

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1608 (Delegate Simmons)
Health and Government Operations

**Insurance Contracts - Insurable Interest - Individuals Related Closely by Blood
or Law**

This bill, for purposes of personal insurance, which includes life insurance and disability insurance, specifies individuals who are closely related and provides that a trustee or an entity has an insurable interest in the life of a person under specified conditions.

Fiscal Summary

State Effect: The bill would not directly affect the finances or operations of the Maryland Insurance Administration.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill specifies that the individuals related closely by blood or law include: (1) the individual's spouse, descendants, ancestors, and siblings; and (2) the descendants of the insured's sibling. The bill establishes a presumption that an individual related closely by blood or law to an insured has a substantial interest engendered by love and affection in the insured.

The trustee of a trust has an insurable interest in the life or lives of a person or persons insured under a life insurance contract owned by the trustee if, at the time the contract is procured: (1) the insured life or lives are that or those of the grantor of the trust or

closely related individuals; (2) the grantor of the trust otherwise has an insurable interest; or (3) a beneficiary of the trust otherwise has an insurable interest.

A partnership, limited partnership, limited liability company, or other entity has an insurable interest in the life of a person or persons insured under a life insurance contract owned by the entity if, at the time the contract is procured: (1) the insured or a closely related individual owns an equity interest in the entity; (2) the entity otherwise has an insurable interest; or (3) one or more equity owners has an insurable interest.

The trustee of a trust has an insurable interest in the disability of a person insured under a disability insurance contract if, at the time the contract is procured: (1) the disability insured against is that of the grantor of the trust or a closely related individual; (2) the grantor otherwise has an insurable interest in the disability insured against; or (3) a beneficiary of the trust has an insurable interest.

Current Law: An individual of competent legal capacity may procure or effect an insurance contract on the individual's own life or body for the benefit of any person. Generally, a person may not procure or cause to be procured an insurance contract on the life or body of another individual unless the benefits under the contract are payable to the insured, the insured's personal representative, or a person with an insurable interest in the insured at the time the contract was made. Under *Beard v. American Agency Life Ins. Co.*, 314 Md. 235 (1988), an insurance contract in which the beneficiary has no insurable interest is void as against public policy.

For personal insurance, an insurable interest includes only those interests established by statute.

For individuals related closely by blood or law, a substantial interest engendered by love and affection is an insurable interest.

A prospective parent of a prospective adoptive child has an insurable interest in the life of the child as of the date of the earlier of: (1) a placement for adoption, provided that: (a) any required consents have been given; or (b) a decree awarding guardianship has been granted; or (2) an interlocutory or final decree of adoption.

For persons other than individuals closely related by blood or law, a lawful and substantial economic interest in the continuation of the life, health, or bodily safety of the individual is an insurable interest. However, an interest that arises only by, or would be enhanced in value by, the death, disablement, or injury of the individual is not an insurable interest.

For an employee of a corporation when the corporate employer or an employer sponsored trust for the benefit of employees is the beneficiary, a lawful and substantial economic interest (an insurable interest) exists in a key employee or, if specified criteria are met, a nonkey employee. Also, an individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or stock shares or an interest in stock shares of a close corporation, has an insurable interest in other parties to the contract.

Background: In a recent case applying Maryland law, the U.S. District Court for the Eastern District of Virginia, Alexandria Division, found that a trust did not have an insurable interest in the life of the insured because Maryland law does not specify that one exists.

Small Business Effect: Small businesses that meet the bill's criteria could obtain life insurance policies on certain individuals. The proceeds under such a policy could be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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