
HOUSE BILL 1226

State of Washington

56th Legislature

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By Representatives Radcliff, Schual-Berke, Benson, Rockefeller, Barlean, Santos, Kessler, Cooper, Ruderman, Voloria, Stensen, Kenney, Wood, Sullivan, McIntire, Cody, Kastama, Ogden, Talcott, Dickerson, Hatfield, Quall, Constantine, Campbell, Skinner, DeBolt, Wensman, Morris, Edmonds, Murray, Delvin, Romero, Boldt, Dunshee, Mielke, Reardon, Tokuda, Lantz, D. Schmidt, Keiser, H. Sommers, Carlson, Kagi, Van Luven, Esser and Poulsen

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1 AN ACT Relating to the Holocaust victims insurance relief act;
2 adding a new chapter to Title 48 RCW; prescribing penalties; and
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature recognizes the
6 existence of allegations that certain insurers doing business in the
7 state of Washington, either directly or through related companies and
8 affiliates, have failed to honor insurance policies issued during the
9 World War II era. Although such policies were issued outside of the
10 state of Washington, Washington has a clear obligation under law to
11 secure justice for its citizens and residents.

12 (2) The legislature recognizes that allegations regarding a failure
13 to pay legitimate insurance claims threaten the integrity of the
14 insurance market. The basic commodity that insurers sell is trust.
15 Policyholders pay substantial sums to insurers trusting that at a
16 future date, perhaps decades later, the insurer will protect them and
17 their loved ones. An insurer that violates this trust should not be
18 authorized to do business in this state or own or control insurers

1 doing business in this state, least the integrity of this state's
2 insurance market be compromised.

3 (3) The legislature recognizes that hundreds of Holocaust survivors
4 and heirs of Holocaust victims are citizens or residents of the state
5 of Washington. The legislature is concerned by allegations that they
6 may have been deprived of their contractual entitlement to benefits
7 under insurance policies issued by insurance companies operating in
8 Europe prior to and during World War II. The state of Washington has
9 a public policy interest in assuring that all of its residents and
10 citizens, including Holocaust victims and their heirs, who are entitled
11 to proceeds of insurance policies are treated reasonably and fairly and
12 that any contractual obligations are honored.

13 (4) The legislature recognizes that the business of insurance is
14 one affected by the public interest, requiring that all persons
15 conducting it be actuated by good faith, abstain from deception, and
16 practice honesty and equity in all insurance matters. The insurance
17 commissioner is currently authorized to refuse, suspend, or revoke the
18 certificate of authority of insurers that are affiliated directly or
19 indirectly through ownership, control, reinsurance or other insurance
20 or business relations with any person, persons, or entities whose
21 business operations are or have been marked, to the detriment of
22 policyholders or the public, by bad faith or manipulation. The
23 insurance commissioner is also currently authorized to provide
24 assistance to members of the public in resolving complaints involving
25 insurers. It is the intent of the legislature to provide additional
26 resources to the insurance commissioner to carry out this authority, to
27 authorize the insurance commissioner to cooperate with other state
28 regulators with regard to such policies, and to authorize the insurance
29 commissioner to cooperate with and act through the international
30 commission concerning World War II era policies established under the
31 efforts of the national association of insurance commissioners.

32 (5) In addition to recovering proceeds from unpaid insurance
33 policies, the legislature recognizes the need to assist Holocaust
34 survivors and their families, or the heirs of Holocaust victims, to
35 recover other assets illegally seized from them by the Nazi government
36 and its allies and collaborators in Germany or Nazi-occupied Europe
37 between 1933 and 1945.

1 NEW SECTION. **Sec. 2.** FINDINGS. The legislature finds the
2 following:

3 (1) In addition to the many atrocities that befell the victims of
4 the Nazi regime, in many cases insurance policy proceeds were not paid
5 to the victims and their families.

6 (2) In many instances, insurance company records are the only proof
7 of insurance policies held. In some cases, recollection of those
8 policies' very existence may have perished along with the Holocaust
9 victims.

10 (3) Several hundred Holocaust survivors and their families, or the
11 heirs of Holocaust victims live in Washington today.

12 (4) Insurance companies doing business in the state of Washington
13 have a responsibility to ensure that any involvement they or their
14 related companies may have had with insurance policies of Holocaust
15 victims are disclosed to the state to ensure the rapid payment to
16 victims and their survivors of any proceeds to which they may be
17 entitled.

