

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Horner offered the following:

Amendment (with title amendment)

Between lines 248 and 249, insert:

Section 1. Subsection (8) of section 624.402, Florida Statutes, is amended, and subsection (9) is added to that section, 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) An insurer domiciled outside the United States covering only persons who, at the time of issuance or renewal, are nonresidents of the United States if:

1. The insurer ~~or any affiliated person as defined in s. 624.04 under common ownership or control with the insurer~~ does not solicit, sell, or accept application for any insurance

177327

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Amendment No.

17 policy or contract to be delivered or issued for delivery to any
18 person in any state;

19 2. The insurer registers with the office via a letter of
20 notification upon commencing business from this state;

21 3. The insurer provides the following information, in
22 English, to the office annually by March 1:

23 a. The name of the insurer; the country of domicile; the
24 address of the insurer's principal office and office in this
25 state; the names of the owners of the insurer and their
26 percentage of ownership; the names of the officers and directors
27 of the insurer; the name, e-mail, and telephone number of a
28 contact person for the insurer; and the number of individuals
29 who are employed by the insurer or its affiliates in this state;

30 b. The lines of insurance and types of products offered by
31 the insurer;

32 c. A statement from the applicable regulatory body of the
33 insurer's domicile certifying that the insurer is licensed or
34 registered for those lines of insurance and types of products in
35 that domicile; and

36 d. A copy of the filings required by the applicable
37 regulatory body of the insurer's country of domicile in that
38 country's official language or in English, if available;

39 4. All certificates, policies, or contracts issued in this
40 state showing coverage under the insurer's policy include the
41 following statement in a contrasting color and at least 10-point
42 type: "The policy providing your coverage and the insurer
43 providing this policy have not been approved by the Florida
44 Office of Insurance Regulation"; and

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

45 5. ~~If In the event~~ the insurer ceases to do business from
46 this state, the insurer will provide written notification to the
47 office within 30 days after cessation.

48 (b) For purposes of this subsection, "nonresident" means a
49 trust or other entity organized and domiciled under the laws of
50 a country other than the United States or a person who resides
51 in and maintains a physical place of domicile in a country other
52 than the United States, which he or she recognizes as and
53 intends to maintain as his or her permanent home. A nonresident
54 does not include an unauthorized immigrant present in the United
55 States. Notwithstanding any other provision of law, it is
56 conclusively presumed, for purposes of this subsection, that a
57 person is a resident of the United States if such person has:

58 1. Had his or her principal place of domicile in the
59 United States for 180 days or more in the 365 days prior to
60 issuance or renewal of the policy;

61 2. Registered to vote in any state;

62 3. Made a statement of domicile in any state; or

63 4. Filed for homestead tax exemption on property in any
64 state.

65 (c) Subject to the limitations provided in this
66 subsection, services, including those listed in s. 624.10, may
67 be provided by the insurer or an affiliated person as defined in
68 s. 624.04 under common ownership or control with the insurer.

69 (d) An alien insurer transacting insurance in this state
70 without complying with this subsection shall be in violation of
71 this chapter and subject to the penalties provided in s. 624.15.

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

72 (9) (a) Life insurance policies or annuity contracts may be
73 solicited, sold, or issued in this state by an insurer domiciled
74 outside the United States, covering only persons who, at the
75 time of issuance are nonresidents of the United States, provided
76 that:

77 1. The insurer is currently an authorized insurer in his
78 or her country of domicile as to the kind or kinds of insurance
79 proposed to be offered and must have been such an insurer for
80 not fewer than the immediately preceding 3 years, or must be the
81 wholly owned subsidiary of such authorized insurer or must be
82 the wholly owned subsidiary of an already eligible authorized
83 insurer as to the kind or kinds of insurance proposed for a
84 period of not fewer than the immediately preceding 3 years.
85 However, the office may waive the 3-year requirement if the
86 insurer has operated successfully for a period of at least the
87 immediately preceding year and has capital and surplus of not
88 less than \$25 million.

89 2. Before the office may grant eligibility, the requesting
90 insurer furnishes the office with a duly authenticated copy of
91 its current annual financial statement, in English, and with all
92 monetary values therein expressed in United States dollars, at
93 an exchange rate then-current and shown in the statement, in the
94 case of statements originally made in the currencies of other
95 countries, and with such additional information relative to the
96 insurer as the office may request.

