

2014

Report on

# Life Insurance Limitations

Based on Foreign Travel Experiences

Issued on  
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FLORIDA OFFICE OF  
INSURANCE REGULATION

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## EXECUTIVE SUMMARY

The Freedom To Travel Law, Section 626.9541(1)(dd), Florida Statutes, was enacted in 2006 by the Florida legislature. The law defines as an Unfair Trade Practice, the practice of limiting the life insurance coverage available to a person based on lawful foreign travel in the past. It also prohibits discrimination based on future lawful travel plans unless the insurer demonstrates that the persons who travel are in a higher risk, actuarially supportable class. The law was passed because insurance companies were discriminating based on certain destinations that prospective insureds were planning to visit. A notable case that formed the impetus for Florida's law was an insurance company that refused to sell increased policy limits to a member of Congress because she indicated truthfully that she may want to travel to Israel someday.

Prior to the passage of this law, the general unfair discrimination statute was available, but this new subsection provided the Office of Insurance Regulation (Office) with better enforcement tools to stop the most egregious practices.

Although the instances in which the Office has identified a violation of this law have decreased over the years for Florida policyholders, many life insurance companies still ask questions about travel because policyholders in other states are not necessarily afforded the high degree of protection that Florida law provides. In some states, it is not necessary for the legislature to enact a specific statute because the Insurance Commissioner can define a new unfair trade practice administratively, but in other states, the issue has not been addressed at all.

Florida law permits insurance companies to ask travel-related questions, but prohibits insurance companies from refusing coverage based *solely* on the applicant's stated intention to engage in lawful foreign travel.

The Office has taken steps to implement the law. An administrative rule is in place, enacted by the Financial Services Commission in 2006. Each year, the Office conducts a survey of insurance companies, and conducts examinations of selected insurers to look at foreign travel practices. In addition, the Office examines foreign travel practices as a part of any other market conduct examination in accordance with the law. The results of this year's activity are summarized in this report. Prior year reports from 2007-2013 are available on the Office's website at <http://www.floir.com/Office/DataReports.aspx>.

## SUMMARY OF COMPANY RESPONSES

The Office identified 452 entities that wrote life insurance or annuity products during the scope period of January 1, 2013 to December 31, 2013. The Office required these companies to complete an online survey and return the responses by January 31, 2014. It is not a violation of Florida Statutes to ask life insurance and annuity applicants questions about past or future foreign travel – it is, however, illegal to take adverse action based solely on an applicant’s past or future lawful travel plans.

This year’s survey combined Freedom to Travel issues with other discrimination issues pertaining to Section 626.9541(1)(g), Florida Statutes [Unfair Discrimination], and Section 626.9541(1)(x), Florida Statutes [Refusal to Insure].

The following table provides the number of companies from 2007 – 2013 reporting that travel-related questions are included in their applications. A detailed list for 2013 is located at the end of the report.

<b>As Reported For Year</b>	<b>Number of Companies Asking Travel-Related Questions on Applications</b>
2013	79
2012	95
2011	93
2010	95
2009	104
2008	93
2007	105

Additionally, this year’s survey results reflect the following:

<b>Life Insurance Applications</b>	<b>Companies answering “yes”</b>
Asked Past Foreign Travel Question	34
Asked Future Foreign Travel Question	73

*In some instances, companies ask questions relating to either past or future travel, but not to both.*

<b>Annuity Applications</b>	<b>Companies answering “yes”</b>
Asked Past Foreign Travel Question	1
Asked Future Foreign Travel Question	1

These results show that questions regarding foreign travel remain more prevalent on life insurance applications than on annuity applications.

As of February 20, 2014, four companies had not provided responses to the survey:

<u>Company Name</u>	<u>FL Market Share</u>
Liberty National Group:	
Globe Life and Accident Insurance Company	0.2957 %
United American Insurance Company	0.0230 %
Sammons Enterprises Group:	
Midland National Life Insurance Company	1.3606 %
North American Company for Life and Health Insurance	0.5495 %

*The Office has contacted the non-responsive companies in order to obtain the required information.*

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One company reported five potential violations of the Freedom to Travel Law involving the four countries of Nicaragua, Colombia, Venezuela and Mozambique:

Lincoln Benefit Life Company (an Allstate Company)

*The Office is currently reviewing documents and information with the company. The company has reported that there was one instance of an application denial and four instances of surcharges.*

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The Office has issued an order granting a variance with respect to travel to Afghanistan or Iraq. Three companies reported that insurance was postponed or denied for a total of ten applicants traveling to Iraq and/or Afghanistan. In the ten applications, the companies indicated that each had considered the waiver provided in the Order Approving Variance for the countries of Afghanistan and Iraq.

