§ 3205. Insurable interest in the person; consent required; exceptions. (a) In this section:

(1) The term, "insurable interest" means:

(A) in the case of persons closely related by blood or by law, a substantial interest engendered by love and affection;

(B) in the case of other persons, a lawful and substantial economic interest in the continued life, health or bodily safety of the person insured, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the insured.

(2) The term "contract of insurance upon the person" includes any policy of life insurance and any policy of accident and health insurance.

(3) The term "person insured" means the natural person, or persons, whose life, health or bodily safety is insured.

(b) (1) Any person of lawful age may on his own initiative procure or effect a contract of insurance upon his own person for the benefit of any person, firm, association or corporation. Nothing herein shall be deemed to prohibit the immediate transfer or assignment of a contract so procured or effectuated.

(2) No person shall procure or cause to be procured, directly or by assignment or otherwise any contract of insurance upon the person of another unless the benefits under such contract are payable to the person insured or his personal representatives, or to a person having, at the time when such contract is made, an insurable interest in the person insured.

(3) Notwithstanding the provisions of paragraphs one and two of this subsection, a Type B charitable, educational or religious corporation formed pursuant to paragraph (b) of section two hundred one of the not-for-profit corporation law, or its agent, may procure or cause to be procured, directly or by assignment or otherwise, a contract of life insurance upon the person of another and may designate itself or cause to have itself designated as the beneficiary of such contract.

(4) If the beneficiary, assignee or other payee under any contract made in violation of this subsection receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the person insured, the person insured or his executor or administrator

may maintain an action to recover such benefits from the person receiving them.

(c) No contract of insurance upon the person, except a policy of group life insurance, group or blanket accident and health insurance, or family insurance, as defined in this chapter, shall be made or effectuated unless at or before the making of such contract the person insured, being of lawful age or competent to contract therefor, applies for or consents in writing to the making of the contract, except in the following cases:

(1) A wife or a husband may effectuate insurance upon the person of the other.

(2) Any person having an insurable interest in the life of a minor under the age of fourteen years and six months or any person upon whom such minor is dependent for support and maintenance, may effectuate a contract of insurance upon the life of such minor, in an amount which shall not exceed the limits specified in section three thousand two hundred seven of this article.

(d) In addition to any other basis under which either an employer, or an irrevocable trust established by one or more employers or one or more employers and one or more labor unions, have an insurable interest in the lives of any of its employees or retirees or those of its subsidiaries or affiliated companies, an employer or such a trust shall have an insurable interest in the lives of any such employees or retirees who are participants or who are eligible to participate, upon the satisfaction of age, service or similar eligibility criteria, in an employee benefit plan, established or maintained by an employer as defined by the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., provided that:

(1) The employer providing for insurance coverage or causing such coverage to be issued under this subsection: (A) prior to or at the commencement of any such coverage notifies prospective insureds in writing that coverage is being obtained on their lives, requires that prospective insureds consent in writing to such coverage, provides each consenting insured the right to have any coverage on his/her life issued under the authority of this subsection discontinued at any time and describes in the notice the method the insured may use to terminate coverage; (B) at the time any insured employee's employment terminates,

notifies the employee of the right to discontinue such coverage, provided, however, that no such notification shall be required if the insured employee possesses a present or prospective right to receive any of the benefits under an employee benefit plan being financed, in whole or in part, by such life insurance coverage; and (C) at any time after the termination of an insured employee's employment and upon the termination of an employee benefit plan being financed, in whole or in part, by such life insurance coverage or a reduction of the benefits provided thereunder, notifies the employee of the right to discontinue such coverage.

(2) At the time coverage is issued, the total amount of insurance coverage issued to date to the employer or trust under authority of this subsection shall not exceed the costs of employee and/or retiree benefits already incurred in connection with such employee benefit plan since the earliest date coverage on an employee or retiree was issued under this subsection, plus the projected future cost of such benefits as established by the employer.

(3) The amount of coverage insuring the life of each such employee or retiree and the selection of the employees or retirees to be insured is based purely on nondiscriminatory factors such as age, premium amount or some other nondiscriminatory factor, and not on conditions or terms of employment other than participation in an employee benefit plan described herein.

(4) If subsequent to issuance of the policy or policies providing life insurance coverage pursuant to this subsection, the insurer providing the coverage is replaced by another insurer, the employer shall notify each insured employee or retiree of such replacement.

(5) During the first five years subsequent to issuance of the policy or policies providing life insurance pursuant to this subsection, the policyholder does not undertake a pattern of borrowing likely to require all or a substantial part of the cash values of the policies to be pledged as security against repayment of such loans, unless such borrowing was incurred because of an unforeseen substantial loss of income or unforeseen increase in financial obligations.

(e) If, pursuant to subparagraph (A) of paragraph one of subsection (d) of this section, the employer receives from the employee or retiree written notice that he or she rejects the issuance of the insurance, the

employer shall notify the insurer of such rejection and the insurance shall not be issued, or if the insurance has already been issued and the employee elects to have the existing coverage terminated, the employee shall notify the insurer of the election to terminate coverage in writing, and upon receipt of such written notice from the employee, the insurance shall not be continued in effect and shall terminate upon receipt of such written notice from the employee. In such event, the insurer shall pay any amounts which are payable to the employer or trust policy owner as the result of such termination of coverage, pursuant to the terms and conditions of coverage. Unless the employee or retiree complies with the requirements of this subsection, neither the employee, retiree nor his or her successor in interest, may contest the validity of the coverage.