18 (5) As a result of the efforts of the insurance commissioner of the
19 state of Washington and the national association of insurance
20 commissioners, there has been established an international commission
21 to investigate and facilitate the payment of insurance policies to
22 victims of the Holocaust and their survivors. It is in the best
23 interest of the people of the state of Washington to authorize the
24 insurance commissioner to cooperate with and coordinate his or her
25 activities with the international commission.

26 (6) Other states are establishing Holocaust survivor assistance
27 offices and registries of insurance policies and Holocaust victims in
28 order to identify policyholders and their survivors to whom policy
29 proceeds may be payable. It is in the best interest of the people of
30 the state of Washington to authorize the insurance commissioner to
31 cooperate with and coordinate his or her activities with those other
32 states.

33 (7) In addition to unpaid insurance policies, Holocaust victims
34 lost unknown billions of dollars of assets seized by Nazi Germany and
35 its allies and collaborators in Germany and Nazi-occupied Europe
36 between 1933 and 1945.

1 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) "Holocaust survivor" or "Holocaust victim" means any person who
5 was persecuted, imprisoned or liable to imprisonment, or had property
6 taken or confiscated during the period of 1933 to 1945, inclusive, by
7 Nazi Germany, its allies, or sympathizers based on that person's race,
8 religion, ethnicity, physical or mental disability, sexual orientation,
9 or similar class or group-based animus.

10 (2) "Related company" means any parent, subsidiary, successor in
11 interest, managing general agent, or other person or company affiliated
12 directly or indirectly through ownership, control, common ownership or
13 control, or other business or insurance relationship with another
14 company or insurer.

15 (3) "Insurer" means an entity holding a certificate of authority or
16 license to conduct the business of insurance in this state, or whose
17 contacts with this state satisfy the constitutional requirements for
18 jurisdiction, that sold life, property, liability, health, annuities,
19 dowry, educational, casualty, or any other insurance covering persons
20 or property to persons in Europe at any time before 1945, whether
21 directly or through or as result of sales by a related company, or is
22 itself a related company to any person, entity, or insurance company
23 that sold such policies, whether the sale of the insurance occurred
24 before or after becoming related.

25 (4) "Proceeds" means the amount legally due under any insurance
26 policy issued by an insurer or any related company as defined in this
27 section.

28 (5) "International commission" means the international commission
29 on Holocaust era insurance claims, referenced in and established under
30 a memorandum of understanding originally dated April 8, 1998, between
31 and among the insurance commissioner, various other state insurance
32 regulators, various alien insurance companies, and world-wide Jewish
33 groups, which commission held its first meeting in New York on October
34 21, 1998, and any successor.

35 (6) "Other assets" means the proceeds of bank accounts, gold, art,
36 houses, businesses, other real estate properties or land, or the
37 contents of homes, businesses, or other real estate properties of
38 Holocaust survivors or victims.

1 NEW SECTION. **Sec. 4.** HOLOCAUST SURVIVOR ASSISTANCE OFFICE. (1)

2 To assist Holocaust victims to recover proceeds from insurance policies
3 that were improperly denied or processed, or from other assets, or
4 both, the insurance commissioner may establish a Holocaust survivor
5 assistance office.

6 (2) The insurance commissioner may appoint or deputize personnel to
7 be engaged or employed by the Holocaust survivor assistance office and
8 utilize insurance department personnel to resolve or settle claims of
9 Holocaust victims. The insurance commissioner may also engage outside
10 auditors or other qualified personnel to assist in the investigation of
11 claims made by Holocaust victims.

12 (3) The insurance commissioner may establish a toll-free telephone
13 number, to be administered by the Holocaust survivor assistance office,
14 and available in English and such other languages as the commissioner
15 deems appropriate. This toll-free telephone number may be used to
16 assist any Washington citizen or resident seeking to recover proceeds
17 from an insurance policy issued to or covering the life or property of
18 Holocaust victims, as well as other recoverable assets. The insurance
19 commissioner may also prepare public service announcements and take
20 other steps deemed appropriate to inform the general public about the
21 office and other options available to Holocaust victims to settle
22 insurance claims and claims for other assets.

