
SENATE BILL 5509

State of Washington

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1999 Regular Session

By Senators Kline, Jacobsen, Heavey, Horn, Finkbeiner, Patterson, Franklin, Fairley, Prentice, Hochstatter, Bauer, Gardner, Costa, Eide, McDonald, B. Sheldon, Goings, McAuliffe, Kohl-Welles, Rasmussen and Oke

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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 in
11 securing 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 NEW SECTION. **Sec. 2.** FINDINGS. The legislature finds the
33 following:

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

37 (2) In many instances, insurance company records are the only proof
38 of insurance policies held. In some cases, recollection of those

1 policies' very existence may have perished along with the Holocaust
2 victims.

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

5 (4) Insurance companies doing business in the state of Washington
6 have a responsibility to ensure that any involvement they or their
7 related companies may have had with insurance policies of Holocaust
8 victims are disclosed to the state to ensure the rapid payment to
9 victims and their survivors of any proceeds to which they may be
10 entitled.

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

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

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 4.** HOLOCAUST SURVIVOR ASSISTANCE OFFICE. (1)
37 To assist Holocaust victims to recover proceeds from insurance policies
38 that were improperly denied or processed, or from other assets, or

1 both, the insurance commissioner may establish a Holocaust survivor
2 assistance office.

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

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

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

26 NEW SECTION. **Sec. 5.** HOLOCAUST INSURANCE COMPANY REGISTRY. (1)
27 To facilitate the work of the Holocaust survivor assistance office, the
28 insurance commissioner may establish and maintain a central registry
29 containing records and information relating to insurance policies, as
30 described in section 6 of this act, of victims, living and deceased, of
31 the Holocaust. The registry shall be known as the Holocaust insurance
32 company registry. The insurance commissioner shall establish standards
33 and procedures to make the information in the registry available to the
34 public to the extent necessary and appropriate to determine the
35 existence of insurance policies and to identify beneficiaries,
36 successors in interest, or other persons entitled to the proceeds of
37 such policies, and to enable such persons to claim proceeds to which
38 they may be entitled, while protecting the privacy of policyholders,

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

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

34 NEW SECTION. **Sec. 6.** OPERATIONS OF HOLOCAUST INSURANCE COMPANY
35 REGISTRY. (1) Any insurer that sold life, property, liability, health,
36 annuities, dowry, educational, or casualty insurance policies, to
37 persons in Europe, that were in effect between 1920 and 1945, shall
38 within one hundred eighty days following the effective date of this

1 act, or such later date as the commissioner may establish, file or
2 cause to be filed the following information with the commissioner to be
3 entered into the Holocaust insurance company registry:

4 (a) A list of such insurance policies;

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

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

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

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

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

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

26 (iv) That the proceeds have not been distributed and the amount of
27 those proceeds.

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

35 (3) An insurer currently doing business in the state that did not
36 sell any insurance policies in Europe prior to 1945 except through or
37 as a result of sales by a related company shall not be subject to this
38 section if a related company, whether or not authorized and currently

1 doing business in the state, has made a filing with the commissioner
2 under this section.

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

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

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

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

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

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

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

37 (8) A determination by the insurance commissioner that a claim
38 subject to the provisions of this chapter should be paid shall be
39 regarded by any court in any private action by a claimant against an

1 insurer as prima facie evidence or creating presumptive evidence that
2 such claim should be paid.

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

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

22 NEW SECTION. **Sec. 9.** COOPERATION WITH INTERNATIONAL COMMISSION.
23 The insurance commissioner may suspend the application of this chapter
24 to any insurer that is participating in the international commission
25 process in good faith and is working through the international
26 commission to resolve all outstanding claims with offers of fair
27 settlements in a reasonable time frame. If, however, in the judgment
28 of the insurance commissioner the international commission fails to
29 establish a mechanism to accomplish identification, adjudication, and
30 payment of insurance policy claims of Holocaust survivors or victims
31 within a reasonable time, then all provisions of this chapter shall
32 come into effect as to any such insurer. For purposes of this section,
33 a reasonable time shall mean by January 1, 2000, or such later date as
34 the commissioner may establish by rule.

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

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

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

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

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

23 NEW SECTION. **Sec. 15.** CAPTIONS NOT LAW. Captions used in this
24 act are not any part of the law.

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

27 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

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

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