

By the Committee on Banking and Insurance; and Senators Garcia and Margolis

597-1701-05

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.

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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:

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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 may conduct an examination or  
22 investigation in accordance with s. 624.316, s. 624.3161, or  
23 s. 624.320 and, if the findings of the examination or  
24 investigation warrant, may withdraw the eligibility of the  
25 insurer to issue policies or contracts pursuant to this  
26 subsection without having a certificate of authority issued by  
27 the office.

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

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

8 (e) Policies and contracts issued pursuant to this  
9 subsection are not subject to the premium tax specified in s.  
10 624.509.

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

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

1           agent or the Florida Department of Financial  
2           Services."

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

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9           "The benefits of the policy providing your  
10           coverage are governed primarily by the law of a  
11           country other than the United States."

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

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

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20           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21           COMMITTEE SUBSTITUTE FOR  
22           Senate Bill 1508

23 Provides that investigations or examinations by the Office of  
24 Insurance Regulation of an insurer are subject to the  
25 provisions of s. 624.316, s. 624.3161, and s. 624.320, F.S.,  
26 that specify the requirements for such investigations or  
27 examinations, including the requirement that the costs of the  
28 investigations or examinations must be paid by the insurer.  
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