23 (4) The insurance commissioner may cooperate and exchange
24 information with other states establishing similar Holocaust survivor
25 assistance offices and with the international commission, and may enter
26 into agreements whereby a single processing office may be established
27 on behalf of, and to provide services to the residents of, several
28 states.

29 NEW SECTION. **Sec. 5.** HOLOCAUST INSURANCE COMPANY REGISTRY. (1)

30 To facilitate the work of the Holocaust survivor assistance office, the
31 insurance commissioner may establish and maintain a central registry
32 containing records and information relating to insurance policies, as
33 described in section 6 of this act, of victims, living and deceased, of
34 the Holocaust. The registry shall be known as the Holocaust insurance
35 company registry. The insurance commissioner shall establish standards
36 and procedures to make the information in the registry available to the
37 public to the extent necessary and appropriate to determine the
38 existence of insurance policies and to identify beneficiaries,

1 successors in interest, or other persons entitled to the proceeds of
2 such policies, and to enable such persons to claim proceeds to which
3 they may be entitled, while protecting the privacy of policyholders,
4 their survivors, and their family members. All information received by
5 the claims registry or Holocaust survivor assistance office from any
6 insurer, related company, or foreign government or regulator shall be
7 considered and deemed to be matters and information relating to an
8 examination and part of an examination report that the commissioner may
9 treat as confidential and withhold from public inspection under RCW
10 48.03.040(6)(c) and 48.03.050. To the extent necessary and appropriate
11 to secure access to documents and information located in or subject to
12 the jurisdiction of other states and countries, the commissioner is
13 authorized to enter into agreements or to provide assurances that any
14 or all documents and information received from an entity regulated by
15 or subject to the laws of such other state or country, or received from
16 any agency of the government of any such state or country, will be
17 treated as confidential by the commissioner and will not be disclosed
18 to any person except with the approval of the appropriate authority of
19 such state or country or except as permitted or authorized by the laws
20 of such state or country, and any such agreement shall be binding and
21 enforceable notwithstanding chapter 42.17 RCW. To the extent necessary
22 and appropriate to secure access to documents and information from or
23 in the possession of the international commission as to which the
24 international commission has given assurances of confidentiality or
25 privacy, the commissioner is authorized to enter into agreements or to
26 provide assurances that any or all such documents and information will
27 be treated as confidential by the commissioner and will not be
28 disclosed to any person except with the approval of the international
29 commission or as permitted by any agreement or assurances given by the
30 international commission, and any such agreement shall be binding and
31 enforceable notwithstanding chapter 42.17 RCW.

32 (2) The commissioner may cooperate and exchange information with
33 other states establishing similar registries and with the international
34 commission, and may enter into agreements whereby a single registry may
35 be established on behalf of, and to provide services to the citizens
36 and residents of, several states.

37 NEW SECTION. **Sec. 6.** OPERATIONS OF HOLOCAUST INSURANCE COMPANY
38 REGISTRY. (1) Any insurer that sold life, property, liability, health,

1 annuities, dowry, educational, or casualty insurance policies, to
2 persons in Europe, that were in effect between 1920 and 1945, shall
3 within one hundred eighty days following the effective date of this
4 act, or such later date as the commissioner may establish, file or
5 cause to be filed the following information with the commissioner to be
6 entered into the Holocaust insurance company registry:

7 (a) A list of such insurance policies;

8 (b) The insureds, beneficiaries, and face amounts of such policies;

9 (c) A comparison of the names and other available identifying
10 information of insureds and beneficiaries of such policies and the
11 names and other identifying information of the victims of the
12 Holocaust. The names and other identifying information of victims of
13 the Holocaust shall be provided by the office of the insurance
14 commissioner and may be obtained from the United States Holocaust
15 museum and the Yad Vashem repository in Israel;

16 (d) For each such policy, whichever of the following that may
17 apply:

18 (i) That the proceeds of the policy have been paid to the
19 designated beneficiaries or their heirs where that person or persons,
20 after diligent search, could be located and identified;

21 (ii) That the proceeds of the policies where the beneficiaries or
22 heirs could not, after diligent search, be located or identified, have
23 been distributed to Holocaust survivors or to qualified charitable
24 nonprofit organizations for the purpose of assisting Holocaust
25 survivors;

26 (iii) That a court of law has certified in a legal proceeding
27 resolving the rights of unpaid policyholders, their heirs, and
28 beneficiaries, a plan for the distribution of the proceeds;

29 (iv) That the proceeds have not been distributed and the amount of
30 those proceeds.

