

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5509

56th Legislature
1999 Regular Session

Passed by the Senate March 9, 1999
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 6, 1999
YEAS 91 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5509** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5509

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored 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)

Read first time 03/01/99.

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

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 to seek justice
11 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, lest 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
6 citizens or residents of the state of Washington may have been deprived
7 of their contractual entitlement to benefits under insurance policies
8 issued by insurance companies operating in Europe prior to and during
9 World War II. The state of Washington has a public policy interest in
10 assuring that all of its citizens and residents, including Holocaust
11 survivors, their families, and the heirs of Holocaust victims, who are
12 entitled to proceeds of insurance policies are treated reasonably and
13 fairly and that any contractual obligations are honored.

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

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

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

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

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

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

12 (5) There has been established an international commission to
13 investigate and facilitate the payment of insurance policies to victims
14 of the Holocaust and their survivors. It is in the best interest of
15 the people of the state of Washington to authorize the insurance
16 commissioner to cooperate with and coordinate his or her activities
17 with the international commission.

18 (6) Other states are establishing Holocaust survivor assistance
19 offices and registries of insurance policies and Holocaust victims in
20 order to identify policyholders and their survivors to whom policy
21 proceeds may be payable. It is in the best interest of the people of
22 the state of Washington to authorize the insurance commissioner to
23 cooperate with and coordinate his or her activities with those other
24 states.

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

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

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

1 (2) "Related company" means any parent, subsidiary, successor in
2 interest, managing general agent, or other person or company affiliated
3 directly or indirectly through ownership, control, common ownership or
4 control, or other business or insurance relationship with another
5 company or insurer.

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

16 (4) "Proceeds" means the face or other payout value of policies and
17 annuities plus reasonable interest to date of payments without
18 diminution for wartime or immediate postwar currency devaluation
19 legally due under any insurance policy issued by an insurer or any
20 related company.

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

28 (6) "Other assets" means the proceeds of bank accounts, gold, art,
29 houses, businesses, other real estate properties or land, or the
30 contents of homes, businesses, or other real estate properties of
31 Holocaust survivors or victims.

32 NEW SECTION. **Sec. 4.** HOLOCAUST SURVIVOR ASSISTANCE OFFICE. (1)
33 To assist Holocaust victims, their heirs, or their beneficiaries to
34 recover proceeds from insurance policies that were improperly denied or
35 processed, or from other assets, or both, the insurance commissioner
36 may establish a Holocaust survivor assistance office.

37 (2) The insurance commissioner may appoint or deputize personnel to
38 be engaged or employed by the Holocaust survivor assistance office and

1 utilize insurance department personnel to resolve or settle claims of
2 Holocaust victims. The insurance commissioner may also engage outside
3 auditors or other qualified personnel to assist in the investigation of
4 claims made by Holocaust victims, their heirs, or their beneficiaries.

5 (3) The insurance commissioner may cooperate and exchange
6 information with other states establishing similar Holocaust survivor
7 assistance offices and with the international commission, and may enter
8 into agreements whereby a single processing office may be established
9 on behalf of, and to provide services to the residents of, several
10 states.

11 NEW SECTION. **Sec. 5. HOLOCAUST INSURANCE COMPANY REGISTRY.** (1)
12 To facilitate the work of the Holocaust survivor assistance office, the
13 insurance commissioner may establish and maintain a central registry
14 containing records and information relating to insurance policies, as
15 described in section 6 of this act, of victims, living and deceased, of
16 the Holocaust. The registry shall be known as the Holocaust insurance
17 company registry. The insurance commissioner shall establish standards
18 and procedures to make the information in the registry available to the
19 public to the extent necessary and appropriate to determine the
20 existence of insurance policies and to identify beneficiaries,
21 successors in interest, or other persons entitled to the proceeds of
22 such policies, and to enable such persons to claim proceeds to which
23 they may be entitled, while protecting the privacy of policyholders,
24 their survivors, and their family members. All information received by
25 the Holocaust insurance company registry or Holocaust survivor
26 assistance office from any insurer, related company, or foreign
27 government or regulator shall be considered and deemed to be matters
28 and information relating to an examination and part of an examination
29 report that the insurance commissioner may treat as confidential and
30 withhold from public inspection under RCW 48.03.040(6)(c) and
31 48.03.050. To the extent necessary and appropriate to secure access to
32 documents and information located in or subject to the jurisdiction of
33 other states and countries, the insurance commissioner is authorized to
34 enter into agreements or to provide assurances that any or all
35 documents and information received from an entity regulated by or
36 subject to the laws of such other state or country, or received from
37 any agency of the government of any such state or country, will be
38 treated as confidential by the insurance commissioner and will not be

