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2005

A bill to be entitled

An act relating to life insurance and annuity contracts; amending s. 624.402, F.S.; providing that a certificate of authority is not required of insurers domiciled outside the United States for certain life insurance policies or annuity contracts covering only persons who are not residents of the United States and are not nonresidents illegally residing in the United States; providing criteria, requirements, and limitations; requiring the insurer to disclose certain information; providing for the Office of Insurance Regulation to determine when the insurer is no longer eligible for the exemption; providing an exemption from certain taxes; requiring life insurance applications and policies and annuity contracts to provide certain disclosure statements; specifying application of certain provisions to single-premium life insurance policies and single-premium annuity contracts issued to certain nonresidents; providing an effective date.

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

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

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

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

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30 United States and are not nonresidents illegally residing in the
31 United States, provided:

32 1. The insurer must currently be an authorized insurer in
33 its country of domicile as to the kind or kinds of insurance
34 proposed to be offered and must have been such an insurer for
35 not fewer than the immediately preceding 3 years, or must be the
36 wholly owned subsidiary of such authorized insurer or must be
37 the wholly owned subsidiary of an already eligible authorized
38 insurer as to the kind or kinds of insurance proposed for a
39 period of not fewer than the immediately preceding 3 years.
40 However, the office may waive the 3-year requirement if the
41 insurer has operated successfully for a period of at least the
42 immediately preceding year and has capital and surplus of not
43 less than \$25 million.

44 2. Before the office may grant eligibility, the requesting
45 insurer shall furnish the office with a duly authenticated copy
46 of its current annual financial statement, in English, and with
47 all monetary values therein expressed in United States dollars,
48 at an exchange rate then current and shown in the statement, in
49 the case of statements originally made in the currencies of
50 other countries, and with such additional information relative
51 to the insurer as the office may request.

52 3. The insurer must have and maintain surplus as to
53 policyholders of not less than \$15 million. Any such surplus as
54 to policyholders shall be represented by investments consisting
55 of eligible investments for like funds of like domestic insurers
56 under part II of chapter 625; however, any such surplus as to
57 policyholders may be represented by investments permitted by the
58 domestic regulator of such alien insurance company if such

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59 investments are substantially similar in terms of quality,
60 liquidity, and security to eligible investments for like funds
61 of like domestic insurers under part II of chapter 625.

62 4. The insurer must be of good reputation as to the
63 providing of service to its policyholders and the payment of
64 losses and claims.

65 5. To maintain eligibility, the insurer shall furnish the
66 office within the time period specified in s. 624.424(1)(a) a
67 duly authenticated copy of its current annual and quarterly
68 financial statements, in English, and with all monetary values
69 therein expressed in United States dollars, at an exchange rate
70 then current and shown in the statement, in the case of
71 statements originally made in the currencies of other countries,
72 and with such additional information relative to the insurer as
73 the office may request.

74 6. An insurer receiving eligibility under this subsection
75 shall agree to make its books and records pertaining to its
76 operations in this state available for inspection during normal
77 business hours upon request of the office.

78 7. The insurer shall provide to the applicant for the
79 policy or contract a copy of the most recent quarterly financial
80 statements of the insurer providing, in clear and conspicuous
81 language:

82 a. The date of organization of the insurer.

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

86 c. That the insurer does not hold a certificate of
87 authority issued in this state and that the office does not

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88 exercise regulatory oversight over the insurer.

89 d. The identity and address of the regulatory authority
90 exercising oversight of the insurer.

91
92 This paragraph does not impose upon the office any duty or
93 responsibility to determine the actual financial condition or
94 claims practices of any unauthorized insurer, and the status of
95 eligibility, if granted by the office, indicates only that the
96 insurer appears to be financially sound and to have satisfactory
97 claims practices and that the office has no credible evidence to
98 the contrary.

99 (b) If at any time the office has reason to believe that
100 an insurer issuing policies or contracts pursuant to this
101 subsection is insolvent or is in unsound financial condition,
102 does not make reasonable prompt payment of benefits, or is no
103 longer eligible under the conditions specified in this
104 subsection, the office shall withdraw the eligibility of the
105 insurer to issue policies or contracts pursuant to this
106 subsection without having a certificate of authority issued by
107 the office.

108 (c) This subsection does not provide an exception to the
109 agent licensure requirements of chapter 626. Any insurer issuing
110 policies or contracts pursuant to this subsection shall appoint
111 the agents that the insurer uses to sell such policies or
112 contracts as provided in chapter 626.

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

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117 part.

118 (e) Policies and contracts issued pursuant to this
119 subsection are not subject to the premium tax specified in s.
120 624.509.

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

125
126 This policy is primarily governed by the laws of a foreign
127 country. As a result, all of the rating and underwriting
128 laws applicable to policies filed in this state do not
129 apply to this coverage, which may result in your premiums
130 being higher than would be permissible under a Florida-
131 approved policy. Any purchase of individual life insurance
132 should be considered carefully, as future medical
133 conditions may make it impossible to qualify for another
134 individual life policy. If the insurer issuing your policy
135 becomes insolvent, this policy is not covered by the
136 Florida Life and Health Insurance Guaranty Association. For
137 information concerning individual life coverage under a
138 Florida-approved policy, consult your agent or the Florida
139 Department of Financial Services.

140
141 (g) All life insurance policies and annuity contracts
142 issued pursuant to this subsection must contain on the first
143 page of the policy or contract, in contrasting color and not
144 less than 10-point type, the following statement:

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146 The benefits of the policy providing your coverage are
147 governed primarily by the law of a country other than the
148 United States.

149
150 (h) All single-premium life insurance policies and single-
151 premium annuity contracts issued to persons who are not
152 residents of the United States and are not nonresidents
153 illegally residing in the United States pursuant to this
154 subsection shall be subject to the provisions of chapter 896.

155 Section 2. This act shall take effect July 1, 2005.