



Florida Office of Insurance Regulation

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2021
Report on Life Insurance Limitations
Based on Foreign Travel Expenses

Issued:
March 1, 2021

INDEX

Introduction.....	2
Summary of Data Sources Used for the Report.....	2
Survey Results: Company Explanations for Denying, Refusing Continuation, or Limiting Coverage	3
Consumer Complaints	4
Examination of Companies	4
Conclusion	4
Exhibit A: Section 626.9541(1)(dd), Florida Statutes: Life insurance limitations based on past foreign travel experiences or future foreign travel plans.....	5
Exhibit B: Rule 69O-125.003, Florida Administrative Code: Unfair Discrimination Because of Travel Plans.....	6

INTRODUCTION

The Freedom To Travel Law (FTTL), section 626.9541(1)(dd), Florida Statutes, was enacted in 2006 by the Florida legislature. The law defines the practice of limiting the life insurance coverage available to a person based on lawful foreign travel in the past as an Unfair Trade Practice. It also prohibits discrimination based on future lawful travel plans unless the insurer demonstrates the persons who travel are in a higher risk, actuarially supportable class. The FTTL and the implementing Rule 69O-125.003, Florida Administrative Code, are attached as Exhibits A and B respectively.

As currently required in Florida Statutes, the Florida Office of Insurance Regulation (OIR) conducts a survey of insurance companies and performs examinations of selected insurers as warranted to determine the industry's compliance with the requirements of the FTTL. In addition, and in accordance with the law, OIR examines foreign travel practices as a part of all market conduct examinations of life insurers.

Pursuant to section 626.9541(1)(dd)6, Florida Statutes, OIR is required to submit a report to the Legislature by March 1 of each year regarding *Life Insurance Limitations Based on Foreign Travel Experiences*.

The report is to contain, but is not 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 action.

SUMMARY OF DATA SOURCES USED FOR THE REPORT

OIR reviewed and considered the following sources of data in preparing this report:

- FTTL required annual survey results;
- Self-reported violations of the FTTL in survey responses;
- Self-reported use of an allowable FTTL variance, as reported in the survey response;
- Self-reported use of an allowable FTTL differentiation between foreign travel and foreign residency as reported in the survey;
- FTTL actions referenced in section 626.9541(1)(g), Florida Statutes [Unfair Discrimination], and section 626.9541(1)(x), Florida Statutes [Refusal to Insure], because of national origin;
- FTTL consumer complaints; and
- FTTL examinations of selected life insurance companies.

Based on the survey responses received, one company self-reported one instance of violating the FTTL in 2020. Two companies reported a total of 10 instances of denying coverage due to COVID-19 related travel issues or restrictions. No other violations were reported or discovered upon analysis of either the survey results, the allowable FTTL variance, the allowable FTTL differentiation between foreign travel and foreign residency, unfair discrimination, refusal to insure due to national origin, or consumer complaints. Additional details are contained in the report.

SURVEY RESULTS: COMPANY EXPLANATIONS FOR DENYING, REFUSING CONTINUATION, OR LIMITING COVERAGE

- OIR identified 439 entities authorized to write life insurance products during the period from January 1, 2020 to December 31, 2020. OIR required these companies to complete an online survey and return the responses by January 19, 2021.
- One company self-reported one instance in which an application was initially declined due to intended future travel but has since reevaluated and the application has been reprocessed and a policy has been offered.
- One company reported two instances where policies could not be completed or delivered due to the applicants not being able to return to the United States due to COVID-19 restrictions in the countries they were visiting. The applicants were advised that they could re-apply once they returned to the United States.
- One company reported six instances where applications were declined due to international COVID-19 pandemic exposure rates at the time of the applications.
- One company reported four instances where applications were denied based on temporary COVID-19 underwriting guidelines for future travel.

OIR issued an Order in 2007 granting a variance with respect to travel to Afghanistan or Iraq. The Order permits insurers to refuse to issue coverage to applicants who plan to travel to Afghanistan or Iraq. On June 15, 2016, OIR further extended the term of the Order approving variance until June 15, 2018. On June 15, 2018, OIR further extended the term of the Order approving variance until June 15, 2020. Most recently, the Order approving the variance was extended to June 15, 2022. Nine companies reported using the variance during 2020. No violations were found.

- No companies reported any instances in which the treatment of an application was determined based on the applicant's disclosure of residency in a foreign country for greater than 180 days. Rule 69O-125.003(10), Florida Administrative Code, states "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. No violations were found.
- No violations of section 626.9541(1)(g), Florida Statutes [Unfair Discrimination], and section 626.9541(1)(x), Florida Statutes [Refusal to Insure], because of national origin were reported or discovered.

CONSUMER COMPLAINTS

Consumer complaints were also reviewed for the time period. No consumer complaints were received either by OIR, or the Department of Financial Services Division of Consumer Services related to foreign travel and the FTTL.

EXAMINATIONS OF COMPANIES

OIR did not conduct any Freedom to Travel Examinations in 2020.

CONCLUSION

Subsequent to the 2020 Report of Freedom to Travel, OIR requested, received, and reviewed documentation relating to all instances in which violations of the FTTL were reported by companies. OIR confirmed the companies either subsequently offered insurance to denied applicants and/or changed underwriting procedures to prevent further recurrence. In all cases in which OIR reviewed past potential violations, documentation was received by OIR and in all cases, it was confirmed that the information was accurately reported by the companies.

This year OIR identified 439 entities authorized to write life insurance products in Florida. Of those 439 entities responding to the survey, one company self-reported one violation of the FTTL and two companies reported a total of ten instances of denying coverage due to COVID-19 related travel issues or restrictions. No other violations were found during analysis of the survey results. OIR continues to review the results of the report.

Of the 439 companies surveyed, 71 companies reported asking questions related to foreign travel on their life applications for the time period of January 1, 2020 through December 31, 2020. Over the past five years, the number of companies asking travel-related questions has generally trended downwards.

Since the passage of the 2006 FTTL, the required annual filing of the FTTL Survey and the initiation of Freedom to Travel examinations, it appears the industry has successfully implemented procedures and practices that have resulted in improved compliance with these regulations.

EXHIBIT A

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.

EXHIBIT B

Rule 69O-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 was denied,

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

3. The number of applications under which a policy or certificate of life insurance 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.

Rulemaking 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, 1-9-19.



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