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DATE: April 13, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4489

RELATING TO: Insurance claims of Holocaust victims and their heirs and beneficiaries

SPONSOR(S): Representative Gottlieb

COMPANION BILL(S): SB 2540

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES YEAS 10 NAYS 0
 - (2) CIVIL JUSTICE & CLAIMS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 4489 requires the Department of Insurance (DOI) to establish a toll-free number to assist Holocaust victims or their beneficiaries, descendants, or heirs in filing claims for life insurance policies.

Under the provisions of HB 4489, any insurer doing business in the state that receives a claim from a Holocaust victim or their beneficiaries, descendants, or heirs would be required to investigate the claim, allow the claimant to meet a reasonable standard of proof, and permit claims, regardless of any statute of limitations imposed by the policy. Claimants would have until 10 years after the effective date of HB 4489 to submit their claims.

Insurers doing business in the state would be required to report to the DOI regarding any legal relationship it might have with an insurer that issued a policy to a Holocaust victim and any claims outstanding.

The DOI would be required to make a report to the Legislature regarding the number of insurers in the state and claims paid.

A penalty of \$1,000 a day would be charged to anyone that violates any provisions of this section.

This bill would have a non-recurring fiscal impact on the Insurance Commissioner's Regulatory Trust Fund of (\$508,614) and a recurring fiscal impact of (\$96,379) in FY 1998-1999

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

After World War II, some Holocaust survivors filed claims for life insurance policies with the major European insurance companies. In many cases, these claims were left unpaid because the claimant lacked information required by the insurer, such as a claim number, death certificate, or other documentation. In some cases, the insurer did business in eastern Europe, where the company was nationalized by the government and any records were taken from the company by the government.

The National Association of Insurance Commissioners (NAIC) has established the Holocaust Insurance Issues Working Group. This working group held workshops and took public testimony in Washington, D.C.; Skokie, Illinois; Miami, Florida; and Spokane, Washington. The goal of this working group is to look into the role of the states in protecting those individuals who have filed insurance claims. Public forums are tentatively scheduled for 1998 in Pennsylvania and California.

Legislation has been filed in state of New York and California to pursue and enforce the insurance claims filed by the heirs, beneficiaries, and descendants of Holocaust victims.

Legislation is also pending in the U.S. Congress. H.R. 3143 would prohibit a foreign insurance company from doing business in the U.S. unless it disclosed any financial dealings it had with Holocaust victims. H.R. 3121 would require insurance companies to compensate for valid claims filed for life insurance policies issued between 1920 and 1945 to Holocaust victims.

The National Holocaust Memorial Museum estimates that there could be 4,600 Holocaust survivors residing in the state of Florida.¹ The DOI knows of at least 5 insurance companies doing business in Florida that are affiliated with a European company that wrote life insurance policies between 1920 and 1945. These companies include Generali, an Italian company, and Allianz Insurance Group of Germany. The U.S. subsidiary of Generali is Business Men's Assurance Company, and Allianz's U.S. subsidiaries include the Fireman's Fund Insurance Company. Other companies are Winterthur, AXA, and Zuerich. Winterthur does business in Florida as a reinsurer, and AXA is an international conglomerate that does business as Equitable Life. Zuerich also does business as Kemper, Empire Fire and Marine, and Florida Select Insurance Company, which is a Florida domiciled insurance company.

Allianz Insurance Group has set up a toll-free hotline. In the last year, the company has settled 3 claims in the U.S. The average claim was \$5,000 and the average time it took Allianz to settle the claim was 4 to 5 months.

¹ This number includes only those Holocaust survivors who have registered with the National Holocaust Memorial Museum and for whom the museum has a valid address.

B. EFFECT OF PROPOSED CHANGES:

The Department of Insurance would be required to establish a toll-free number to assist individuals seeking to recover proceeds from an insurance policy issued to a Holocaust victim.

An insurance company doing business in the state that receives a claim from a beneficiary, descendant or heir of a Holocaust victim would be required to:

- investigate the claim,
- allow claimants to meet a reasonable standard of proof, pursuant to standards set by the DOI, to substantiate a claim, and
- permit claims irrespective of any statute of limitations imposed by any insurance policy issued.

Claims would have to be submitted within ten years after the effective date of this act.

Insurers doing business in the state would be required to report the following information to the DOI within 90 days after the effective date of this act:

- any legal relationship with an international insurer that issued an insurance policy to a Holocaust victim between 1920 and 1945;
- the number and value of such policies;
- any claim filed by a Holocaust victim, his or her beneficiary, heir or descendant that has been paid, denied, or is pending;
- attempts made by the insurer to locate the beneficiaries of such policies for which no claim has been made; and
- an explanation of any denial or pending payment of a claim.

This report would be required of insurance companies annually because a company could acquire a new subsidiary or affiliate company that did business with victims of the Holocaust between 1920 and 1945.

The DOI would be required to file a report with the Legislature the year after the effective date of this act. The following information would be included in this report:

- the number of insurers doing business in the state that have a legal relationship with an international insurer that could have issued a life insurance policy to a victim of the Holocaust between 1920 and 1945.
- a list of claims paid, denied or pending to a Holocaust victim, his or her beneficiary, heir or descendant.

- a summary of the length of time for processing and disposition of a claim by the insurer.

A person or insurer who violates this section would be assessed a penalty of \$1,000 a day for each day that the violation continues.

Any action to recover damages as a result of damages caused by a violation of this section would have to be commenced within 5 years after accrual of the cause of action. The amount recovered would be limited to three times the actual damages sustained, plus costs not to exceed \$50,000, and attorney's fees. Notice of any civil action would have to be served to the DOI, also.

The DOI would be authorized to implement rules to establish procedures and forms for facilitating, monitoring, and verifying compliance with this section.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

The DOI would be required to implement rules to establish procedures for facilitating, monitoring, and verifying compliance with s. 626.9543, F.S.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The DOI would be required to establish a toll-free telephone number, and to file a report with the Legislature.

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates s. 626.9543, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 creates s. 626.9543, F.S., to be known as the "Holocaust Victims Insurance Act." This section includes legislative intent, definitions, description of the claims process, reporting requirements, private cause of action and rulemaking authority.

Section 2 provides that this act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

According to the Department of Insurance, the fiscal impact of the bill would be as follows:

1. Non-recurring Effects:

FY 98-99

Insurance Commissioner's Regulatory Trust Fund (\$508,614)

2. Recurring Effects:

FY 98-99

FY 99-00

Insurance Commissioner's Regulatory Trust Fund (\$96,379) (\$96,379)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Insurance Commissioner's Regulatory Trust Fund	<u>FY 98-99</u> (\$604,993)	<u>FY 99-00</u> (\$96,379)
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

A Florida resident who is an heir, beneficiary, or descendant of a Holocaust victim would be paid the life insurance claim from the insurance company that does business in the state.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 9, 1998, the Committee on Financial Services adopted one amendment to HB 4489.

Amendment #1 by Representative Lippman provides that an insurer would have an "affirmative duty to ascertain *to the extent possible*" and report to the Department of Insurance any legal relationship the insurer may have had with international insurer that issued an insurance policy to a Holocaust victim between 1920 and 1945, the number and value of such policies, any claim that has been filed by a Holocaust victim or his or her beneficiary, attempts made by the insurer locate beneficiaries, and an explanation of any pending or denied claim. This amendment would limit the affirmative duty of the insurer. Amendment #1 also allows that an insurer would provide all efforts made to ascertain the information required and the results of such efforts.

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

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