

House Bill No. 105

An act relating to life insurance and annuity contracts; amending s. 624.402, F.S.; providing that a certificate of authority is not required of insurers domiciled outside the United States for certain life insurance policies or annuity contracts covering only persons who are not residents of the United States and are not nonresidents illegally residing in the United States; providing criteria, requirements, and limitations; requiring the insurer to disclose certain information; providing for the Office of Insurance Regulation to determine when the insurer is no longer eligible for the exemption; providing an exemption from certain taxes; requiring life insurance applications and policies and annuity contracts to provide certain disclosure statements; specifying application of certain provisions to single-premium life insurance policies and single-premium annuity contracts issued to certain nonresidents; providing an effective date.

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

Section 1. Subsection (8) is added to section 624.402, Florida Statutes, 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) Life insurance policies or annuity contracts issued by an insurer domiciled outside the United States covering only persons who, at the time of issuance, are not residents of the United States and are not nonresidents illegally residing in the United States, provided:

1. The insurer must currently be an authorized insurer in its country of domicile as to the kind or kinds of insurance proposed to be offered and must have been such an insurer for not fewer than the immediately preceding 3 years, or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible authorized insurer as to the kind or kinds of insurance proposed for a period of not fewer than the immediately preceding 3 years. However, the office may waive the 3-year requirement if the insurer has operated successfully for a period of at least the immediately preceding year and has capital and surplus of not less than \$25 million.

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in United States dollars, at an exchange rate then current and shown in the statement, in the case of statements originally made in the currencies of other countries, and with such additional information relative to the insurer as the office may request.

3. The insurer must have and maintain surplus as to policyholders of not less than \$15 million. Any such surplus as to policyholders shall be repre-

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

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

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

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

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

a. The date of organization of the insurer.

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

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

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

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

(b) If at any time the office has reason to believe that an insurer issuing policies or contracts pursuant to this subsection is insolvent or is in unsound financial condition, does not make reasonable prompt payment of benefits, or is no longer eligible under the conditions specified in this subsection, the office may conduct an examination or investigation in accordance with s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of such examination

or investigation warrant, may withdraw the eligibility of the insurer to issue policies or contracts pursuant to this subsection without having a certificate of authority issued by the office.

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

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

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

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

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

(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 shall be subject to the provisions of chapter 896.

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

Approved by the Governor May 27, 2005.

Filed in Office Secretary of State May 27, 2005.