

1 A bill to be entitled
 2 An act relating to alien insurers; amending s.
 3 624.402, F.S.; revising a provision exempting alien
 4 insurers from being required to obtain a certificate
 5 of authority; deleting insurer's ownership of or
 6 control over affiliated persons as disqualification
 7 for exemptions; revising the definition of the term
 8 "nonresident"; exempting alien life or annuity
 9 insurers from obtaining a certificate of authority
 10 based upon certain requirements; establishing
 11 conditions; providing requirements to maintain
 12 exemptions; authorizing the Office of Insurance
 13 Regulation to conduct examinations or investigations;
 14 providing application and enforcement authority with
 15 respect to pt. IX of ch. 626, relating to unfair
 16 insurance trade practices; exempting eligible insurers
 17 from payment of premium taxes; requiring that certain
 18 applications for a life insurance policy or annuity
 19 contract contain specified statements; providing for
 20 violations and penalties; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsection (8) of section 624.402, Florida
 25 Statutes, is amended, and subsection (9) is added to that
 26 section, to read:

27 624.402 Exceptions, certificate of authority required.—A
 28 certificate of authority shall not be required of an insurer

29 with respect to:

30 (8) (a) An insurer domiciled outside the United States
 31 covering only persons who, at the time of issuance ~~or renewal~~,
 32 are nonresidents of the United States if:

33 1. The insurer ~~or any affiliated person as defined in s.~~
 34 ~~624.04 under common ownership or control with the insurer~~ does
 35 not solicit, sell, or accept application for any insurance
 36 policy or contract to be delivered or issued for delivery to any
 37 person in any state;

38 2. The insurer registers with the office via a letter of
 39 notification upon commencing business from this state;

40 3. The insurer provides the following information, in
 41 English, to the office annually by March 1:

42 a. The name of the insurer; the country of domicile; the
 43 address of the insurer's principal office and office in this
 44 state; the names of the owners of the insurer and their
 45 percentage of ownership; the names of the officers and directors
 46 of the insurer; the name, e-mail, and telephone number of a
 47 contact person for the insurer; and the number of individuals
 48 who are employed by the insurer or its affiliates in this state;

49 b. The lines of insurance and types of products offered by
 50 the insurer;

51 c. A statement from the applicable regulatory body of the
 52 insurer's domicile certifying that the insurer is licensed or
 53 registered for those lines of insurance and types of products in
 54 that domicile; and

55 d. A copy of the filings required by the applicable
 56 regulatory body of the insurer's country of domicile in that

57 | country's official language or in English, if available;

58 | 4. All certificates, policies, or contracts issued in this
59 | state showing coverage under the insurer's policy include the
60 | following statement in a contrasting color and at least 10-point
61 | type: "The policy providing your coverage and the insurer
62 | providing this policy have not been approved by the Florida
63 | Office of Insurance Regulation"; and

64 | 5. In the event the insurer ceases to do business from
65 | this state, the insurer will provide written notification to the
66 | office within 30 days after cessation.

67 | (b) For purposes of this subsection, "nonresident" means
68 | either a trust or other entity organized and domiciled under the
69 | laws of a country other than the United States or a person who
70 | resides in and maintains a physical place of domicile in a
71 | country other than the United States, which he or she recognizes
72 | as and intends to maintain as his or her permanent home. A
73 | nonresident does not include an unauthorized immigrant present
74 | in the United States. Notwithstanding any other provision of
75 | law, it is conclusively presumed, for purposes of this
76 | subsection, that a person is a resident of the United States if
77 | such person has:

78 | 1. Had his or her principal place of domicile in the
79 | United States for 180 days or more in the 365 days prior to
80 | issuance or renewal of the policy;

81 | 2. Registered to vote in any state;

82 | 3. Made a statement of domicile in any state; or

83 | 4. Filed for homestead tax exemption on property in any
84 | state.

85 (c) Subject to the limitations provided in this
86 subsection, services, including those listed in s. 624.10, may
87 be provided by the insurer or an affiliated person as defined in
88 s. 624.04 under common ownership or control with the insurer.

89 (d) An alien insurer transacting insurance in this state
90 without complying with this subsection shall be in violation of
91 this chapter and subject to the penalties provided in s. 624.15.

92 (9) (a) Life insurance policies or annuity contracts
93 solicited, sold, or issued in this state by an insurer domiciled
94 outside the United States, covering only persons who, at the
95 time of issuance, are nonresidents of the United States,
96 provided:

97 1. The insurer must currently be an authorized insurer in
98 its country of domicile as to the kind or kinds of insurance
99 proposed to be offered and must have been such an insurer for
100 not fewer than the immediately preceding 3 years, or must be the
101 wholly owned subsidiary of such authorized insurer, or must be
102 the wholly owned subsidiary of an already eligible authorized
103 insurer as to the kind or kinds of insurance proposed for a
104 period of not fewer than the immediately preceding 3 years.
105 However, the office may waive the 3-year requirement if the
106 insurer has operated successfully for a period of at least the
107 immediately preceding year and has capital and surplus of not
108 less than \$25 million.

