

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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**BILL:** SB 936

**INTRODUCER:** Senator Lee and Senator Margolis

**SUBJECT:** Holocaust Victims Assistance Act

**DATE:** February 28, 2013      **REVISED:** \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Oh      | Burgess        | BI        | <b>Favorable</b> |
| 2. |         |                | AGG       |                  |
| 3. |         |                | AP        |                  |
| 4. |         |                |           |                  |
| 5. |         |                |           |                  |
| 6. |         |                |           |                  |

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**I. Summary:**

SB 936 revises the Holocaust Victims Insurance Act to expand the scope of assistance that is provided by the Department of Financial Services (DFS) to Holocaust victims and their heirs. Under the current law, the DFS has authority to assist Holocaust victims and their heirs in identifying and obtaining potential and actual insurance claims. This bill broadens the DFS authority to include providing assistance to recover other financial claims, assets and property. The bill adds to the DFS assistance a component of education to mitigate the effects of nonpayment of claims or non-return of property. The bill changes the current requirement that an insurer must file an annual report to a requirement that the insurer must file a new report when there are any changes to the previous report, or when it is requested to do so by the DFS. The bill sets July 1, as the date that the DFS must file its annual report with the Legislature.

This bill substantially amends the following section of the Florida Statutes: 26.9543.

**II. Present Situation:**

In the 1930s and 1940s, Europeans purchased insurance to safeguard their family’s future, assist in retirement planning, or save for the education of their children. After World War II, European insurers often rejected insurance claims of Holocaust victims and heirs who lacked the documentation required by the insurer to substantiate the claim. In denying these claims, insurers have cited the following reasons: nationalization of insurers’ assets; lack of policyholder documentation; policy cancellation from nonpayment of premiums; and invalidation of claims due to the statute of limitations. Many years later, Europe’s largest insurers, many with affiliates in the United States, have been named as defendants in class action lawsuits that seek recovery of unpaid Holocaust-era insurance claims.

United States' insurance regulators and their national association, the National Association of Insurance Commissioners (NAIC), have established various means to assist Holocaust victims and their heirs to obtain insurance claims to which they are entitled. In October, 1998, the NAIC established the International Commission on Holocaust Era Insurance Claims (ICHEIC) to determine the current status of Holocaust-era insurance and to promulgate a valuation and claims process to settle the unpaid insurance claims. The NAIC also established the Holocaust Insurance Issues Working Group to study the role of the states in protecting those individuals who have filed insurance claims.

Since then, several states – California, New York, and Washington State – have passed insurance-related legislation to restrict the ability of European insurers to engage transactions in the respective state if that insurer has not paid outstanding Holocaust-era insurance claims. The Florida Legislature enacted the Holocaust Victims Insurance Act (Act) on July 1, 1998. The Act requires that an insurance company doing business in Florida which had sold policies to Holocaust victims in Europe, must pay the claims to the victims and their heirs.<sup>1</sup>

### *The Holocaust Victims Insurance Act (Act)*

Under the Act, the Department of Financial Services (DFS) is required to establish a toll-free number to assist individuals seeking to recover proceeds from an insurance policy issued to a Holocaust victim.<sup>2</sup>

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:<sup>3</sup>

- Investigate the claim;
- Allow claimants to meet a reasonable standard of proof to substantiate a claim, pursuant to standards set by the DFS; and
- Permit claims irrespective of any statutes of limitations or limitations imposed by the insurance policy.

Insurers doing business in the state are required annually to report the following information to the DFS:<sup>4</sup>

- 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

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<sup>1</sup> The DFS estimates there are between 14,000 to 16,000 survivors and beneficiaries in Florida.

<sup>2</sup> S. 626.9543(4), F.S.

<sup>3</sup> S. 626.9543(5), F.S.

<sup>4</sup> S. 626.9543(7), F.S.

- An explanation of any denial or pending payment of a claim.

The DFS is required annually to report to the Legislature the following information:<sup>5</sup>

- 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 all claims paid, denied, or pending to a Holocaust victim, beneficiary, heir or descendant; and
- A summary of the length of time for the processing and disposition of a claim by the insurer.

According to the DFS, it fields approximately 100 calls a year through its toll-free line. In addition to its own toll-free line, the DFS has contracts with the numerous organizations, including the Gulf Coast Jewish Family Services in Clearwater, Jewish Family Services of Broward County, the Jewish Community Services of South Florida, Fred & Gladys Alpert Jewish Family & Children's Services of Palm Beach County, and Ruth Rales Jewish Family Service of South Palm Beach County. These organizations make contact with at least 200 survivors or heirs each year and help with applications for insurance claims. The DFS also has contracts with two entities for educational components of the program: the Holocaust Documentation & Education Center in Hollywood, and the Holocaust Memorial Resource and Education Center of Florida in Maitland. These organizations make contact with a total of over 900 survivors a year to assist them in identifying and perfecting insurance claims.

Since the statutory creation of the program in 1998, the agency reports that over 5,269 claims from Florida residents have been processed through the International Commission on Holocaust Era Insurance Claims (ICHEIC), the German Foundation, and the Austrian General Settlement Fund. In addition, 1,549 Florida residents have received Humanitarian payments of \$1,000 each for a total of \$1,549,000. Moreover, the ICHEIC distributed over \$329,000 to Florida residents for payments on policies for companies that are no longer in existence. To date, Florida residents have received positive decisions totaling \$17,167,682, resulting in payments of over \$12,000,000.

### **III. Effect of Proposed Changes:**

The bill amends s. 626.9543, F.S., to expand the scope of assistance that is provided by the Department of Financial Services (DFS) to Holocaust victims and their heirs. While current law provides the DFS authority to assist Holocaust victims and their heirs in identifying and obtaining potential and actual insurance claims, the bill broadens the DFS authority to include assistance to recover other financial claims, assets and property. The bill provides that in addressing the effects of nonpayment of claims and non-return of confiscated assets, the DFS is to provide assistance with gaining access to funding to address those effects. The bill adds to the DFS assistance a component of education to mitigate the effects of nonpayment of claims or non-return of property. As a result of this broadened scope of assistance, the short title of the section is changed from the current "Holocaust Victims Insurance Act" to "Holocaust Victims Assistance Act."

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<sup>5</sup> S. 626.9543(8), F.S.

The bill changes the current requirement that an insurer must file an annual report to a requirement that the insurer must file a new report when there are any changes to the previous report, or when it is requested to do so by the DFS. The bill sets July 1, as the date that the DFS must file its annual report with the Legislature.

**Other Potential Implications:**

According to the DFS, under the bill, the agency would provide Holocaust victims and their heirs with assistance in seeking reparation for Nazi-confiscated bank accounts, art, and property. In addition, the agency would provide an education program to disseminate information as to the existence of the restitution program, the availability of restitution monies, and the appropriate procedural steps for the recovery of proceeds.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DFS reports that it should be able to accomplish the requirements of the bill within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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