMPLOYEE GROUPS. ~~A corporation~~ An entity or a trustee of a trust established by ~~a corporation~~ an entity which has an insurable interest in employees pursuant to subsection ~~(c)~~ (d) of Code Section 33-24-3 and authority to effectuate insurance on employees pursuant to paragraph (4) or (5) of subsection (a) of Code Section 33-24-6 may establish an employee group to effectuate group life insurance policies on employees when such corporation or trustee of a trust is providing life, health, disability, retirement, or similar benefits to employees, provided that the premium for such group policies is wholly paid by the corporation or trustee of the trust and the proceeds of such policies are used to provide supplemental funding for such employee benefit plans."

SECTION 4.

Said title is further amended by paragraph (11) of subsection (a) of Code Section 33-27-3, relating to required group life insurance policy provisions, and inserting in lieu thereof the following:

"(11) ~~A corporation~~ An entity or trustee of a trust having an insurable interest pursuant to subsection ~~(c)~~ (d) of Code Section 33-24-3 and effectuation authority pursuant to paragraph (4) or (5) of subsection (a) of Code Section 33-24-6, providing life, health, disability, retirement, or similar benefits to employees may designate the beneficiary of a group life insurance policy, ~~providing~~ provided that the corporation or trustee of a trust uses the insurance proceeds to provide life, health, disability, retirement, or similar benefits to such employees. As used in this paragraph, the term 'employees' shall include directors, officers, employees, retired employees, or the dependents of such persons. The

1 term 'employee' shall include any former employee, but only for the purpose of replacing
2 existing life insurance that will be surrendered in exchange for new life insurance in an
3 amount not exceeding the insurance being surrendered."

4 **SECTION 5.**

5 All laws and parts of laws in conflict with this Act are repealed.