

By the Committee on Banking and Insurance; and Senators Margolis and Diaz de la Portilla

311-2539-04

1 A bill to be entitled
2 An act relating to life insurance and annuity
3 contracts; amending s. 624.402, F.S.; providing
4 that a certificate of authority is not required
5 for certain life insurance policies or annuity
6 contracts issued by an insurer domiciled
7 outside the United States and covering only
8 persons who are not residents of the United
9 States; requiring that the Office of Insurance
10 Regulation determine that the insurer meets
11 certain requirements; requiring the insurer to
12 disclose certain information; providing for the
13 office to determine when the insurer is no
14 longer eligible for the exemption; providing an
15 exemption from certain taxes; providing for
16 disclosure; requiring designated insurance
17 policies and annuity contracts to be subject to
18 the provisions of ch. 896, F.S.; amending s.
19 627.404, F.S.; defining the term "charitable
20 organization" for purposes of determining
21 entities that are eligible to purchase life
22 insurance on an insured; providing effective
23 dates.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Subsection (8) is added to section 624.402,
28 Florida Statutes, to read:

29 624.402 Exceptions, certificate of authority
30 required.--A certificate of authority shall not be required of
31 an insurer with respect to:

1 (8)(a) Life insurance policies or annuity contracts
2 issued by an insurer domiciled outside the United States
3 covering only persons who are not residents of the United
4 States at the time of issuance, if the insurer meets the
5 following requirements:

6 1. The insurer must be currently an authorized insurer
7 in its country of domicile as to the kind or kinds of
8 insurance proposed to be offered and must have been such an
9 insurer for not less than the 3 years next preceding, must be
10 the wholly owned subsidiary of such authorized insurer, or
11 must be the wholly owned subsidiary of an already eligible
12 authorized insurer as to the kind or kinds of insurance
13 proposed for a period of not less than the 3 years next
14 preceding. However, the office may waive the 3-year
15 requirement if the insurer has operated successfully for a
16 period of at least 1 year next preceding and has capital and
17 surplus of not less than \$25 million;

18 2. The requesting insurer must furnish the office a
19 duly authenticated copy of its current annual financial
20 statement in the English language, with all monetary values
21 therein expressed in United States dollars, at an exchange
22 rate, in the case of statements originally made in the
23 currencies of other countries, then-current and shown in the
24 statement, and with such additional information relative to
25 the insurer as the office requests;

26 3. The insurer must have and maintain surplus as to
27 policyholders of not less than \$15 million. Any such surplus
28 as to policyholders shall be represented by investments
29 consisting of eligible investments for like funds of like
30 domestic insurers under part II of chapter 625; however, any
31 such surplus as to policyholders may be represented by

1 investments permitted by the domestic regulator of such alien
2 insurance company if such investments are substantially
3 similar in terms of quality, liquidity, and security to
4 eligible investments for like funds of like domestic insurers
5 under part II of chapter 625;

6 4. The insurer must be of good reputation as to the
7 providing of service to its policyholders and the payment of
8 losses and claims;

9 5. To maintain eligibility, the insurer must furnish
10 the office within the time period specified in s.
11 624.424(1)(a) a duly authenticated copy of its current annual
12 and quarterly financial statements in the English language,
13 with all monetary values therein expressed in United States
14 dollars, at an exchange rate, in the case of statements
15 originally made in the currencies of other countries,
16 then-current and shown in the statement, and with such
17 additional information relative to the insurer as the office
18 requests;

19 6. The insurer must agree to make its books and
20 records pertaining to its operations from Florida available
21 for inspection during normal business hours upon request of
22 the office; and

23 7. The insurer must provide to the applicant for the
24 policy or contract a copy of the most recent quarterly
25 financial statements of the insurer, in clear and conspicuous
26 language:

27 a. The date of organization of the insurer;

28 b. The identity of and rating assigned by each
29 recognized insurance company rating organization that has
30 rated the insurer or, if applicable, that the insurer is
31 unrated;

1 c. That the insurer does not hold a certificate of
2 authority issued in Florida and that the Office of Insurance
3 Regulation does not exercise regulatory oversight over the
4 insurer; and

5 d. The identity and address of the regulatory
6 authority exercising oversight of the insurer.

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8 This paragraph shall not be deemed to cast upon the office any
9 duty or responsibility to determine the actual financial
10 condition or claims practices of any unauthorized insurer and
11 the status of eligibility, if granted by the office, shall
12 indicate only that the insurer appears to be sound financially
13 and to have satisfactory claims practices and that the office
14 has no credible evidence to the contrary.

15 (b) If at any time the office has reason to believe
16 that an insurer issuing policies or contracts pursuant to this
17 subsection is insolvent or in unsound financial condition,
18 does not make reasonable prompt payment of benefits, or is no
19 longer eligible under the conditions specified in this
20 subsection, it shall withdraw the eligibility of the insurer
21 to issue policies or contracts pursuant to this subsection
22 without having a certificate of authority issued by the
23 office.

