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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2011	.	
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	.	

The Committee on Budget Subcommittee on General Government Appropriations (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete lines 23 - 66
and insert:

Section 1. Subsection (8) of section 624.402, Florida Statutes, is amended to read:

624.402 Exceptions, certificate of authority required.—A certificate of authority shall not be required of an insurer with respect to:

(8) An insurer domiciled outside the United States covering only persons who, at the time of issuance or renewal, are nonresidents of the United States.



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13 (a) In order to qualify for this exemption, the insurer:

14 1. Must register with the office via a letter of
15 notification upon commencing business from this state.

16 2. Must provide the following information to the office
17 annually by March 1:

18 a. The name of the insurer; the country of domicile; the
19 address of the insurer's principal office and office in this
20 state; the names of the owners of the insurer and their
21 percentage of ownership; the names of the officers and directors
22 of the insurer; the name, e-mail, and telephone number of a
23 contact person for the insurer; and the number of individuals
24 who are employed by the insurer or its affiliates in this state;

25 b. The type of products offered by the insurer;

26 c. A statement from the applicable regulatory body of the
27 insurer's domicile certifying that the insurer is licensed or
28 registered in that domicile; and

29 d. A copy of the filings required by the applicable
30 regulatory body of the insurer's domicile.

31 3. Or any affiliated person as defined in s. 624.04 under
32 common ownership or control with the insurer, may not solicit,
33 sell, or accept an application for any insurance policy or
34 contract to be delivered or issued for delivery to any
35 individual other than a nonresident.

36 (b) All policies or certificates delivered to nonresidents
37 in this state must include the following statement in a
38 contrasting color and at least 10-point type: "The policy
39 providing your coverage and the insurer providing this policy
40 have not been approved by the Florida Office of Insurance
41 Regulation".



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42 (c) If the insurer ceases to do business from this state,
43 the insurer must agree to provide written notification to the
44 office within 30 days after cessation.

45 (d) Subject to the limitations contained in this
46 subsection, services, including those listed in s. 624.10, may
47 be provided by the insurer or an affiliated person as defined in
48 s. 624.04 under common ownership or control with the insurer.

49 (e) An alien insurer transacting insurance in this state
50 without complying with this subsection is in violation of this
51 chapter and subject to the penalties under s. 624.15.

52 (f) An insurer that holds a certificate of authority in
53 this state may issue and deliver policies to nonresidents at
54 temporary or secondary addresses in this state, along with a
55 notice that the policy form and rate is not subject to the
56 approval of the Office of Insurance Regulation.

57 (g) The term "nonresident" means an individual who resides
58 in and maintains a physical place of domicile in a country other
59 than the United States, which he or she recognizes as and
60 intends to maintain as his or her permanent home. The term does
61 not include an unauthorized immigrant present in the United
62 States. Notwithstanding any other provision of law, it is
63 conclusively presumed that an individual is a resident of the
64 United States if such individual:

65 1. Has had his or her principal place of domicile in the
66 United States for 180 days or more in the 365 days before
67 issuance or renewal the policy;

68 2. Has registered to vote in any state;

69 3. Has made a statement of domicile in any state; or

70 4. Has filed for homestead tax exemption on property in any



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71 state.

72 ~~(a) Life insurance policies or annuity contracts issued by~~
73 ~~an insurer domiciled outside the United States covering only~~
74 ~~persons who, at the time of issuance, are not residents of the~~
75 ~~United States and are not nonresidents illegally residing in the~~
76 ~~United States, provided:~~

77 ~~1. The insurer must currently be an authorized insurer in~~
78 ~~its country of domicile as to the kind or kinds of insurance~~
79 ~~proposed to be offered and must have been such an insurer for~~
80 ~~not fewer than the immediately preceding 3 years, or must be the~~
81 ~~wholly owned subsidiary of such authorized insurer or must be~~
82 ~~the wholly owned subsidiary of an already eligible authorized~~
83 ~~insurer as to the kind or kinds of insurance proposed for a~~
84 ~~period of not fewer than the immediately preceding 3 years.~~
85 ~~However, the office may waive the 3-year requirement if the~~
86 ~~insurer has operated successfully for a period of at least the~~
87 ~~immediately preceding year and has capital and surplus of not~~
88 ~~less than \$25 million.~~

89 ~~2. Before the office may grant eligibility, the requesting~~
90 ~~insurer shall furnish the office with a duly authenticated copy~~
91 ~~of its current annual financial statement, in English, and with~~
92 ~~all monetary values therein expressed in United States dollars,~~
93 ~~at an exchange rate then-current and shown in the statement, in~~
94 ~~the case of statements originally made in the currencies of~~
95 ~~other countries, and with such additional information relative~~
96 ~~to the insurer as the office may request.~~

97 ~~3. The insurer must have and maintain surplus as to~~
98 ~~policyholders of not less than \$15 million. Any such surplus as~~
99 ~~to policyholders shall be represented by investments consisting~~



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100 ~~of eligible investments for like funds of like domestic insurers~~
101 ~~under part II of chapter 625; however, any such surplus as to~~
102 ~~policyholders may be represented by investments permitted by the~~
103 ~~domestic regulator of such alien insurance company if such~~
104 ~~investments are substantially similar in terms of quality,~~
105 ~~liquidity, and security to eligible investments for like funds~~
106 ~~of like domestic insurers under part II of chapter 625.~~

107 ~~4. The insurer must be of good reputation as to the~~
108 ~~providing of service to its policyholders and the payment of~~
109 ~~losses and claims.~~

