

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to life insurance and annuity contracts;
7 providing a popular name; amending s. 624.402, F.S.;
8 providing that a certificate of authority is not required
9 for certain life insurance policies or annuity contracts
10 issued by an insurer domiciled outside the United States
11 and covering only persons who are not residents of the
12 United States; providing criteria, requirements, and
13 limitations; requiring the insurer to disclose certain
14 information; providing for the Office of Insurance
15 Regulation to determine when the insurer is no longer
16 eligible for the exemption; providing an exemption from
17 certain taxes; requiring life insurance applications and
18 policies and annuity contracts to provide certain
19 disclosure statements; specifying application of certain
20 provisions to single premium life insurance policies and
21 single premium annuity contracts issued to certain
22 nonresidents; amending s. 627.404, F.S.; defining the term
23 "charitable organization" for purposes of determining

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24 | entities that are eligible to purchase life insurance on
 25 | an insured; providing criteria and limitations; providing
 26 | an effective date.

27 |
 28 | Be It Enacted by the Legislature of the State of Florida:

29 |
 30 | Section 1. This act may be referred to by the popular name
 31 | the "Isabella Llorente Nonresident Life Insurance and Annuity
 32 | Contract Act of 2004."

33 | Section 2. Subsection (8) is added to section 624.402,
 34 | Florida Statutes, to read:

35 | 624.402 Exceptions, certificate of authority required.--A
 36 | certificate of authority shall not be required of an insurer
 37 | with respect to:

38 | (8)(a) Life insurance policies or annuity contracts issued
 39 | by an insurer domiciled outside the United States covering only
 40 | persons who are not residents of the United States at the time
 41 | of issuance, provided:

42 | 1. The insurer must currently be an authorized insurer in
 43 | its country of domicile as to the kind or kinds of insurance
 44 | proposed to be offered and must have been such an insurer for
 45 | not fewer than the immediately preceding 3 years, or must be the
 46 | wholly owned subsidiary of such authorized insurer or must be
 47 | the wholly owned subsidiary of an already eligible authorized
 48 | insurer as to the kind or kinds of insurance proposed for a
 49 | period of not fewer than the immediately preceding 3 years.
 50 | However, the office may waive the 3-year requirement if the
 51 | insurer has operated successfully for a period of at least the

52 immediately preceding year and has capital and surplus of not
 53 less than \$25 million.

54 2. Before granting eligibility, the requesting insurer
 55 shall furnish the office with a duly authenticated copy of its
 56 current annual financial statement, in English, and with all
 57 monetary values therein expressed in United States dollars, at
 58 an exchange rate, in the case of statements originally made in
 59 the currencies of other countries, then-current and shown in the
 60 statement, and with such additional information relative to the
 61 insurer as the office may request.

62 3. The insurer must have and maintain surplus as to
 63 policyholders of not less than \$15 million. Any such surplus as
 64 to policyholders shall be represented by investments consisting
 65 of eligible investments for like funds of like domestic insurers
 66 under part II of chapter 625; however, any such surplus as to
 67 policyholders may be represented by investments permitted by the
 68 domestic regulator of such alien insurance company if such
 69 investments are substantially similar in terms of quality,
 70 liquidity, and security to eligible investments for like funds
 71 of like domestic insurers under part II of chapter 625.

72 4. The insurer must be of good reputation as to the
 73 providing of service to its policyholders and the payment of
 74 losses and claims.

75 5. The insurer, to maintain eligibility, shall furnish the
 76 office within the time period specified in s. 624.424(1)(a) a
 77 duly authenticated copy of its current annual and quarterly
 78 financial statements, in English, and with all monetary values
 79 therein expressed in United States dollars, at an exchange rate,

80 in the case of statements originally made in the currencies of
 81 other countries, then-current and shown in the statement, and
 82 with such additional information relative to the insurer as the
 83 office may request.

84 6. An insurer receiving eligibility under this subsection
 85 shall agree to make its books and records pertaining to its
 86 operations from this state available for inspection during
 87 normal business hours upon request of the office.

88 7. The insurer shall provide to the applicant for the
 89 policy or contract a copy of the most recent quarterly financial
 90 statements of the insurer providing, in clear and conspicuous
 91 language:

92 a. The date of organization of the insurer.

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

96 c. That the insurer does not hold a certificate of
 97 authority issued in Florida and that the office does not
 98 exercise regulatory oversight over the insurer.

99 d. The identity and address of the regulatory authority
 100 exercising oversight of the insurer.