31 (2) The destruction of any records or other materials pertaining to
32 such policies shall be a class C felony according to chapter 9A.20 RCW.
33 Evidence of the destruction of such material shall be admissible in
34 both administrative and judicial proceedings as evidence in support of
35 any claim being made against the insurer involving the destroyed
36 material. It shall be permissible to infer that the destroyed material
37 was destroyed to prevent discovery of information supporting a claim.

38 (3) An insurer currently doing business in the state that did not
39 sell any insurance policies in Europe prior to 1945 except through or

1 as a result of sales by a related company shall not be subject to this
2 section if a related company, whether or not authorized and currently
3 doing business in the state, has made a filing with the commissioner
4 under this section.

5 (4) The insurance commissioner may fund the costs of operating both
6 the Holocaust survivor assistance office and the Holocaust claims
7 registry by assessments upon those insurers providing information to
8 the registry. The commissioner shall establish standards and
9 procedures to fairly allocate the costs of the registry and office
10 among such insurers. The commissioner is expressly authorized to
11 allocate such costs based on the number of policies reported or, based
12 on the total monetary amount of the policies as determined by their
13 face amounts without regard to inflation, interest, or depreciation.

14 (5) The insurance commissioner is authorized to conduct
15 investigations and examinations of insurers for the purpose of
16 determining compliance with this chapter, verifying the accuracy and
17 completeness of any and all information furnished to the registry and
18 the Holocaust survivor assistance office, and developing and securing
19 such additional information as may be necessary or appropriate to
20 determine those entitled to payment under any policy and the proceeds
21 to which such person may be entitled, if any. Any such investigation
22 shall be considered to be an examination under chapter 48.03 RCW. The
23 costs of any such examination will be borne by the insurer
24 investigated, or the insurer to whom the related company is related,
25 pursuant to RCW 48.03.060(2). Examinations may be conducted in this
26 state, or in the state or country of residence of the insurer or
27 related company, or at such other place or country where the records to
28 be examined may be located.

29 (6) In the event the insurance commissioner finds that doing so
30 would not adversely affect the operations of the registry or Holocaust
31 survivor assistance office with regard to insurance policies, then the
32 commissioner may permit either or both of them to accept information
33 and to assist claimants with regard to the location and recovery of
34 property or assets taken or confiscated from Holocaust victims other
35 than insurance policies. However, all costs and expenses, including
36 that of personnel, attributable to such noninsurance assets shall be
37 separately accounted for and shall not be assessed against insurers
38 under subsections (4) and (5) of this section and shall not be paid
39 from the general funds of the office of the insurance commissioner, but

1 shall be paid solely from contributions or donations received for that
2 purpose.

3 (a) The insurance commissioner may accept contributions from any
4 other person wishing to fund the operations of the Holocaust survivor
5 assistance office or the registry to facilitate the resolution of
6 claims involving Holocaust victims.

7 (b) The insurance commissioner is authorized to assist in the
8 creation of an entity to accept tax deductible contributions to support
9 activities conducted by the Holocaust survivor assistance office and
10 the Holocaust claims registry.

11 (c) The insurance commissioner, through the Holocaust survivor
12 assistance office, is authorized, with the consent of the parties, to
13 act as mediator of any dispute involving the claim of a Holocaust
14 victim arising from an occurrence during the period between January 1,
15 1933, and December 31, 1945.

16 (7) The insurance commissioner is authorized to cooperate with and
17 exchange information with other states with similar registries or
18 Holocaust survivor assistance offices, with the national association of
19 insurance commissioners, with foreign countries and with the
20 international commission. The commissioner is authorized to enter into
21 agreements to handle the processing of claims and registry functions of
22 other states, and to have other states handle all or part of the
23 registry and claims processing functions for this state, as the
24 commissioner may determine to be appropriate. The commissioner is
25 authorized to enter into agreements with other states and the
26 international commission to treat and consider information submitted to
27 them as submitted to this state for purpose of complying with this
28 chapter. As part of any such agreement, the insurance commissioner may
29 agree to reimburse any other state for expenses or costs incurred and
30 such reimbursement shall be recovered by the commissioner as an expense
31 of operating the registry and Holocaust survivor assistance office
32 under subsections (4) and (5) of this section, and to accept
33 reimbursement from any other state for services with regard to
34 residents of such other state. The insurance commissioner is
35 authorized to assist out-of-state claimants with or otherwise handle on
36 their behalf issues involving the alleged improper nonpayment of claims
37 to Holocaust survivors or victims and may collect appropriate fees from
38 such claimants to handle such claims processing.

