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

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

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

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

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

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

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

(1) In addition to the many atrocities that befell the victims of the Nazi regime, in many cases insurance policy proceeds were not paid to the victims and their families.
(2) In many instances, insurance company records are the only proof of insurance policies held. In some cases, recollection of those policies’ very existence may have perished along with the Holocaust victims.

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

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

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

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

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

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

(1) "Holocaust survivor" or "Holocaust victim" means any person who was persecuted, imprisoned or liable to imprisonment, or had property taken or confiscated during the period of 1933 to 1945, inclusive, by Nazi Germany, its allies, or sympathizers based on that person’s race, religion, ethnicity, physical or mental disability, sexual orientation, or similar class or group-based animus.
(2) "Related company" means any parent, subsidiary, successor in interest, managing general agent, or other person or company affiliated directly or indirectly through ownership, control, common ownership or control, or other business or insurance relationship with another company or insurer.

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

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

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

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

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

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

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

NEW SECTION. Sec. 5. HOLOCAUST INSURANCE COMPANY REGISTRY. (1) To facilitate the work of the Holocaust survivor assistance office, the insurance commissioner may establish and maintain a central registry containing records and information relating to insurance policies, as described in section 6 of this act, of victims, living and deceased, of the Holocaust. The registry shall be known as the Holocaust insurance company registry. The insurance commissioner shall establish standards and procedures to make the information in the registry available to the public to the extent necessary and appropriate to determine the existence of insurance policies and to identify beneficiaries, successors in interest, or other persons entitled to the proceeds of such policies, and to enable such persons to claim proceeds to which they may be entitled, while protecting the privacy of policyholders, their survivors, and their family members. All information received by the Holocaust insurance company registry or Holocaust survivor assistance office from any insurer, related company, or foreign government or regulator shall be considered and deemed to be matters and information relating to an examination and part of an examination report that the insurance commissioner may treat as confidential and withhold from public inspection under RCW 48.03.040(6)(c) and 48.03.050. To the extent necessary and appropriate to secure access to documents and information located in or subject to the jurisdiction of other states and countries, the insurance commissioner is authorized to enter into agreements or to provide assurances that any or all documents and information received from an entity regulated by or subject to the laws of such other state or country, or received from any agency of the government of any such state or country, will be treated as confidential by the insurance commissioner and will not be
disclosed to any person except with the approval of the appropriate authority of such state or country or except as permitted or authorized by the laws of such state or country, and any such agreement shall be binding and enforceable notwithstanding chapter 42.17 RCW. To the extent necessary and appropriate to secure access to documents and information from or in the possession of the international commission as to which the international commission has given assurances of confidentiality or privacy, the insurance commissioner is authorized to enter into agreements or to provide assurances that any or all such documents and information will be treated as confidential by the insurance commissioner and will not be disclosed to any person except with the approval of the international commission or as permitted by any agreement or assurances given by the international commission, and any such agreement shall be binding and enforceable notwithstanding chapter 42.17 RCW.

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

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

(a) A list of such insurance policies;

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

(c) A comparison of the names and other available identifying information of insureds and beneficiaries of such policies and the names and other identifying information of the victims of the Holocaust. The names and other identifying information of victims of the Holocaust shall be provided by the office of the insurance commissioner and may be obtained from the United States Holocaust museum and the Yad Vashem repository in Israel, or other sources;
(d) For each such policy, whichever of the following that may apply:

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

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

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

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

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

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

(4) The insurance commissioner may fund the costs of operating both the Holocaust survivor assistance office and the Holocaust claims registry by assessments upon those insurers providing information to the Holocaust insurance company registry. The insurance commissioner shall establish standards and procedures to fairly allocate the costs of the Holocaust insurance company registry and Holocaust survivor assistance office among such insurers. The insurance commissioner is expressly authorized to allocate such costs based on the number of policies reported or, based on the total monetary amount of the policies as determined by their face amounts without regard to inflation, interest, or depreciation.
The insurance commissioner is authorized to conduct investigations and examinations of insurers for the purpose of determining compliance with this chapter, verifying the accuracy and completeness of any and all information furnished to the Holocaust insurance company registry and the Holocaust survivor assistance office, and developing and securing such additional information as may be necessary or appropriate to determine those entitled to payment under any policy and the proceeds to which such person may be entitled, if any. Any such investigation shall be considered to be an examination under chapter 48.03 RCW. The costs of any such examination will be borne by the insurer investigated, or the insurer to whom the related company is related, pursuant to RCW 48.03.060(2). Examinations may be conducted in this state, or in the state or country of residence of the insurer or related company, or at such other place or country where the records to be examined may be located.

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

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

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

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

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

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

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

NEW SECTION. Sec. 8. SUSPENSION OF CERTIFICATE OF AUTHORITY FOR
FAILURE TO COMPLY WITH CHAPTER. The insurance commissioner is
authorized to suspend the certificate of authority to conduct insurance
business in the state of Washington of any insurer that fails to comply
with the requirements of this chapter by or after one hundred twenty
days after the effective date of this act, until the time that the
insurer complies with this chapter. Such suspension shall not affect
or relieve the insurer from its obligations to service its existing
insureds, and shall not permit the insurer to terminate its existing
insureds, except pursuant to the terms of the insurance contract, but
shall prohibit the insurer from writing new business in this state
until the suspension is lifted by the insurance commissioner.

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 18. This chapter expires December 31, 2010.
Passed the Senate March 9, 1999.
Passed the House April 6, 1999.
Approved by the Governor April 15, 1999.
Filed in Office of Secretary of State April 15, 1999.