AXA Equitable Life Insurance Company (1)  
State Farm Life Insurance Company (1)  
USAA Life Insurance Company (8)

*The Office is currently reviewing documents and information with the companies to verify the applicability of the Order Approving Variance for those applications.*

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One company self-reported a total of two instances where the treatment of an application was determined based on the applicant's disclosure of residency greater than 180 days. Florida Rule 69O-125.003(10), Florida Administrative Code, differentiates between foreign travel and residency as absent from the United States for more than 180 consecutive days. The countries

disclosed in the insurance applications were Pakistan and an unnamed country in the Middle East.

State Farm Life Insurance Company

*The Office is currently reviewing documents and information with the company to verify the survey responses regarding foreign residency does not constitute a violation of the Freedom to Travel Law.*

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The following table provides the number of companies from 2007 – 2013 in which the Office entered into administrative actions as a result of confirmed violations of the Freedom to Travel Law:

<b>Administrative Action Entered</b>	<b>Examinations Conducted</b>	<b>Companies with Administrative Actions</b>	<b>Total Fines/ Penalties</b>
2013	5	3	0
2012	3	2	\$ 21,000
2011	2	4	\$ 99,000
2010	12	1	\$ 10,500
2009	20	1	\$ 50,000
2008	25	4	\$344,000
2007	20	7	\$108,000

In 2013, the Office conducted five market conduct examinations of life insurance companies to determine compliance with Florida Statutes. Of these five, three examinations were of companies (Pruco Life Insurance Company, State Farm Life Insurance Company and Genworth Life and Annuity Insurance Company) that had self-reported a potential violation in the 2012 survey. No additional violations were noted as a result of those examinations. Administrative actions addressing the self-reported violations are pending for each of the three companies. Two additional examinations of companies (Kanawha Insurance Company and United Insurance Company of America) were performed in conjunction with regularly scheduled market conduct examinations, with no violations of the Freedom to Travel Law discovered.

## **EXAMINATIONS AND CONSUMER COMPLAINTS**

As required, the Office includes in each market conduct examination of a life insurer a review of information relating compliance with the Freedom to Travel Law. When violations of law have been observed, administrative action has been exercised as appropriate. During recent examinations of Kanawha Insurance Company and of United Insurance Company of America, no violations of the Freedom to Travel Law were discovered.

Examinations were conducted as a result of self-reported violations in 2012 for:

Genworth Life and Annuity - travel to Israel  
Pruco Life Insurance Company - travel to the Bahamas  
State Farm Life Insurance Company - travel to Colombia

No additional violations of the Freedom to Travel Law were discovered.

Consumer complaints were reviewed for the scope period, and no related consumer complaints were filed with the Department of Financial Services.

The following companies (79) ask questions related to foreign travel for the scope of January 1, 2013 through December 31, 2013:

<b>COMPANY NAME</b>	<b>NAIC COMPANY CODE</b>	<b>FL MARKET SHARE Life Premium as reported 2012 Annual Stmt. (%)</b>
5 STAR LIFE INSURANCE COMPANY	77879	0.0102
ALLSTATE LIFE INSURANCE COMPANY	60186	0.4760
AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS	60380	0.0234
AMERICAN NATIONAL INSURANCE COMPANY OF TEXAS	71773	0.0026
AMERICAN NATIONAL INSURANCE COMPANY	60739	0.4667
AMERICAN-AMICABLE LIFE INS. COMPANY OF TEXAS	68594	0.0547
AMERICO FINANCIAL LIFE AND ANNUITY INS. COMPANY	61999	0.2682
AMICA LIFE INS COMPANY	72222	0.0582
ASSURITY LIFE INS COMPANY	71439	0.0960
AXA EQUITABLE LIFE & ANNUITY COMPANY	62880	0.0246
BANNER LIFE INS COMPANY	94250	0.8244
CHESAPEAKE LIFE INS COMPANY	61832	0.0269
BEST MERIDIAN INS COMPANY	63886	0.0048
CM LIFE INS COMPANY	93432	0.4548
CMFG LIFE INS COMPANY	62626	0.2542
COLONIAL LIFE & ACCIDENT INS COMPANY	62049	0.3001
COLUMBIAN LIFE INS COMPANY	76023	0.1526
COLUMBIAN MUTUAL LIFE INS COMPANY	62103	0.0357
EMC NATL LIFE COMPANY	62928	0.0117
EQUITRUST LIFE INS COMPANY	62510	0.0887
FEDERATED LIFE INS COMPANY	63258	0.0674
FIDELITY INVESTMENTS LIFE INS COMPANY	93696	0.0125
FLORIDA COMBINED LIFE INS COMPANY INC	76031	0.0348
FREEDOM LIFE INS COMPANY OF AMER	62324	0.0152
GERBER LIFE INSURANCE COMPANY	70939	0.2178
GENWORTH LIFE & ANNUITY INS COMPANY	65536	1.2624
GENWORTH LIFE INS COMPANY	70025	0.5849
GENWORTH LIFE INS COMPANY OF NEW YORK	72990	0.0196
GOVERNMENT PERSONNEL MUTUAL LIFE INS COMPANY	63967	0.0546
GREAT SOUTHERN LIFE INS COMPANY	90212	0.0727
GREAT WEST LIFE & ANNUITY INS COMPANY	68322	1.2959