109 2. Before the office may grant eligibility, the requesting
110 insurer shall furnish the office with a duly authenticated copy
111 of its current annual financial statement, in English, and with
112 all monetary values therein expressed in United States dollars,

113 at an exchange rate then current and shown in the statement, in
114 the case of statements originally made in the currencies of
115 other countries, and with such additional information relative
116 to the insurer as the office may request.

117 3. The insurer must have and maintain surplus as to
118 policyholders of not less than \$15 million. Any such surplus as
119 to policyholders shall be represented by investments consisting
120 of eligible investments for like funds of like domestic insurers
121 under part II of chapter 625; however, any such surplus as to
122 policyholders may be represented by investments permitted by the
123 domestic regulator of such alien insurance company if the
124 investments are substantially similar in terms of quality,
125 liquidity, and security to eligible investments for like funds
126 of like domestic insurers under part II of chapter 625.

127 4. The insurer must be of good reputation as to the
128 providing of service to its policyholders and the payment of
129 losses and claims.

130 5. To maintain eligibility, the insurer shall furnish the
131 office within the time period specified in s. 624.424(1)(a) a
132 duly authenticated copy of its current annual and quarterly
133 financial statements, in English, and with all monetary values
134 therein expressed in United States dollars, at an exchange rate
135 then current and shown in the statement, in the case of
136 statements originally made in the currencies of other countries,
137 and with such additional information relative to the insurer as
138 the office may request.

139 6. An insurer receiving eligibility under this subsection
140 shall agree to make its books and records pertaining to its

141 operations in this state available for inspection during normal
 142 business hours at the request of the office.

143 7. The insurer shall notify the applicant in clear and
 144 conspicuous language:

145 a. The date of organization of the insurer.

146 b. The identity of and rating assigned by each recognized
 147 insurance company rating organization that has rated the insurer
 148 or, if applicable, that the insurer is unrated.

149 c. That the insurer does not hold a certificate of
 150 authority issued in this state and that the office does not
 151 exercise regulatory oversight over the insurer.

152 d. The identity and address of the regulatory authority
 153 exercising oversight of the insurer.

154
 155 This paragraph does not impose upon the office any duty or
 156 responsibility to determine the actual financial condition or
 157 claims practices of an unauthorized insurer, and the status of
 158 eligibility, if granted by the office, indicates only that the
 159 insurer appears to be financially sound and to have satisfactory
 160 claims practices and that the office has no credible evidence to
 161 the contrary.

162 (b) If at any time the office has reason to believe that
 163 an insurer issuing policies or contracts pursuant to this
 164 subsection is insolvent or is in unsound financial condition,
 165 does not make reasonably prompt payment of benefits, or is no
 166 longer eligible under the conditions specified in this
 167 subsection, the office may conduct an examination or
 168 investigation in accordance with s. 624.316, s. 624.3161, or s.

169 624.320 and, if the findings of such examination or
170 investigation warrant, may withdraw the eligibility of the
171 insurer to issue policies or contracts pursuant to this
172 subsection without having a certificate of authority issued by
173 the office.

174 (c) This subsection does not provide an exception to the
175 agent licensure requirements of chapter 626. Any insurer issuing
176 policies or contracts pursuant to this subsection shall appoint
177 the agents that the insurer uses to sell such policies or
178 contracts as provided in chapter 626.

179 (d) An insurer issuing policies or contracts pursuant to
180 this subsection is subject to part IX of chapter 626, and the
181 office may take such actions against the insurer for a violation
182 as are provided in that part.

183 (e) Policies and contracts issued pursuant to this
184 subsection are not subject to the premium tax specified in s.
185 624.509.

186 (f) Applications for life insurance coverage offered under
187 this subsection must contain, in contrasting color and not less
188 than 12-point type, the following statement on the same page as
189 the applicant's signature:

191 This policy is primarily governed by the laws of a
192 foreign country. As a result, all of the rating and
193 underwriting laws applicable to policies filed in this
194 state do not apply to this coverage, which may result
195 in your premiums being higher than would be
196 permissible under a Florida-approved policy. Any

197 purchase of individual life insurance should be
 198 considered carefully, as future medical conditions may
 199 make it impossible to qualify for another individual
 200 life policy. If the insurer issuing your policy
 201 becomes insolvent, this policy is not covered by the
 202 Florida Life and Health Insurance Guaranty
 203 Association. For information concerning individual
 204 life coverage under a Florida-approved policy, consult
 205 your agent or the Florida Department of Financial
 206 Services.

207
 208 (g) All life insurance policies and annuity contracts
 209 issued pursuant to this subsection must contain on the first
 210 page of the policy or contract, in contrasting color and not
 211 less than 10-point type, the following statement:

212
 213 The benefits of the policy providing your coverage are
 214 governed primarily by the law of a country other than
 215 the United States.

216
 217 (h) All single-premium life insurance policies and single-
 218 premium annuity contracts issued to persons who are not
 219 residents of the United States and are not nonresidents
 220 illegally residing in the United States pursuant to this
 221 subsection shall be subject to the provisions chapter 896.

222 (i) For purposes of this subsection, "nonresident" means a
 223 trust or other entity or person as defined in paragraph (8) (b).

224 (j) An alien insurer transacting insurance in this state

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225 | without complying with this subsection shall be in violation of
226 | this chapter and subject to the penalties provided in s. 624.15.
227 | Section 2. This act shall take effect upon becoming a law.