1 disclosed to any person except with the approval of the appropriate
2 authority of such state or country or except as permitted or authorized
3 by the laws of such state or country, and any such agreement shall be
4 binding and enforceable notwithstanding chapter 42.17 RCW. To the
5 extent necessary and appropriate to secure access to documents and
6 information from or in the possession of the international commission
7 as to which the international commission has given assurances of
8 confidentiality or privacy, the insurance commissioner is authorized to
9 enter into agreements or to provide assurances that any or all such
10 documents and information will be treated as confidential by the
11 insurance commissioner and will not be disclosed to any person except
12 with the approval of the international commission or as permitted by
13 any agreement or assurances given by the international commission, and
14 any such agreement shall be binding and enforceable notwithstanding
15 chapter 42.17 RCW.

16 (2) The insurance commissioner may cooperate and exchange
17 information with other states establishing similar registries and with
18 the international commission, and may enter into agreements whereby a
19 single registry may be established on behalf of, and to provide
20 services to the citizens and residents of, several states.

21 NEW SECTION. **Sec. 6.** OPERATIONS OF HOLOCAUST INSURANCE COMPANY
22 REGISTRY. (1) Any insurer that sold life, property, liability, health,
23 annuities, dowry, educational, or casualty insurance policies, to
24 persons in Europe, that were in effect any time between 1933 and 1945,
25 regardless of when the policy was initially purchased or written, shall
26 within ninety days following the effective date of this act, or such
27 later date as the insurance commissioner may establish, file or cause
28 to be filed the following information with the insurance commissioner
29 to be entered into the Holocaust insurance company registry:

- 30 (a) A list of such insurance policies;
- 31 (b) The insureds, beneficiaries, and face amounts of such policies;
- 32 (c) A comparison of the names and other available identifying
33 information of insureds and beneficiaries of such policies and the
34 names and other identifying information of the victims of the
35 Holocaust. The names and other identifying information of victims of
36 the Holocaust shall be provided by the office of the insurance
37 commissioner and may be obtained from the United States Holocaust
38 museum and the Yad Vashem repository in Israel, or other sources;

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

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

6 (ii) That the proceeds of the policies where the beneficiaries or
7 heirs could not, after diligent search, be located or identified, have
8 been distributed to Holocaust survivors or to qualified charitable
9 nonprofit organizations for the purpose of assisting Holocaust
10 survivors;

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

14 (iv) That the proceeds have not been distributed and the amount of
15 those proceeds.

16 (2) The destruction of any records or other materials pertaining to
17 such policies shall be a class C felony according to chapter 9A.20 RCW.
18 Evidence of the destruction of such material shall be admissible in
19 both administrative and judicial proceedings as evidence in support of
20 any claim being made against the insurer involving the destroyed
21 material.

22 (3) An insurer currently doing business in the state that did not
23 sell any insurance policies in Europe prior to 1945 except through or
24 as a result of sales by a related company shall not be subject to this
25 section if a related company, whether or not authorized and currently
26 doing business in the state, has made a filing with the insurance
27 commissioner under this section.

28 (4) The insurance commissioner may fund the costs of operating both
29 the Holocaust survivor assistance office and the Holocaust claims
30 registry by assessments upon those insurers providing information to
31 the Holocaust insurance company registry. The insurance commissioner
32 shall establish standards and procedures to fairly allocate the costs
33 of the Holocaust insurance company registry and Holocaust survivor
34 assistance office among such insurers. The insurance commissioner is
35 expressly authorized to allocate such costs based on the number of
36 policies reported or, based on the total monetary amount of the
37 policies as determined by their face amounts without regard to
38 inflation, interest, or depreciation.

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

16 (6) The insurance commissioner may permit the Holocaust insurance
17 company registry or the Holocaust survivor assistance office or both to
18 accept information and to assist claimants with regard to the location
19 and recovery of property or assets taken or confiscated from Holocaust
20 victims other than insurance policies if the insurance commissioner
21 finds that doing so would not adversely affect the operations of the
22 registry or Holocaust survivor assistance office with regard to
23 insurance policies. However, all costs and expenses, including that of
24 personnel, attributable to such noninsurance assets shall be separately
25 accounted for and shall not be assessed against insurers under
26 subsections (4) and (5) of this section and shall not be paid from the
27 general funds of the office of the insurance commissioner, but shall be
28 paid solely from contributions or donations received for that purpose.

