

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 271 (Delegates Bromwell and Haynes)
Health and Government Operations

Finance

Life Insurance - Insurable Interests - Trustees, Partnerships, Limited Partnerships, and Limited Liability Companies

This bill provides that the trustee of a trust, a partnership, limited partnership (LP), or limited liability company (LLC) has an insurable interest in the life of an individual for life insurance purposes under specified conditions.

The bill takes effect June 1, 2006 and applies to all trusts existing before or after that date regardless of the effective date of the governing instrument under which the trust was created, but only as to life insurance policies that are in force and for which the insured is alive on or after June 1, 2006.

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: Minimal.

Analysis

Bill Summary: The trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy owned by the trust or the trustee of a trust if, on the date the policy is issued: (1) the insured is the grantor of the trust, closely related to the grantor, or the grantor otherwise has an insurable interest; and (2) the life insurance proceeds are primarily for the benefit of trust beneficiaries having an insurable interest in the life of the insured.

A partnership, LP, or LLC has an insurable interest in the life of an individual insured under a life insurance policy owned by the partnership, LP, or LLC if, at the time the policy is issued, substantially all of the owners are: (1) the insured; (2) individuals related to the insured; or (3) persons having an insurable interest in the life of the insured.

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.

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.

Additional Information

Prior Introductions: A similar bill, HB 1608 of 2005, was heard in the Health and Government Operations Committee, but no further action was taken.

Cross File: SB 300 (Senator Kelley, *et al.*) – Finance.

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

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