



425232

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2012	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and 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,



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13 are nonresidents of the United States if:

14 1. ~~The insurer or any affiliated person as defined in s.~~  
15 ~~624.04 under common ownership or control with the insurer does~~  
16 not solicit, sell, or accept application for any insurance  
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



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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

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 the ~~such~~ person  
58 has:

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

62 2. Registered to vote in any state;

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

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

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

70 (d) An alien insurer transacting insurance in this state



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71 without complying with this subsection is shall be in violation  
72 of this chapter and subject to the penalties provided in s.  
73 624.15.

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

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

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

99 3. The insurer has and maintains surplus as to



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100 policyholders of not less than \$15 million. Any such surplus as  
101 to policyholders shall be represented by investments consisting  
102 of eligible investments for like funds of like domestic insurers  
103 under part II of chapter 625; however, any such surplus as to  
104 policyholders may be represented by investments permitted by the  
105 domestic regulator of such alien insurance company if such  
106 investments are substantially similar in terms of quality,  
107 liquidity, and security to eligible investments for like funds  
108 of like domestic insurers under part II of chapter 625.

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

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

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

125 7. The insurer notifies the applicant in clear and  
126 conspicuous language:

127 a. The date of organization of the insurer.

128 b. The identity of and rating assigned by each recognized



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129 insurance company rating organization that has rated the insurer  
130 or, if applicable, that the insurer is unrated.

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

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

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

153 (c) This subsection does not provide an exception to the  
154 agent licensure requirements of chapter 626. A insurer issuing  
155 policies or contracts pursuant to this subsection shall appoint  
156 the agents that the insurer uses to sell such policies or  
157 contracts as provided in chapter 626.



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

163       (e) Policies and contracts issued pursuant to this  
164 subsection are not subject to the premium tax specified in s.  
165 624.509.

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

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



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

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

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

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

(j) An alien insurer transacting insurance in this state without complying with this subsection is in violation of this chapter and subject to the penalties provided in s. 624.15, and must also pay the fine required for each violation as prescribed by s. 626.10.

Section 2. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:





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216                   A bill to be entitled  
217           An act relating to alien insurers; amending s.  
218           624.402, F.S.; revising a provision exempting alien  
219           insurers from the requirement to obtain a certificate  
220           of authority; revising the definition of the term  
221           "nonresident"; providing that a life insurance policy  
222           and annuity contract may be issued by an insurer  
223           domiciled outside the United States under certain  
224           conditions; specifying the terms and conditions that  
225           must be satisfied before an alien insured may issue a  
226           policy or contract; authorizing the Office of  
227           Insurance Regulation to conduct an examination of an  
228           alien insurer if the office has reason to believe that  
229           the insurer is insolvent or is in unsound financial  
230           condition; providing that an alien insurer issuing  
231           policies or contracts in this state is subject to part  
232           IX of ch. 626, F.S., relating to unfair insurance  
233           trade practices; authorizing the office to enforce  
234           part IX of ch. 626, F.S.; providing that policies and  
235           contracts issued pursuant to the act are not subject  
236           to the premium tax; requiring that an application for  
237           a life insurance policy or an annuity contract contain  
238           certain specified statements to protect consumers;  
239           providing an effective date.