110 ~~5. To maintain eligibility, the insurer shall furnish the~~
111 ~~office within the time period specified in s. 624.424(1)(a) a~~
112 ~~duly authenticated copy of its current annual and quarterly~~
113 ~~financial statements, in English, and with all monetary values~~
114 ~~therein expressed in United States dollars, at an exchange rate~~
115 ~~then current and shown in the statement, in the case of~~
116 ~~statements originally made in the currencies of other countries,~~
117 ~~and with such additional information relative to the insurer as~~
118 ~~the office may request.~~

119 ~~6. An insurer receiving eligibility under this subsection~~
120 ~~shall agree to make its books and records pertaining to its~~
121 ~~operations in this state available for inspection during normal~~
122 ~~business hours upon request of the office.~~

123 ~~7. The insurer shall provide to the applicant for the~~
124 ~~policy or contract a copy of the most recent quarterly financial~~
125 ~~statements of the insurer providing, in clear and conspicuous~~
126 ~~language:~~

127 ~~a. The date of organization of the insurer.~~

128 ~~b. The identity of and rating assigned by each recognized~~



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129 ~~insurance company rating organization that has rated the insurer~~
130 ~~or, if applicable, that the insurer is unrated.~~

131 ~~e. That the insurer does not hold a certificate of~~
132 ~~authority issued in this state and that the office does not~~
133 ~~exercise regulatory oversight over the insurer.~~

134 ~~d. The identity and address of the regulatory authority~~
135 ~~exercising oversight of the insurer.~~

136
137 ~~This paragraph does not impose upon the office any duty or~~
138 ~~responsibility to determine the actual financial condition or~~
139 ~~claims practices of any unauthorized insurer, and the status of~~
140 ~~eligibility, if granted by the office, indicates only that the~~
141 ~~insurer appears to be financially sound and to have satisfactory~~
142 ~~claims practices and that the office has no credible evidence to~~
143 ~~the contrary.~~

144 ~~(b) If at any time the office has reason to believe that an~~
145 ~~insurer issuing policies or contracts pursuant to this~~
146 ~~subsection is insolvent or is in unsound financial condition,~~
147 ~~does not make reasonable prompt payment of benefits, or is no~~
148 ~~longer eligible under the conditions specified in this~~
149 ~~subsection, the office may conduct an examination or~~
150 ~~investigation in accordance with s. 624.316, s. 624.3161, or s.~~
151 ~~624.320 and, if the findings of such examination or~~
152 ~~investigation warrant, may withdraw the eligibility of the~~
153 ~~insurer to issue policies or contracts pursuant to this~~
154 ~~subsection without having a certificate of authority issued by~~
155 ~~the office.~~

156 ~~(c) This subsection does not provide an exception to the~~
157 ~~agent licensure requirements of chapter 626. Any insurer issuing~~



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158 ~~policies or contracts pursuant to this subsection shall appoint~~
159 ~~the agents that the insurer uses to sell such policies or~~
160 ~~contracts as provided in chapter 626.~~

161 ~~(d) An insurer issuing policies or contracts pursuant to~~
162 ~~this subsection is subject to part IX of chapter 626, Unfair~~
163 ~~Insurance Trade Practices, and the office may take such actions~~
164 ~~against the insurer for a violation as are provided in that~~
165 ~~part.~~

166 ~~(e) Policies and contracts issued pursuant to this~~
167 ~~subsection are not subject to the premium tax specified in s.~~
168 ~~624.509.~~

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

173
174 ~~This policy is primarily governed by the laws of a~~
175 ~~foreign country. As a result, all of the rating and~~
176 ~~underwriting laws applicable to policies filed in this~~
177 ~~state do not apply to this coverage, which may result~~
178 ~~in your premiums being higher than would be~~
179 ~~permissible under a Florida-approved policy. Any~~
180 ~~purchase of individual life insurance should be~~
181 ~~considered carefully, as future medical conditions may~~
182 ~~make it impossible to qualify for another individual~~
183 ~~life policy. If the insurer issuing your policy~~
184 ~~becomes insolvent, this policy is not covered by the~~
185 ~~Florida Life and Health Insurance Guaranty~~
186 ~~Association. For information concerning individual~~



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187 ~~life coverage under a Florida approved policy, consult~~
188 ~~your agent or the Florida Department of Financial~~
189 ~~Services.~~

191 ~~(g) All life insurance policies and annuity contracts~~
192 ~~issued pursuant to this subsection must contain on the first~~
193 ~~page of the policy or contract, in contrasting color and not~~
194 ~~less than 10-point type, the following statement:~~

196 ~~The benefits of the policy providing your coverage are~~
197 ~~governed primarily by the law of a country other than~~
198 ~~the United States.~~

200 ~~(h) All single-premium life insurance policies and single-~~
201 ~~premium annuity contracts issued to persons who are not~~
202 ~~residents of the United States and are not nonresidents~~
203 ~~illegally residing in the United States pursuant to this~~
204 ~~subsection shall be subject to the provisions of chapter 896.~~

206 ===== T I T L E A M E N D M E N T =====

207 And the title is amended as follows:

208 Delete lines 2 - 5

209 and insert:

210 An act relating to insurance; amending s. 624.402,
211 F.S.; revising provisions relating to certain insurers
212 serving nonresidents domiciled outside the United
213 States who are exempt from requirements to obtain a
214 certificate of authority; amending s. 628.901, F.S.;