<b>COMPANY NAME</b>	<b>NAIC COMPANY CODE</b>	<b>FL MARKET SHARE Life Premium as reported 2012 Annual Stmt. (%)</b>
GUARDIAN INS & ANNUITY COMPANY INC	78778	0.1007
GUARDIAN LIFE INS COMPANY OF AMERICA	64246	2.8754
HARTFORD LIFE & ANNUITY INS COMPANY	71153	1.6696
HARTFORD LIFE INS COMPANY	88072	0.0873
INVESTORS LIFE INS COMPANY OF NORTH AMERICA	63487	0.0170
JACKSON NATIONAL LIFE INS COMPANY	65056	1.1561
KANSAS CITY LIFE INS COMPANY	65129	0.0824
LIBERTY NATIONAL LIFE INS COMPANY	65331	0.6845
LIBERTY LIFE ASSURANCE COMPANY OF BOSTON	65315	0.3791
LINCOLN BENEFIT LIFE COMPANY	65595	1.6379
METLIFE INS COMPANY OF CONNECTICUT	87726	0.5197
METLIFE INVESTORS USA INS COMPANY	61050	2.1091
MASSACHUSETTS MUTUAL LIFE INS COMPANY	65935	3.3349
METROPOLITAN LIFE INS COMPANY	65978	2.4952
MEMBERS LIFE INS COMPANY	86126	0.0002
MONUMENTAL LIFE INS COMPANY	66281	0.6237
MML BAY STATE LIFE INS COMPANY	70416	0.0359
MONY LIFE INS COMPANY OF AMER	78077	0.3104
MUTUAL OF AMERICA LIFE INS COMPANY	88668	0.0012
NATIONWIDE LIFE & ANNUITY INS COMPANY	92657	0.3558
NEW YORK LIFE INS & ANNUITY CORP	91596	1.2004
NEW YORK LIFE INS COMPANY	66915	2.3133
NORTHWESTERN MUTUAL LIFE INS COMPANY	67091	7.6334
OHIO STATE LIFE INS COMPANY	67180	0.0451
OCCIDENTAL LIFE INS COMPANY OF NORTH CAROLINA	67148	0.0316
PACIFIC LIFE INS COMPANY	67466	2.3332
PENN INS & ANNUITY COMPANY	93262	0.3301
PENN MUTUAL LIFE INS COMPANY	67644	0.5211
PIONEER AMERICA INS COMPANY	67873	0.0113
PIONEER SECURITY LIFE INS COMPANY	67946	0.0194
PROTECTIVE LIFE INS COMPANY	68136	1.6345
PRUCO LIFE INS COMPANY	79227	2.1884
PRUDENTIAL INS COMPANY OF AMERICA	68241	1.0607
RELIASTAR LIFE INS COMPANY	67105	1.2130
SECURITY LIFE OF DENVER INS COMPANY	68713	1.5195
STATE FARM LIFE INS COMPANY	69108	3.0442
STONEBRIDGE LIFE INS COMPANY	65021	0.1110
TEXAS LIFE INS COMPANY	69396	0.0870

