

109TH CONGRESS
1ST SESSION

H. R. 743

To clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on provision of information regarding Holocaust era insurance policies of the insurer and to establish a Federal cause of action for claims for payment of such insurance policies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2005

Mr. FOLEY (for himself, Mr. ISRAEL, Mrs. MCCARTHY, Mr. NORWOOD, Mr. McNULTY, Ms. ZOE LOFGREN of California, and Mr. McHUGH) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on provision of information regarding Holocaust era insurance policies of the insurer and to establish a Federal cause of action for claims for payment of such insurance policies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Holo-
5 caust Accountability in Insurance Measure”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds that—

3 (1) between 1933 and 1945, the Nazi regime
4 and its collaborators conducted systematic, bureau-
5 cratic, and State-sponsored persecution and murder
6 of approximately six million Jews—the genocidal act
7 known as the Holocaust;

8 (2) before and during World War II, millions of
9 European Jews had purchased, in good faith, life in-
10 surance policies with certain European insurance
11 companies because these policies were a popular
12 form of savings and investment that provided a
13 means of safeguarding a family’s assets, assisting in
14 retirement planning, providing for a dowry, or sav-
15 ing for the education of children;

16 (3) after the Nazis came to power in Germany,
17 they systematically confiscated the insurance assets,
18 including the cash value of life insurance policies, of
19 Jews and other designated enemies of the Nazi re-
20 gime;

21 (4) after the conclusion of World War II, Euro-
22 pean insurers often rejected insurance claims of Hol-
23 ocaust victims and heirs who lacked required docu-
24 mentation, such as death certificates;

25 (5) during the 50 years since the end of the
26 war, only a small percentage of Holocaust victims

1 and their families have been successful in collecting
2 on their policies;

3 (6) in 1998, the International Commission on
4 Holocaust Era Insurance Claims (ICHEIC) was es-
5 tablished by U.S. State insurance regulators, Euro-
6 pean insurers, and certain nongovernmental organi-
7 zations to act as a facilitator between insurers and
8 beneficiaries to help expedite payouts on contested
9 insurance policies;

10 (7) to date ICHEIC has received over 90,000
11 claims and has only made 2,281 settlement offers,
12 which amounts to less than a 3% success rate;

13 (8) these insurance payments should be expe-
14 dited to the victims of the most heinous crime of the
15 20th century to ensure that they do not become vic-
16 tims a second time;

17 (9) States should be allowed to collect Holo-
18 caust-era insurance information from foreign-based
19 insurance companies that want to do business in the
20 State; and

21 (10) Holocaust victims and their families should
22 be able to recover claims on Holocaust era insurance
23 policies in Federal court when they deem it nec-
24 essary to seek redress through the judicial system.

1 **SEC. 3. STATE AUTHORITY TO ESTABLISH REQUIREMENTS**
2 **FOR CONDUCTING INSURANCE BUSINESS.**

3 (a) IN GENERAL.—A State may establish require-
4 ments on insurers as a condition of doing insurance busi-
5 ness in that State, to the extent such requirements are
6 consistent with the due process guarantees of the Con-
7 stitution of the United States, as follows:

8 (1) INFORMATION REQUIREMENTS.—The State
9 may require that an insurer provide to the State the
10 following information regarding Holocaust era insur-
11 ance policies:

12 (A) Whether the insurer, or any affiliate or
13 predecessor company, sold any such policies.

14 (B) The number of such policies sold by
15 the insurer, and any affiliates and predecessor
16 companies, and the number the insurer and its
17 affiliates currently have in their possession.

18 (C) The identity of the holder and bene-
19 ficiary of each such policy sold or held and cur-
20 rent status of each such policy.

21 (D) The city of origin, domicile, and ad-
22 dress for each policyholder listed.

23 (E) If an insurer has no such policies to
24 report because records are no longer in the pos-
25 session of the insurer or its affiliates, a state-

1 ment explaining the reasons for the lack of pos-
2 session of such records.

3 (F) Any other information regarding such
4 policies as the State considers appropriate.

5 (2) REQUIREMENTS REGARDING PAYMENT OF
6 POLICIES.—A State may require that an insurer cer-
7 tify that, with respect to any Holocaust era insur-
8 ance policies sold or at any time held by the in-
9 surer—

10 (A) the proceeds of the policy were paid;

11 (B) the beneficiaries of the policy or heirs
12 or such beneficiaries could not, after diligent
13 search, be located, and the proceeds were dis-
14 tributed to Holocaust survivors or charities;

15 (C) a court of law has certified a plan for
16 the distribution of the proceeds; or

17 (D) the proceeds have not been distributed.

18 (b) HOLOCAUST ERA INSURANCE POLICIES.—For
19 purposes of this section, the term “Holocaust era insur-
20 ance policy” means a policy for insurance coverage that—

21 (1) was in force at any time during the 26-year
22 period beginning with 1920 and ending with 1945;
23 and

24 (2) has a policy beneficiary, policyholder, or in-
25 sured life that is a listed Holocaust victim.