29 (a) The insurance commissioner may accept contributions from any
30 other person wishing to fund the operations of the Holocaust survivor
31 assistance office or the Holocaust insurance company registry to
32 facilitate the resolution of claims involving Holocaust victims.

33 (b) The insurance commissioner is authorized to assist in the
34 creation of an entity to accept tax deductible contributions to support
35 activities conducted by the Holocaust survivor assistance office and
36 the Holocaust insurance company registry.

37 (c) The insurance commissioner, through the Holocaust survivor
38 assistance office, is authorized, with the consent of the parties, to
39 act as mediator of any dispute involving the claim of a Holocaust

1 victim or his or her heirs or beneficiaries arising from an occurrence
2 during the period between January 1, 1933, and December 31, 1945.

3 (7) The insurance commissioner is authorized to cooperate with and
4 exchange information with other states with similar Holocaust insurance
5 company registries or Holocaust survivor assistance offices, with the
6 national association of insurance commissioners, with foreign countries
7 and with the international commission. The insurance commissioner is
8 authorized to enter into agreements to handle the processing of claims
9 and registry functions of other states, and to have other states handle
10 all or part of the registry and claims processing functions for this
11 state, as the insurance commissioner may determine to be appropriate.
12 The insurance commissioner is authorized to enter into agreements with
13 other states and the international commission to treat and consider
14 information submitted to them as submitted to this state for purpose of
15 complying with this chapter. As part of any such agreement, the
16 insurance commissioner may agree to reimburse any other state for
17 expenses or costs incurred and such reimbursement shall be recovered by
18 the insurance commissioner as an expense of operating the Holocaust
19 insurance company registry and Holocaust survivor assistance office
20 under subsections (4) and (5) of this section, and to accept
21 reimbursement from any other state for services with regard to
22 residents of such other state.

23 (8) A finding by the insurance commissioner that a claim subject to
24 the provisions of this section should be paid shall be regarded by any
25 court as highly persuasive evidence that such claim should be paid.

26 NEW SECTION. **Sec. 7.** PENALTIES. Any insurer that knowingly files
27 information required by this chapter that is false shall be liable for
28 a civil penalty not to exceed ten thousand dollars for each violation.

29 NEW SECTION. **Sec. 8.** SUSPENSION OF CERTIFICATE OF AUTHORITY FOR
30 FAILURE TO COMPLY WITH CHAPTER. The insurance commissioner is
31 authorized to suspend the certificate of authority to conduct insurance
32 business in the state of Washington of any insurer that fails to comply
33 with the requirements of this chapter by or after one hundred twenty
34 days after the effective date of this act, until the time that the
35 insurer complies with this chapter. Such suspension shall not affect
36 or relieve the insurer from its obligations to service its existing
37 insureds, and shall not permit the insurer to terminate its existing

1 insureds, except pursuant to the terms of the insurance contract, but
2 shall prohibit the insurer from writing new business in this state
3 until the suspension is lifted by the insurance commissioner.

4 NEW SECTION. **Sec. 9.** COOPERATION WITH INTERNATIONAL COMMISSION.
5 The insurance commissioner may suspend the application of this chapter
6 to any insurer that is participating in the international commission
7 process in good faith and is working through the international
8 commission to resolve all outstanding claims with offers of fair
9 settlements in a reasonable time frame. If, however, the international
10 commission fails to establish a mechanism to accomplish identification,
11 adjudication, and payment of insurance policy claims of Holocaust
12 survivors or victims within a reasonable time, then all provisions of
13 this chapter shall come into effect as to any such insurer. For
14 purposes of this section, a reasonable time shall mean by January 1,
15 2000, or such later date as the insurance commissioner may establish by
16 rule.

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

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

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

33 NEW SECTION. **Sec. 13.** REPORT TO LEGISLATURE. The insurance
34 commissioner shall report to the legislature one year from the

1 effective date of this act and annually thereafter on the
2 implementation of this law and resolution of Holocaust claims.

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

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

7 NEW SECTION. **Sec. 16.** Sections 1 through 15, 17, and 18 of this
8 act constitute a new chapter in Title 48 RCW.

9 NEW SECTION. **Sec. 17.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 18.** This chapter expires December 31, 2010.

--- END ---