<b>COMPANY NAME</b>	<b>NAIC COMPANY CODE</b>	<b>FL MARKET SHARE Life Premium as reported 2012 Annual Stmt. (%)</b>
TRANSAMERICA LIFE INS COMPANY	86231	3.9260
UNITED OF OMAHA LIFE INS COMPANY	69868	1.2104
UNIVERSAL UNDERWRITERS LIFE INS COMPANY	70173	0.0113
USAA LIFE INS COMPANY	69663	0.8961
WESTERN RESERVE LIFE ASSURANCE COMPANY OF OHIO	91413	0.3499
UNITY FINANCIAL LIFE INS COMPANY	63819	0.0856
WILLIAM PENN LIFE INS COMPANY OF NEW YORK	66230	0.1100

*Estimated Total of Market Share of Life Premium*

*57.6349*

<b>COMPANY NAME</b>	<b>NAIC COMPANY CODE</b>	<b>FL MARKET SHARE Life Premium as reported 2012 Annual Stmt. (%)</b>
CSA FRATERNAL LIFE	56138	0.0912
WOMAN'S LIFE INSURANCE SOCIETY	56170	0.0239
GLENER LIFE INSURANCE SOCIETY	56154	0.4712

*Estimated Total of Fraternal Market Share only of Life Premium*

*0.5863*

***Section 626.9541(1)(dd), Florida Statutes:  
Life insurance limitations based on past foreign travel experiences or future  
foreign travel plans.***

1. An insurer may not refuse life insurance to; refuse to continue the life insurance of; or limit the amount, extent, or kind of life insurance coverage available to an individual based solely on the individual's past lawful foreign travel experiences.
2. An insurer may not refuse life insurance to; refuse to continue the life insurance of; or limit the amount, extent, or kind of life insurance coverage available to an individual based solely on the individual's future lawful travel plans unless the insurer can demonstrate and the Office of Insurance Regulation determines that:
  - a. Individuals who travel are a separate actuarially supportable class whose risk of loss is different from those individuals who do not travel; and
  - b. Such risk classification is based upon sound actuarial principles and actual or reasonably anticipated experience that correlates to the risk of travel to a specific destination.
3. The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to implement this paragraph and may provide for limited exceptions that are based upon national or international emergency conditions that affect the public health, safety, and welfare and that are consistent with public policy.
4. Each market conduct examination of a life insurer conducted pursuant to s. 624.3161 shall include a review of every application under which such insurer refused to issue life insurance; refused to continue life insurance; or limited the amount, extent, or kind of life insurance issued, based upon future lawful travel plans.
5. The administrative fines provided in s. 624.4211(2) and (3) shall be trebled for violations of this paragraph.
6. The Office of Insurance Regulation shall report to the President of the Senate and the Speaker of the House of Representatives by March 1, 2007, and on the same date annually thereafter, on the implementation of this paragraph. The report shall include, but not be limited to, the number of applications under which life insurance was denied, continuance was refused, or coverage was limited based on future travel plans; the number of insurers taking such action; and the reason for taking each such action.

***Rule 690-125.003, Florida Administrative Code:  
Unfair Discrimination Because of Travel Plans***

(1) No insurer nor person authorized to engage in the business of insurance in the State of Florida shall refuse to issue or refuse to continue any policy, contract or certificate of insurance of any individual, or limit the amount, extent or kind of insurance coverage offered to an individual, an accident, disability or health insurance policy or certificate, because of the intent of the applicant to engage in future lawful foreign travel or based upon past lawful foreign travel, unless the insurer can demonstrate that insureds who have traveled or intend to travel are a separate actuarially supportable class whose risk of loss is different from those insureds who have not traveled and do not intend to travel.

(2) No insurer nor person authorized to engage in the business of insurance in the State of Florida, shall, in determining the rates charged an applicant for coverage under any policy, contract or certificate of life insurance, annuity contract, accident, disability or health insurance, issued or to be issued to be delivered to any resident of this state, consider the intent of the applicant to engage in future lawful foreign travel or past lawful travel of the applicant, unless the insurer can demonstrate that insureds who have traveled or intend to travel are a separate actuarially supportable class whose risk of loss is different from those insureds who have not traveled and do not intend to travel.

(3) No insurer nor person authorized to engage in the business of insurance in the State of Florida shall refuse to issue any policy, contract or certificate of life insurance to or refuse to continue any policy, contract or certificate of life insurance of any individual or limit the amount, extent or kind of life insurance coverage offered to an individual based solely on the individual's past lawful foreign travel.

