

By Senator Latvala

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1 A bill to be entitled
2 An act relating to alien insurers; amending s.
3 624.402, F.S.; revising a provision exempting alien
4 insurers from the requirement to obtain a certificate
5 of authority; providing an exception for the issuance
6 of life insurance policies and annuity contracts;
7 specifying that an alien insurer is exempt from having
8 to obtain a certificate of authority if such insurer
9 engages only in specified activities relating to the
10 delivery of insurance policies or annuity contracts to
11 nonresident policyowners; revising the definition of
12 the term "nonresident"; providing that a life
13 insurance policy and annuity contract may be issued by
14 an insurer domiciled outside the United States under
15 certain conditions; specifying the terms and
16 conditions that must be satisfied before an alien
17 insured may issue a policy or contract; authorizing
18 the Office of Insurance Regulation to conduct an
19 examination of an alien insurer if the office has
20 reason to believe that the insurer is insolvent or is
21 in unsound financial condition; providing that an
22 alien insurer issuing policies or contracts in this
23 state is subject to part IX of ch. 626, F.S., relating
24 to unfair insurance trade practices; authorizing the
25 office to enforce part IX of ch. 626, F.S.; providing
26 that policies and contracts issued pursuant to the act
27 are not subject to the premium tax; requiring that an
28 application for a life insurance policy or an annuity
29 contract contain certain specified statements to

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30 protect consumers; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsection (8) of section 624.402, Florida
35 Statutes, is amended, and subsection (9) is added to that
36 section, to read:

37 624.402 Exceptions, certificate of authority required.—A
38 certificate of authority shall not be required of an insurer
39 with respect to:

40 (8) (a) Except as otherwise provided in subsection (9) with
41 respect to life insurance policies or annuity contracts,
42 issuance of other policies or contracts by an insurer domiciled
43 outside the United States covering only persons who, at the time
44 of issuance ~~or renewal~~, are nonresidents of the United States
45 if:

46 1. The insurer does not solicit, sell, or accept
47 application for such insurance policy or annuity contract ~~or any~~
48 ~~affiliated person as defined in s. 624.04 under common ownership~~
49 ~~or control with the insurer does not solicit, sell, or accept~~
50 ~~application for any insurance policy or contract~~ to be delivered
51 or issued for delivery to any person in any state;

52 2. The insurer registers with the Office of Insurance
53 Regulation via a letter of notification upon commencing business
54 from this state;

55 3. The insurer provides the following information, in
56 English, to the Office of Insurance Regulation annually by March
57 1:

58 a. The name of the insurer; the country of domicile; the

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59 address of the insurer's principal office and office in this
60 state; the names of the owners of the insurer and their
61 percentage of ownership; the names of the officers and directors
62 of the insurer; the name, e-mail, and telephone number of a
63 contact person for the insurer; and the number of individuals
64 who are employed by the insurer or its affiliates in this state;

65 b. The lines of insurance and types of products offered by
66 the insurer other than life insurance policies or annuity
67 contracts;

68 c. A statement from the applicable regulatory body of the
69 insurer's domicile certifying that the insurer is licensed or
70 registered for those lines of insurance and types of products in
71 that domicile; and

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

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

81 5. In the event the insurer ceases to do business from this
82 state, the insurer will provide written notification to the
83 office within 30 days after cessation.

84 (b) For purposes of this subsection and subsection (9), the
85 term "nonresident" means a trust or other entity organized and
86 domiciled under the laws of a country other than the United
87 States or a person who resides in and maintains a physical place

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88 of domicile in a country other than the United States, which he
89 or she recognizes as and intends to maintain as his or her
90 permanent home. A nonresident does not include an unauthorized
91 immigrant present in the United States. Notwithstanding any
92 other ~~provision of~~ law, it is conclusively presumed, for
93 purposes of this subsection, that a person is a resident of the
94 United States if the ~~such~~ person has:

- 95 1. Had his or her principal place of domicile in the United
96 States for 180 days or more in the 365 days before ~~prior to~~
97 issuance or renewal of the policy;
- 98 2. Registered to vote in any state;
- 99 3. Made a statement of domicile in any state; or
- 100 4. Filed for homestead tax exemption on property in any
101 state.

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

106 (d) An alien insurer transacting insurance in this state
107 without complying with this subsection or subsection (9) is
108 ~~shall be~~ in violation of this chapter and subject to the
109 penalties provided in s. 624.15.

110 (9) (a) A life insurance policy or annuity contract issued
111 by an insurer domiciled outside the United States covering only
112 persons who, at the time of issuance, are not residents of the
113 United States, if:

- 114 1. The insurer is currently an authorized insurer in its
115 country of domicile as to the kind of insurance proposed to be
116 offered here and:

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- 117 a. Has been an insurer for not less than the immediately
118 preceding 3 years;
- 119 b. Is the wholly owned subsidiary of an authorized insurer;
120 or
- 121 c. Is the wholly owned subsidiary of an already eligible
122 authorized insurer as to the kind of insurance proposed to be
123 issued in this state for a period of not less than the
124 immediately preceding 3 years.

