

By Senators Garcia and Margolis

40-212C-05

See HB

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 of insurers domiciled outside the United States

6 for certain life insurance policies or annuity

7 contracts covering only persons who are not

8 residents of the United States and are not

9 nonresidents illegally residing in the United

10 States; providing criteria, requirements, and

11 limitations; requiring the insurer to disclose

12 certain information; providing for the Office

13 of Insurance Regulation to determine when the

14 insurer is no longer eligible for the

15 exemption; providing an exemption from certain

16 taxes; requiring life insurance applications

17 and policies and annuity contracts to provide

18 certain disclosure statements; specifying

19 application of certain provisions to

20 single-premium life insurance policies and

21 single-premium annuity contracts issued to

22 certain nonresidents; providing an effective

23 date.

24

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

26

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, and are not nonresidents illegally residing in the
5 United States, at the time of issuance, provided:

6 1. The insurer must currently be 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 fewer than the immediately preceding 3 years,
10 or must be the wholly owned subsidiary of such authorized
11 insurer or must be the wholly owned subsidiary of an already
12 eligible authorized insurer as to the kind or kinds of
13 insurance proposed for a period of not fewer than the
14 immediately preceding 3 years. However, the office may waive
15 the 3-year requirement if the insurer has operated
16 successfully for a period of at least the immediately
17 preceding year and has capital and surplus of not less than
18 \$25 million.

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23 an exchange rate, in the case of statements originally made in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

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

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

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

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

19 6. An insurer receiving eligibility under this
20 subsection shall agree to make its books and records
21 pertaining to its operations from this state available for
22 inspection during normal business hours upon request of the
23 office.

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

28 a. The date of organization of the insurer.

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

3 c. That the insurer does not hold a certificate of
4 authority issued in this state and that the office does not
5 exercise regulatory oversight over the insurer.

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

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

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

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

30 (d) An insurer issuing policies or contracts pursuant
31 to this subsection is subject to part IX of chapter 626,

1 Unfair Insurance Trade Practices, and the office may take such
2 actions against the insurer for a violation as are provided in
3 that part.

4 (e) Policies and contracts issued pursuant to this
5 subsection are not subject to the premium tax specified in s.
6 624.509.

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

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

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

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

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10 (h) All single-premium life insurance policies and
11 single-premium annuity contracts issued to persons who are not
12 residents of the United States, and are not nonresidents
13 illegally residing in the United States, pursuant to this
14 subsection shall be subject to the provisions of chapter 896.

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