97 3. The insurer has and maintains surplus as to
98 policyholders of not less than \$15 million. Any such surplus as
99 to policyholders shall be represented by investments consisting

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

100 of eligible investments for like funds of like domestic insurers
101 under part II of chapter 625; however, any such surplus as to
102 policyholders may be represented by investments permitted by the
103 domestic regulator of such alien insurance company if such
104 investments are substantially similar in terms of quality,
105 liquidity, and security to eligible investments for like funds
106 of like domestic insurers under part II of chapter 625.

107 4. The insurer has of good reputation as to providing
108 service to its policyholders and the payment of losses and
109 claims.

110 5. To maintain eligibility, the insurer furnishes the
111 office within the time period specified in s. 624.424(1), a duly
112 authenticated copy of its current annual and quarterly financial
113 statements, in English, and with all monetary values therein
114 expressed in United States dollars, at an exchange rate then-
115 current and shown in the statement, in the case of statements
116 originally made in the currencies of other countries, and with
117 such additional information relative to the insurer as the
118 office may request.

119 6. An insurer receiving eligibility under this subsection
120 agrees to make its books and records pertaining to its
121 operations in this state available for inspection during normal
122 business hours upon request of the office.

123 7. The insurer notifies the applicant in clear and
124 conspicuous language:

125 a. The date of organization of the insurer.

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

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

129 c. That the insurer does not hold a certificate of
130 authority issued in this state and that the office does not
131 exercise regulatory oversight over the insurer.

132 d. The identity and address of the regulatory authority
133 exercising oversight of the insurer. This paragraph does not
134 impose upon the office any duty or responsibility to determine
135 the actual financial condition or claims practices of any
136 unauthorized insurer, and the status of eligibility, if granted
137 by the office, indicates only that the insurer appears to be
138 financially sound and to have satisfactory claims practices and
139 that the office has no credible evidence to the contrary.

140 (b) If the office has reason to believe that an insurer
141 issuing policies or contracts pursuant to this subsection is
142 insolvent or is in unsound financial condition, does not make
143 reasonable prompt payment of benefits, or is no longer eligible
144 under the conditions specified in this subsection, the office
145 may conduct an examination or investigation in accordance with
146 s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of
147 the examination or investigation warrant, may withdraw the
148 eligibility of the insurer to issue policies or contracts
149 pursuant to this subsection without having a certificate of
150 authority issued by the office.

151 (c) This subsection does not provide an exception to the
152 agent licensure requirements of chapter 626. A insurer issuing
153 policies or contracts pursuant to this subsection shall appoint

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

154 the agents that the insurer uses to sell such policies or
155 contracts as provided in chapter 626.

156 (d) An insurer issuing policies or contracts pursuant to
157 this subsection is subject to part IX of chapter 626, the Unfair
158 Insurance Trade Practices Act, and the office may take such
159 actions against the insurer for a violation as are provided in
160 that part.

161 (e) Policies and contracts issued pursuant to this
162 subsection are not subject to the premium tax specified in s.
163 624.509.

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

168
169 This policy is primarily governed by the laws of a
170 foreign country. As a result, all of the rating and
171 underwriting laws applicable to policies filed in this
172 state do not apply to this coverage, which may result
173 in your premiums being higher than would be
174 permissible under a Florida-approved policy. A
175 purchase of individual life insurance should be
176 considered carefully, as future medical conditions may
177 make it impossible to qualify for another individual
178 life policy. If the insurer issuing your policy
179 becomes insolvent, this policy is not covered by the
180 Florida Life and Health Insurance Guaranty
181 Association. For information concerning individual

177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

182 life coverage under a Florida-approved policy, consult
183 your agent or the Florida Department of Financial
184 Services.

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

191 The benefits of the policy providing your coverage are
192 governed primarily by the law of a country other than
193 the United States.

194
195 (h) All single-premium life insurance policies and single-
196 premium annuity contracts issued to persons who are not
197 residents of the United States and are not nonresidents
198 illegally residing in the United States pursuant to this
199 subsection are subject to chapter 896.

200 (i) For purposes of this subsection, the term
201 "nonresident" means a trust or other entity or person as defined
202 in subsection 624.402(8).

203 (j) An alien insurer transacting insurance in this state
204 without complying with this subsection is in violation of this
205 chapter and subject to the penalties provided in s. 624.15, and
206 must also pay the fine required for each violation as prescribed
207 by s. 626.910.

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177327

Approved For Filing: 2/27/2012 1:48:02 PM

Amendment No.

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Remove line 6 and insert:
F.S.; conforming a cross-reference; amending s.
624.402, F.S.; revising provisions relating to
determining whether the domicile of an insurer is
outside the United States for certain purposes;
providing that life insurance policies or annuity
contracts may be solicited, sold, or issued in this
state by insurers domiciled outside the United States
in certain circumstances; amending s.