

Bill No. CS/HB 4047

Amendment No.     

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| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senator Geller moved the following amendment to amendment (164204):

**Senate Amendment (with title amendment)**

On page 3, between lines 7 and 8,

insert:

Section 2. Section 626.9543, Florida Statutes, is created to read:

626.9543 Holocaust victims.--

(1) SHORT TITLE.--This section may be cited as the "Holocaust Victims Insurance Act."

(2) INTENT; PURPOSE.--It is the Legislature's intent that the potential and actual insurance claims of Holocaust victims and their heirs and beneficiaries be expeditiously identified and properly paid and that Holocaust victims and their families receive appropriate assistance in the filing and payment of their rightful claims.

(3) DEFINITIONS.--For the purpose of this section:

(a) "Department" means the Department of Insurance.

(b) "Holocaust victim" means any person who lost his

Bill No. CS/HB 4047

Amendment No. \_\_\_\_

1 or her life or property as a result of discriminatory laws,  
2 policies, or actions targeted against discrete groups of  
3 persons between 1920 and 1945, inclusive, in Nazi Germany,  
4 areas occupied by Nazi German, or countries allied with Nazi  
5 Germany.

6 (c) "Insurance policy" means, but is not limited to,  
7 life insurance, property insurance, or education policies.

8 (d) "Legal relationship" means any parent, subsidiary,  
9 or affiliated company with an insurer doing business in this  
10 state.

11 (e) "Proceeds" means the face or other payout value of  
12 policies and annuities plus reasonable interest to date of  
13 payments without diminution for wartime or immediate postwar  
14 currency devaluation.

15 (4) ASSISTANCE TO HOLOCAUST VICTIMS.--The department  
16 shall establish a toll-free telephone number, available in  
17 appropriate languages, to assist any person seeking to recover  
18 proceeds from an insurance policy issued to a Holocaust  
19 victim.

20 (5) PROOF OF A CLAIM.--Any insurer doing business in  
21 this state, in receipt of a claim from a Holocaust victim or  
22 from a beneficiary, descendent or heir of a Holocaust victim,  
23 shall:

24 (a) Diligently and expeditiously investigate all such  
25 claims.

26 (b) Allow such claimants to meet a reasonable, not  
27 unduly restrictive, standard of proof to substantiate a claim,  
28 pursuant to standards established by the department.

29 (c) Permit claims irrespective of any statute of  
30 limitations or notice requirements imposed by any insurance  
31 policy issued, provided the claim is submitted within 10 years

Bill No. CS/HB 4047

Amendment No. \_\_\_\_

1 after effective date of this section.

2 (6) STATUTE OF LIMITATIONS.--Notwithstanding any law  
3 or agreement among the parties to an insurance policy to the  
4 contrary, any action brought by Holocaust victims or by a  
5 beneficiary, heir, or descendent of a Holocaust victim seeking  
6 proceeds of an insurance policy issued or in effect between  
7 1920 and 1945, inclusive, shall not be dismissed for failure  
8 to comply with the applicable statute of limitations or laches  
9 provided the action is commenced within 10 years after the  
10 effective date of this section.

11 (7) REPORTS FROM INSURERS.--Any insurer doing business  
12 in this state shall have an affirmative duty to ascertain to  
13 the extent possible and report to the department within 90  
14 days after the effective date of this section and annually  
15 thereafter all efforts made and results of such efforts to  
16 ascertain:

17 (a) Any legal relationship with an international  
18 insurer that issued an insurance policy to a Holocaust victim  
19 between 1920 and 1945, inclusive.

20 (b) The number and total value of such policies.

21 (c) Any claim filed by a Holocaust victim, his or her  
22 beneficiary, heir, or descendent that has been paid, denied  
23 payment, or is pending.

24 (d) Attempts made by the insurer to locate the  
25 beneficiaries of any such policies for which no claim of  
26 benefits has been made.

27 (e) An explanation of any denial or pending payment of  
28 a claim to a Holocaust victim, his or her beneficiary, heir,  
29 or descendent.

30 (8) REPORTS TO THE LEGISLATURE.--The department shall  
31 report to the Legislature one year after the effective date of

Bill No. CS/HB 4047

Amendment No. \_\_\_\_

1 this section and annually thereafter:

2 (a) The number of insurers doing business in this  
3 state which have a legal relationship with an international  
4 insurer that could have issued a policy to a Holocaust victim  
5 between 1920 and 1945, inclusive.

6 (b) A list of all claims paid, denied, or pending to a  
7 Holocaust victim, his or her beneficiary, heir, or descendent.

8 (c) A summary of the length of time for the processing  
9 and disposition of a claim by the insurer.

10 (9) PENALTIES.--In addition to any other penalty  
11 provided under this chapter, any insurer or person who  
12 violates the provisions of this section is subject to an  
13 administrative penalty of \$1,000 per day for each day such  
14 violation continues.

15 (10) PRIVATE RIGHT OF ACTION.--An action to recover  
16 damages caused by a violation of this section must be  
17 commenced within 5 years after the cause of action has  
18 accrued. Any person who shall sustain damages by the reason  
19 of a violation of this section shall recover threefold the  
20 actual damages sustained thereby, as well as costs not  
21 exceeding \$50,000, and reasonable attorneys' fees. At or  
22 before the commencement of any civil action by a party, notice  
23 thereof shall be served upon the department.

24 (11) RULES.--The department, by rule, shall provide  
25 for the implementation of the provisions of this section by  
26 establishing procedures and related forms for facilitating,  
27 monitoring, and verifying compliance with this section and for  
28 the establishment for a restitution program for Holocaust  
29 victims, survivors, and their heirs and beneficiaries.

30 (12) SEVERABILITY.--If any provision of this section  
31 or the application thereof to any person or circumstance is

Bill No. CS/HB 4047

Amendment No. \_\_\_\_

1 held invalid, the invalidity shall not affect other provisions  
2 or applications of the section which can be given effect  
3 without the invalid provision or application, and to this end  
4 the provisions of this section are declared severable.

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6 (Redesignate subsequent sections.)

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 On page 3, line 27, after the semicolon

12  
13 and insert:

14 creating s. 626.9543, F.S.; providing a short  
15 title; providing legislative intent and  
16 purpose; requiring the Department of Insurance  
17 to provide certain assistance to Holocaust  
18 victims; providing requirements for insurers  
19 relating to insurance claims from  
20 beneficiaries, descendants, or heirs of  
21 Holocaust victims; limiting certain statutes of  
22 limitation under certain circumstances;  
23 requiring insurers to report certain  
24 information to the department; requiring the  
25 department to report to the Legislature;  
26 providing penalties; providing requirements for  
27 bringing certain causes of action; providing  
28 severability;

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