125

126 The Office of Insurance Regulation may waive the 3-year
127 requirement if the insurer has operated successfully for a
128 period of at least the immediately preceding year and has
129 capital and surplus of not less than \$25 million.

130 2. Before the Office of Insurance Regulation grants the
131 insurer eligibility to issue policies or contracts in this
132 state, the requesting insurer furnishes the office with a duly
133 authenticated copy of its current annual financial statement, in
134 English, and with all monetary values therein expressed in
135 United States dollars, at an exchange rate then-current and
136 shown in the statement, in the case of statements originally
137 made in the currencies of other countries, and with such
138 additional information as the office may request.

139 3. The insurer has and maintains surplus as to its
140 policyholders of not less than \$15 million. Any surplus in favor
141 of policyholders shall be represented by investments consisting
142 of eligible investments for like funds of like domestic insurers
143 under part II of chapter 625. However, any surplus in favor to
144 policyholders may be represented by investments permitted by the
145 domestic regulator of such alien insurance company if the

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

149 4. The insurer has a good reputation for providing service
150 to its policyholders and the payment of losses and claims.

151 5. The insurer furnishes the Office of Insurance Regulation
152 within the time period specified in s. 624.424(1) a duly
153 authenticated copy of its current annual and quarterly financial
154 statements, in English, and with all monetary values therein
155 expressed in United States dollars, at an exchange rate then-
156 current and shown in the statement, in the case of statements
157 originally made in the currencies of other countries, and with
158 such additional information relative to the insurer as the
159 office may request.

160 6. The insurer agrees to make its books and records
161 pertaining to its operations in this state available for
162 inspection during normal business hours at the request of the
163 office.

164 7. The insurer agrees to notify the applicant for a policy
165 or contract in clear and conspicuous language:

166 a. The date the insurer was organized.

167 b. The identity of and rating assigned by each recognized
168 insurance company rating organization that has rated the insurer
169 or, if applicable, whether the insurer is unrated.

170 c. That the insurer does not hold a certificate of
171 authority issued in this state and that the Office of Insurance
172 Regulation does not exercise regulatory oversight over the
173 insurer.

174 d. The identity and address of the regulatory authority

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175 exercising oversight of the insurer.

176
177 This paragraph does not impose upon the Office of Insurance
178 Regulation any duty or responsibility to determine the actual
179 financial condition or claims practices of an unauthorized
180 insurer, and the status of eligibility, if granted by the
181 office, indicates only that the insurer appears to be
182 financially sound and to have satisfactory claims practices and
183 that the office has no credible evidence to the contrary.

184 (b) If at any time the Office of Insurance Regulation has
185 reason to believe that an insurer issuing policies or contracts
186 pursuant to this subsection is insolvent or is in unsound
187 financial condition, does not make reasonable prompt payment of
188 benefits, or is no longer eligible to issue policies or
189 contracts under the conditions specified in this subsection, the
190 office may conduct an examination or investigation in accordance
191 with s. 624.316, s. 624.3161, or s. 624.320 and, if the findings
192 of the examination or investigation warrant, may withdraw the
193 eligibility of the insurer to issue policies or contracts
194 pursuant to this subsection without having a certificate of
195 authority issued by the office.

196 (c) This subsection does not provide an exception to the
197 agent licensure requirements of chapter 626. An insurer issuing
198 policies or contracts pursuant to this subsection shall appoint
199 the agents that the insurer uses to sell such policies or
200 contracts as provided in chapter 626.

201 (d) An insurer issuing policies or contracts pursuant to
202 this subsection is subject to part IX of chapter 626, relating
203 to unfair insurance trade practices, and the office may take

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204 such action against the insurer for a violation as are provided
205 in that part.

206 (e) Policies and contracts issued pursuant to this
207 subsection are not subject to the premium tax specified in s.
208 624.509.

209 (f) An application for life insurance coverage or an
210 annuity contract offered under this subsection must contain, in
211 contrasting color and not less than 12-point type, the following
212 statement on the same page as the applicant's signature:

213
214 This policy is primarily governed by the laws of a
215 foreign country. As a result, all of the rating and
216 underwriting laws applicable to policies filed in this
217 state do not apply to this coverage, which may result
218 in your premiums being higher than would be
219 permissible under a Florida-approved policy. Any
220 purchase of individual life insurance should be
221 considered carefully, as future medical conditions may
222 make it impossible to qualify for another individual
223 life policy. If the insurer issuing your policy
224 becomes insolvent, this policy is not covered by the
225 Florida Life and Health Insurance Guaranty
226 Association. For information concerning individual
227 life coverage under a Florida-approved policy, consult
228 your agent or the Florida Department of Financial
229 Services.

230
231 (g) All life insurance policies and annuity contracts
232 issued pursuant to this subsection must contain on the first

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233 page of the policy or contract, in contrasting color and not
234 less than 10-point type, the following statement:

235

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

239

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

245

Section 2. This act shall take effect July 1, 2012.