(4) No insurer nor person authorized to engage in the business of insurance in the State of Florida shall refuse to issue any policy, contract or certificate of life insurance to or refuse to continue any policy, contract or certificate of life insurance of an individual, or limit the amount, extent or kind of life insurance coverage offered an individual based solely on the individual's future lawful foreign travel plans unless the insurer can demonstrate that individuals who travel are a separate actuarially supportable class whose mortality risk is different from that of individuals who do not travel, and that such risk classification is based on sound actuarial principles and actual or reasonably anticipated experience that correlates to the risk of travel to a specific destination.

(5) An insurer shall file for approval information demonstrating that individuals who travel to a specific destination constitute a separate actuarially supportable class. The insurer shall not utilize such information within any underwriting decision resulting in a refusal to issue, refusal to continue, limitation on amount, extent or kind of life insurance coverage available to an individual until the Office has first approved the filing and determined that the insurer has demonstrated that the underwriting proposed meets compliance with the standards of Section 626.9541(1)(dd), F.S. Nothing in this rule prevents an insurer from asking questions about foreign travel on an application in order to compile information provided such information is not used in any underwriting decision unless the insurer has received prior approval from the Office.

(6) In determining individuals who travel are a separate actuarially supportable class whose risk of loss is different from those individuals who do not travel based on sound actuarial principles and actual or reasonably anticipated experience that correlates to the risk of travel to a specific destination, insurers shall:

(a) Have performed a detailed actuarial analysis detailing the specific impact of the proposed risk;

(b) Demonstrate that all similar risks with similar risk exposure are similarly treated and that the risk is outside of the underwriting parameters that the insurer is accepting for its maximum rated risks;

(c) Use statistically credible data that is specific and relevant to the analysis and risk being evaluated, that is, using a country population death rate is not relevant to the analysis of the risk of short-term travel. In the absence of actual experience, an actuary may submit for the Office's consideration clear actuarial evidence, including clinical experience or expert opinion relied upon by the actuary that demonstrates to the Office that differences in risk are related to the travel;

(d) Disclose the range of underwriting and rating options and how each is supported by the analysis;

(e) Maintain a report prepared by the actuary providing the information used and relied upon by the actuary in preparing his conclusions, including but not limited to: summarizing the source, basis and relevancy of data used, the impact of the risk on expected loss, the range of expected loss within the underwriting class and how the proposed travel risk falls inside or outside of such underwriting range, the analysis performed and the basis of any conclusions reached. Such report shall disclose how compliance with all appropriate actuarial standards of practice is met and specifically detail any standards that are not.

(7) In accordance with Section 626.9541(1)(dd)3., F.S., an insurer may file a petition for a variance or waiver with the Office for a limited exception from the statute and this rule. The petition shall contain supporting information demonstrating that the requested limited exception(s) are based upon national or international emergency conditions that affect the public health, safety, and welfare and are consistent with public policy.

(8)(a) Insurers are required to maintain the following data. The data for each calendar year shall be submitted to the Office annually by January 31 of the following year:

1. The number of applications under which a policy or certificate of life insurance or an annuity contract was denied;

2. The number of applications under which a policy or certificate of life insurance or an annuity contract's continuation was refused; and

3. The number of applications under which a policy or certificate of life insurance or an annuity contract's coverage was limited.

(b) For each specific case, the insurer shall provide the reason for taking such action.

(c) For each case the insurer shall provide a brief summary, prepared by an actuary, of the supporting data and analysis used in taking such action for such specific destination. Such underlying data and analysis shall be available upon request of the Office.

(9)(a) Violation of this rule constitutes unfair discrimination prohibited by Sections 626.9541(1)(g) and (dd), F.S.

(b) An insurer that uses past travel or future lawful travel in underwriting decisions without having first filed and received approval of the Office shall, among other administrative penalties:

1. Provide restitution to all applicants or insureds that were negatively acted upon by the insurer;

2. Issue the coverage applied for which was rejected, subject to the applicants option of the effective date being the date of application or the current date; and

3. Pay any valid claim of an applicant incurred subsequent to the initial application date.

(10) “Travel” shall not include “residency” or relocation for employment. An individual who is absent from the United States for more than one hundred eighty (180) consecutive days and has established a residence in a foreign country during that period is considered to be residing in that country. Residency in a foreign country is not considered “foreign travel” for purposes of this rule.

*Specific Authority 626.9541(1)(dd)3., 626.9611 FS. Law Implemented 626.951, 626.9521, 626.9541(1)(g), (dd) FS. History—New 7-6-06, Amended 11-1-07.*



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