101
 102 This paragraph does not impose upon the office any duty or
 103 responsibility to determine the actual financial condition or
 104 claims practices of any unauthorized insurer, and the status of
 105 eligibility, if granted by the office, indicates only that the
 106 insurer appears to be sound financially and to have satisfactory

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107 claims practices and that the office has no credible evidence to
108 the contrary.

109 (b) If at any time the office has reason to believe that
110 an insurer issuing policies or contracts pursuant to this
111 subsection is insolvent or in unsound financial condition, does
112 not make reasonable prompt payment of benefits, or is no longer
113 eligible under the conditions specified in this subsection, the
114 office shall withdraw the eligibility of the insurer to issue
115 policies or contracts pursuant to this subsection without having
116 a certificate of authority issued by the office.

117 (c) This subsection does not provide an exception to the
118 agent licensure requirements of chapter 626. Any insurer issuing
119 policies or contracts pursuant to this subsection shall appoint
120 the agents that the insurer uses to sell such policies or
121 contracts, as provided in chapter 626.

122 (d) An insurer issuing policies or contracts pursuant to
123 this subsection is subject to part IX of chapter 626, Unfair
124 Insurance Trade Practices, and the office may take such actions
125 against the insurer for a violation as are provided in that
126 part.

127 (e) Policies and contracts issued pursuant to this
128 subsection are not subject to the premium tax specified in s.
129 624.509.

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

134

135 "This policy is primarily governed by the laws of a foreign
 136 country. As a result, all of the rating and underwriting
 137 laws applicable to policies filed in this state do not
 138 apply to this coverage, which may result in your premiums
 139 being higher than would be permissible under a Florida-
 140 approved policy. Any purchase of individual life insurance
 141 should be considered carefully, as future medical
 142 conditions may make it impossible to qualify for another
 143 individual life policy. If the insurer issuing your policy
 144 becomes insolvent, this policy is not covered by the
 145 Florida Life and Health Insurance Guaranty Association.
 146 For information concerning individual life coverage under a
 147 Florida-approved policy, consult your agent or the Florida
 148 Department of Financial Services."

149
 150 (g) All life insurance policies and annuity contracts
 151 issued pursuant to this subsection must contain on the first
 152 page of the policy or contract, in contrasting color and not
 153 less than 10-point type, the following statement:

154
 155 "The benefits of the policy providing your coverage are
 156 governed primarily by the law of a country other than the
 157 United States."

158
 159 (h) All single premium life insurance policies and single
 160 premium annuity contracts issued to persons who are not
 161 residents of the United States pursuant to this subsection shall
 162 be subject to the provisions of chapter 896.

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163 Section 3. Subsection (2) of section 627.404, Florida
164 Statutes, is amended to read:

165 627.404 Insurable interest; personal insurance.--

166 (2) A charitable organization ~~that meets the requirements~~
167 ~~of s. 501(c)(3) of the Internal Revenue Code of 1986, as~~
168 ~~amended,~~ may own or purchase life insurance on an insured who
169 consents to the ownership or purchase of that insurance. For
170 purposes of this subsection, the term "charitable organization"
171 means:

172 (a) Any organization that meets the requirements of s.
173 501(c)(3) of the Internal Revenue Code of 1986, as amended;

174 (b) Any organization to which a charitable contribution
175 could be made under s. 170(c)(1), s. 170(c)(2), or s. 170(c)(3)
176 of the Internal Revenue Code of 1986, as amended; or

177 (c) Any trust, partnership, limited liability company, or
178 similar entity approved in writing by an organization described
179 in paragraph (a) or paragraph (b) to procure or cause to be
180 procured the combination of a life insurance policy and annuity
181 contract on the life of the individual insured. Before an entity
182 as described in this paragraph can qualify as a charitable
183 organization for purposes of this subsection:

184 1. The individual insured must be an accredited investor
185 as defined in s. 230.501(a) in Rule 501 Reg. D of the Securities
186 Act Rules; or

187 2. The approving organization described in paragraph (a)
188 or paragraph (b) must have total assets in excess of \$5 million
189 at the time the application for the life insurance policy and
190 annuity contract is made.

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192 Except in the case of a material default or insolvency of the
193 life insurer or annuity company, or a misrepresentation of the
194 individual insured on the application for the life insurance
195 policy or annuity contract providing grounds for a contest by
196 the life insurer or annuity company, the life insurance policy
197 procured or caused to be procured by an entity described in
198 paragraph (c) may not be assigned or transferred by such entity.
199 Such charitable organization has an insurable interest in the
200 life of the insured whether the charitable organization
201 originally purchased the insurance or the insurance is later
202 transferred to the charitable organization by the insured.

203 Section 4. This act shall take effect July 1, 2004.