24 (c) This subsection does not provide an exception to
25 the agent licensure requirements of chapter 626. Any insurer
26 issuing policies or contracts pursuant to this subsection
27 shall appoint the agents that it uses to sell such policies or
28 contracts, as provided in chapter 626.

29 (d) An insurer issuing policies or contracts pursuant
30 to this subsection is subject to part IX of chapter 626,
31 Unfair Insurance Trade Practices, and the office may take such

1 actions against the insurer for a violation as are provided in
2 that part.

3 (e) Policies and contracts issued pursuant to this
4 subsection are not subject to the premium tax specified in s.
5 624.509.

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

10
11 "This policy is primarily governed by the laws
12 of a foreign country. As a result, all of the
13 rating and underwriting laws applicable to
14 policies filed in this state do not apply to
15 this coverage, which may result in your
16 premiums being higher than would be permissible
17 under a Florida-approved policy. Any purchase
18 of individual life insurance should be
19 considered carefully, as future medical
20 conditions may make it impossible to qualify
21 for another individual life policy. If the
22 insurer issuing your policy becomes insolvent,
23 this policy is not covered by the Florida Life
24 and Health Insurance Guaranty Association. For
25 information concerning individual life coverage
26 under a Florida-approved policy, consult your
27 agent or the Florida Department of Financial
28 Services."

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30 (g) All life insurance policies and annuity contracts
31 issued pursuant to this subsection must contain on the first

1 page of the policy or contract, in contrasting color and not
2 less than 10-point type, the following statement:

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4 "The benefits of the policy providing your
5 coverage are governed primarily by the law of a
6 country other than the United States."

7
8 (h) All single premium life insurance policies and
9 single premium annuity contracts issued to persons who are not
10 residents of the United States pursuant to this subsection are
11 subject to the provisions of chapter 896.

12 Section 2. Subsection (2) of section 627.404, Florida
13 Statutes, is amended to read:

14 627.404 Insurable interest; personal insurance.--

15 (2) A charitable organization ~~that meets the~~
16 ~~requirements of s. 501(c)(3) of the Internal Revenue Code of~~
17 ~~1986, as amended,~~ may own or purchase life insurance on an
18 insured who consents to the ownership or purchase of that
19 insurance. For purposes of this subsection, the term
20 "charitable organization" means:

21 (a) Any organization that meets the requirements of s.
22 501(c)(3) of the Internal Revenue Code of 1986, as amended;

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

27 (c) Any trust, partnership, limited liability company,
28 or similar entity that is approved in writing by an
29 organization described in paragraph (a) or paragraph (b) to
30 procure or cause to be procured the combination of a life
31 insurance policy and annuity contract on the life of an

1 individual insured. Before an entity described in this
2 paragraph can qualify as a "charitable organization" for
3 purposes of this subsection, either:

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

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

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12 Except in the case of a material default or insolvency of
13 either the life insurer or annuity company or a
14 misrepresentation of the individual insured on the application
15 for either the life insurance policy or annuity contract
16 providing grounds for a contest by the life insurer or annuity
17 company, the life insurance policy procured or caused to be
18 procured by an entity described in paragraph (c) may not be
19 assigned or transferred by such entity. Such charitable
20 organization has an insurable interest in the life of the
21 insured whether the charitable organization originally
22 purchased the insurance or the insurance is later transferred
23 to the charitable organization by the insured.

24 Section 3. Except for this section and section 2,
25 which shall take effect upon becoming a law, this act shall
26 take effect July 1, 2004.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2442
4 Provides requirements for non-United States domiciled insurers
5 to provide life and annuity policies to non-United States
6 residents from offices in Florida including providing
7 financial information and disclosures.
8 Removes the requirement that insurers meet the eligible
9 surplus lines provisions.
10 Requires the insurer to be an authorized insurer in its
11 country of domicile for the prior 3 years, or a wholly owned
12 subsidiary thereof, and to have offered the types of insurance
13 it proposes to offer in Florida.
14 Provides that the Office of Insurance Regulation may waive the
15 3-year requirement if the insurer has operated successfully
16 for a period of 1 year and has capital and surplus of at least
17 \$25 million.
18 Provides that if the insurer becomes insolvent, the policy is
19 not covered by the Florida Life and Health Guaranty
20 Association.
21 Applies the Florida Money Laundering Act (ch. 896, F.S.) to
22 all single premium life insurance policies and annuity
23 contracts issued to persons who are not residents of the
24 United States.
25 Broadens the definition of the term "charitable organization"
26 for purposes of allowing the organization to own or purchase
27 life insurance on an insured who consents to the ownership or
28 purchase of that insurance.
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