1 (8) A determination by the insurance commissioner that a claim
2 subject to the provisions of this chapter should be paid shall be
3 regarded by any court in any private action by a claimant against an
4 insurer as prima facie evidence or creating presumptive evidence that
5 such claim should be paid.

6 NEW SECTION. **Sec. 7.** PENALTIES. Any insurer that knowingly files
7 information required by this chapter that is false shall be liable for
8 a civil penalty not to exceed ten thousand dollars for each violation.
9 This penalty is appropriated to the office of the insurance
10 commissioner to be used by it to aid in the resolution of Holocaust
11 insurance claims.

12 NEW SECTION. **Sec. 8.** SUSPENSION OF CERTIFICATE OF AUTHORITY FOR
13 FAILURE TO COMPLY WITH CHAPTER. The insurance commissioner is
14 authorized to suspend the certificate of authority to conduct insurance
15 business in the state of Washington of any insurer that fails to comply
16 with the requirements of this chapter by or after the two hundred tenth
17 day after the effective date of this act, until the time that the
18 insurer complies with this chapter. The insurance commissioner is
19 authorized in his or her discretion to accept fines in lieu of
20 suspension. Such suspension shall not affect or relieve the insurer
21 from its obligations to service its existing insureds, and shall not
22 permit the insurer to terminate its existing insureds, but shall
23 prohibit the insurer from writing new business in this state until the
24 suspension is lifted by the commissioner.

25 NEW SECTION. **Sec. 9.** COOPERATION WITH INTERNATIONAL COMMISSION.
26 The insurance commissioner may suspend the application of this chapter
27 to any insurer that is participating in the international commission
28 process in good faith and is working through the international
29 commission to resolve all outstanding claims with offers of fair
30 settlements in a reasonable time frame. If, however, in the judgment
31 of the insurance commissioner the international commission fails to
32 establish a mechanism to accomplish identification, adjudication, and
33 payment of insurance policy claims of Holocaust survivors or victims
34 within a reasonable time, then all provisions of this chapter shall
35 come into effect as to any such insurer. For purposes of this section,

1 a reasonable time shall mean by January 1, 2000, or such later date as
2 the commissioner may establish by rule.

3 NEW SECTION. **Sec. 10.** PRIVATE RIGHTS OF ACTION PRESERVED; VENUE.
4 Any Holocaust survivor, or heir or beneficiary of a Holocaust survivor
5 or victim, who resides in this state and has a claim against an insurer
6 arising out of an insurance policy or policies purchased or in effect
7 in Europe before 1945 from that insurer may bring a legal action
8 against that insurer to recover on that claim in the superior court of
9 the county in which any plaintiff resides, which court shall be vested
10 with jurisdiction over that action.

11 NEW SECTION. **Sec. 11.** EXTENSION OF STATUTE OF LIMITATIONS. Any
12 action brought by a Holocaust survivor or the heir or beneficiary of a
13 Holocaust survivor or victim, seeking proceeds of the insurance
14 policies issued or in effect before 1945 shall not be dismissed for
15 failure to comply with the applicable statute of limitations, provided
16 the action is commenced on or before December 31, 2010.

17 NEW SECTION. **Sec. 12.** ADOPTION OF RULES. The insurance
18 commissioner may adopt rules to implement this chapter.

19 NEW SECTION. **Sec. 13.** REPORT TO LEGISLATURE. The insurance
20 commissioner shall report to the legislature one year from the
21 effective date of this act and annually thereafter on the
22 implementation of this law and resolution of Holocaust claims.

23 NEW SECTION. **Sec. 14.** SHORT TITLE. This chapter shall be known
24 and cited as the Holocaust victim insurance relief act of 1999.

25 NEW SECTION. **Sec. 15.** CAPTIONS NOT LAW. Captions used in this
26 chapter are not any part of the law.

27 NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act
28 constitute a new chapter in Title 48 RCW.

29 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

3 NEW SECTION. **Sec. 18.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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