

By the Committee on Banking and Insurance; and Senator Latvala

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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 the requirement to obtain a certificate
5 of authority; revising the definition of the term
6 "nonresident"; providing that a life insurance policy
7 and annuity contract may be issued by an insurer
8 domiciled outside the United States under certain
9 conditions; specifying the terms and conditions that
10 must be satisfied before an alien insurer may issue a
11 policy or contract; authorizing the Office of
12 Insurance Regulation to conduct an examination of an
13 alien insurer if the office has reason to believe that
14 the insurer is insolvent or is in unsound financial
15 condition; providing that an alien insurer issuing
16 policies or contracts in this state is subject to part
17 IX of ch. 626, F.S., relating to unfair insurance
18 trade practices; authorizing the office to enforce
19 part IX of ch. 626, F.S.; providing that policies and
20 contracts issued pursuant to the act are not subject
21 to the premium tax; requiring that an application for
22 a life insurance policy or an annuity contract contain
23 certain specified statements to protect consumers;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Subsection (8) of section 624.402, Florida
29 Statutes, is amended, and subsection (9) is added to that

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30 section, to read:

31 624.402 Exceptions, certificate of authority required.—A
32 certificate of authority shall not be required of an insurer
33 with respect to:

34 (8) (a) An insurer domiciled outside the United States
35 covering only persons who, at the time of issuance or renewal,
36 are nonresidents of the United States if:

37 1. The insurer ~~or any affiliated person as defined in s.~~
38 ~~624.04 under common ownership or control with the insurer~~ does
39 not solicit, sell, or accept application for any insurance
40 policy or contract to be delivered or issued for delivery to any
41 person in any state;

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

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

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

53 b. The lines of insurance and types of products offered by
54 the insurer;

55 c. A statement from the applicable regulatory body of the
56 insurer's domicile certifying that the insurer is licensed or
57 registered for those lines of insurance and types of products in
58 that domicile; and

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59 d. A copy of the filings required by the applicable
60 regulatory body of the insurer's country of domicile in that
61 country's official language or in English, if available;

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

68 5. If ~~In the event~~ the insurer ceases to do business from
69 this state, the insurer will provide written notification to the
70 office within 30 days after cessation.

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

82 1. Had his or her principal place of domicile in the United
83 States for 180 days or more in the 365 days before ~~prior to~~
84 issuance or renewal of the policy;

85 2. Registered to vote in any state;

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

87 4. Filed for homestead tax exemption on property in any

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88 state.

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

93 (d) An alien insurer transacting insurance in this state
94 without complying with this subsection is ~~shall~~ be in violation
95 of this chapter and subject to the penalties provided in s.
96 624.15.

97 (9) (a) Life insurance policies or annuity contracts may be
98 solicited, sold, or issued in this state by an insurer domiciled
99 outside the United States, covering only persons who, at the
100 time of issuance are nonresidents of the United States, provided
101 that:

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

114 2. Before the office may grant eligibility, the requesting
115 insurer furnishes the office with a duly authenticated copy of
116 its current annual financial statement, in English, and with all

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117 monetary values therein expressed in United States dollars, at
118 an exchange rate then-current and shown in the statement, in the
119 case of statements originally made in the currencies of other
120 countries, and with such additional information relative to the
121 insurer as the office may request.

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

132 4. The insurer has of good reputation as to providing
133 service to its policyholders and the payment of losses and
134 claims.

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

144 6. An insurer receiving eligibility under this subsection
145 agrees to make its books and records pertaining to its

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146 operations in this state available for inspection during normal
147 business hours upon request of the office.

148 7. The insurer notifies the applicant in clear and
149 conspicuous language:

150 a. The date of organization of the insurer.

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

154 c. That the insurer does not hold a certificate of
155 authority issued in this state and that the office does not
156 exercise regulatory oversight over the insurer.

157 d. The identity and address of the regulatory authority
158 exercising oversight of the insurer. This paragraph does not
159 impose upon the office any duty or responsibility to determine
160 the actual financial condition or claims practices of any
161 unauthorized insurer, and the status of eligibility, if granted
162 by the office, indicates only that the insurer appears to be
163 financially sound and to have satisfactory claims practices and
164 that the office has no credible evidence to the contrary.

165 (b) If the office has reason to believe that an insurer
166 issuing policies or contracts pursuant to this subsection is
167 insolvent or is in unsound financial condition, does not make
168 reasonable prompt payment of benefits, or is no longer eligible
169 under the conditions specified in this subsection, the office
170 may conduct an examination or investigation in accordance with
171 s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of
172 the examination or investigation warrant, may withdraw the
173 eligibility of the insurer to issue policies or contracts
174 pursuant to this subsection without having a certificate of

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175 authority issued by the office.

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

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

186 (e) Policies and contracts issued pursuant to this
187 subsection are not subject to the premium tax specified in s.
188 624.509.

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

193
194 This policy is primarily governed by the laws of a
195 foreign country. As a result, all of the rating and
196 underwriting laws applicable to policies filed in this
197 state do not apply to this coverage, which may result
198 in your premiums being higher than would be
199 permissible under a Florida-approved policy. A
200 purchase of individual life insurance should be
201 considered carefully, as future medical conditions may
202 make it impossible to qualify for another individual
203 life policy. If the insurer issuing your policy

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204 becomes insolvent, this policy is not covered by the
205 Florida Life and Health Insurance Guaranty
206 Association. For information concerning individual
207 life coverage under a Florida-approved policy, consult
208 your agent or the Florida Department of Financial
209 Services.

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

215
216 The benefits of the policy providing your coverage are
217 governed primarily by the law of a country other than
218 the United States.

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

225 (i) For purposes of this subsection, the term "nonresident"
226 means a trust or other entity or person as defined in subsection
227 624.402(8).

228 (j) An alien insurer transacting insurance in this state
229 without complying with this subsection is in violation of this
230 chapter and subject to the penalties provided in s. 624.15, and
231 must also pay the fine required for each violation as prescribed
232 by s. 626.910.

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Section 2. This act shall take effect upon becoming a law.