1 **SEC. 4. FEDERAL CAUSE OF ACTION FOR COVERED CLAIMS.**

2 (a) FEDERAL CAUSE OF ACTION.—

3 (1) IN GENERAL.—There shall exist a Federal
4 cause of action for any covered claim.

5 (2) STATUTE OF LIMITATIONS.—Any action
6 brought under paragraph (1) shall be filed not later
7 than 10 years after the date of the enactment of this
8 Act.

9 (b) SUBJECT MATTER JURISDICTION.—The district
10 courts shall have original jurisdiction of any civil action
11 on a covered claim (whether brought under subsection (a)
12 or otherwise).

13 (c) PERSONAL JURISDICTION.—Notwithstanding any
14 provision of Rule 4 of the Federal Rules of Civil Procedure
15 to the contrary, in a civil action on a covered claim (wheth-
16 er brought under subsection (a) or otherwise) commenced
17 in a district where the defendant is not a resident—

18 (1) the court may exercise jurisdiction over
19 such defendant on any basis not inconsistent with
20 the Constitution of the United States; and

21 (2) service of process, summons, and subpoena
22 may be made on such defendant in any manner not
23 inconsistent with the Constitution of the United
24 States.

25 (d) DEFINITIONS.—For purposes of this section:

1 (1) COVERED CLAIM.—The term “covered
2 claim” means a claim against a covered foreign in-
3 surance company that arises out of the insurance
4 coverage involved in an original request.

5 (2) ORIGINAL REQUEST.—The term “original
6 request” means a request that—

7 (A) seeks payment of any claim on insur-
8 ance coverage that—

9 (i) was provided by a covered foreign
10 insurance company;

11 (ii) had as the policyholder, insured,
12 or beneficiary a listed Holocaust victim;
13 and

14 (iii) was in effect during any portion
15 of the 13-year period beginning with 1933
16 and ending with 1945; and

17 (B) was made by a listed Holocaust victim,
18 or the heirs or beneficiaries of such victim, to
19 the covered foreign insurance company or the
20 International Commission on Holocaust Era In-
21 surance Claims.

22 (3) COVERED FOREIGN INSURANCE COM-
23 PANY.—The term “covered foreign insurance com-
24 pany” means each of the following companies, and
25 its affiliates and predecessor companies:

- 1 (A) Assicurazioni Generali S.p.A.
- 2 (B) Union Des Assurances de Paris.
- 3 (C) Victoria Lebensversicherungs AG.
- 4 (D) Winterthur Lebensversicherungs Ge-
- 5 sellschaft.
- 6 (E) Allianz Lebensversicherungs AG.
- 7 (F) Wiener Allianz Versicherungs AG.
- 8 (G) Riunione Adriatica di Sicurta.
- 9 (H) Vereinte Lebensversicherungs AG.
- 10 (I) Basler Lebens-Versicherungs Gesell-
- 11 schaft.
- 12 (J) Deutscher Ring Lebensversicherungs
- 13 AG.
- 14 (K) Nordstern Lebensversicherungs AG.
- 15 (L) Gerling Konzern Lebensversicherungs
- 16 AG.
- 17 (M) Manheimer Lebensversicherung AG.
- 18 (N) Der Anker.
- 19 (O) Allgemeine Versicherungs AG.
- 20 (P) Zuerich Lebensversicherungs Gesell-
- 21 schaft.
- 22 (Q) Any other foreign insurance company
- 23 that the States or the Attorney General of the
- 24 United States determines was in a position to

1 have financial dealings with any individual who
2 was a victim of the Holocaust.

3 **SEC. 5. LISTED HOLOCAUST VICTIMS.**

4 For purposes of this Act, the term “listed Holocaust
5 victim” means the following individuals:

6 (1) LIST OF SURVIVORS.—Any individual whose
7 name is on the list of Jewish Holocaust Survivors
8 maintained by the United States Holocaust Memo-
9 rial Museum in Washington, D.C.

10 (2) LIST OF DECEASED.—Any individual whose
11 name is on the list of individuals who died in the
12 Holocaust maintained by the Yad Veshem of Jeru-
13 salem in its Hall of Names.

14 (3) OTHER LISTS.—Any individual whose name
15 is on—

16 (A) any list of Holocaust victims that is
17 designated as appropriate for use under this
18 Act by the chief executive officer of a State or
19 a State insurance commissioner or other prin-
20 cipal insurance regulatory authority of a State;
21 or

22 (B) any similar list, such as a list of the
23 International Red Cross, the League of Red
24 Cross Societies, the Supreme Headquarters of
25 the Allied Expeditionary Forces, or other regu-

- 1 larly accessed source of information regarding
- 2 Holocaust victims.

