

111TH CONGRESS
2^D SESSION

H. R. 4596

To allow for enforcement of State disclosure laws and access to courts for covered Holocaust-era insurance policy claims.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2010

Ms. ROS-LEHTINEN (for herself, Mr. KLEIN of Florida, Mr. PENCE, Mr. GARAMENDI, Mr. WILSON of South Carolina, Mr. SCHIFF, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ROHRABACHER, Mr. MEEK of Florida, Mrs. BLACKBURN, and Mr. KIRK) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To allow for enforcement of State disclosure laws and access to courts for covered Holocaust-era insurance policy claims.

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 “Holocaust Insurance
5 Accountability Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Holocaust, an event in which millions
2 of people endured enormous suffering through tor-
3 ture and other violence, including the murder of
4 6,000,000 Jews and millions of others, the destruc-
5 tion of families and communities, and the theft of
6 their assets, was one of the most heinous crimes in
7 human history.

8 (2) Before and during World War II, millions
9 of people purchased insurance policies to safeguard
10 family assets, plan for retirement, provide for a
11 dowry, or save for their children's education.

12 (3) When Holocaust survivors or heirs of Holo-
13 caust victims presented claims to insurance compa-
14 nies after World War II, many were rejected because
15 they did not have death certificates or physical pos-
16 session of policy documents that had been con-
17 fiscated by the Nazis or lost in the devastation of
18 the Holocaust.

19 (4) In many instances, insurance company
20 records and records in government archives are the
21 only proof of the existence of insurance policies be-
22 longing to Holocaust victims.

23 (5) Holocaust survivors and heirs have been at-
24 tempting for decades to persuade insurance compa-
25 nies to settle unpaid insurance claims.

1 (6) In 1998, the International Commission on
2 Holocaust Era Insurance Claims (in this section re-
3 ferred to as “ICHEIC”) was established by the Na-
4 tional Association of Insurance Commissioners in co-
5 operation with several European insurance compa-
6 nies, European regulators, the Government of Israel,
7 and non-governmental organizations with the prom-
8 ise that it would expeditiously address the issue of
9 unpaid insurance policies issued to Holocaust vic-
10 tims.

11 (7) On July 17, 2000, the United States and
12 Germany signed an executive agreement in support
13 of the German Foundation “Remembrance, Respon-
14 sibility, and the Future”, which designated ICHEIC
15 to resolve all Holocaust-era insurance policies issued
16 by German companies and their subsidiaries.

17 (8) On January 17, 2001, the United States
18 and Austria signed an executive agreement, which
19 designated ICHEIC to resolve all Holocaust-era in-
20 surance policies issued by Austrian companies and
21 their subsidiaries.

22 (9) The ICHEIC process ended in 2007 and
23 companies holding Holocaust-era insurance policies
24 continue to withhold names of owners and bene-

1 ficiaries of thousands of insurance policies sold to
2 Jewish customers prior to World War II.

3 (10) Experts estimate that only a small fraction
4 of the policies estimated to have been sold to Jews
5 living in Europe at the beginning of World War II
6 have been paid through ICHEIC.

7 (11) In *American Insurance Association, Inc.,*
8 *v. Garamendi*, the United States Supreme Court
9 held that under the supremacy clause of the Con-
10 stitution of the United States, executive agreements
11 and Federal Government policy calling for insurance
12 claims against German and Austrian companies to
13 be handled within ICHEIC preempted State laws
14 authorizing State insurance commissioners to sub-
15 poena company records and require publication of
16 the names of Holocaust era policy holders.

17 (12) In the *Garamendi* case, the Supreme
18 Court stated that Congress, which has the power to
19 regulate international commerce and prescribe Fed-
20 eral court jurisdiction, had not addressed disclosure
21 and restitution of insurance policies of Holocaust
22 victims.

23 (13) Subsequent court decisions have dismissed
24 survivors' suits against an Italian insurance com-

1 pany, even though there is no executive agreement
2 between the United States and Italy.

3 (14) Congress supports the rights of Holocaust
4 survivors and the heirs and beneficiaries of Holo-
5 caust victims to obtain information from insurers
6 and to bring legal actions in courts, wherever juris-
7 diction requirements are met, to recover unpaid
8 funds from entities that participated in the theft of
9 family insurance assets or the affiliates of such enti-
10 ties.

11 (15) Congress intends for this Act to be inter-
12 preted to allow for State causes of action and diselo-
13 sure requirement laws regarding Holocaust-era in-
14 surance policies to be valid and not preempted.

15 (16) This Act expresses the intent of Congress
16 to deem valid State laws protecting the rights of
17 Holocaust survivors and the heirs and beneficiaries
18 of Holocaust victims to obtain information from in-
19 surers and to bring actions in courts of proper juris-
20 diction to recover unpaid funds from entities that
21 participated in the theft of family insurance assets
22 or the affiliates of such entities.

23 (17) Insurance payments should be expedited to
24 the victims of the most heinous crime of the 20th
25 century to ensure that justice is served.

1 (18) This Act will enable survivors, heirs, and
2 beneficiaries to obtain compensation commensurate
3 with the real monetary value of their losses.

4 (19) Under the circumstances faced by Holo-
5 caust victims and their families, courts should be
6 open to Holocaust victims and their families for a
7 reasonable number of years after the enactment of
8 this Act, without regard to any other statutes of lim-
9 itation.

10 **SEC. 3. VALIDITY OF STATE LAWS.**

11 (a) **VALIDITY OF LAWS CREATING CAUSE OF AC-**
12 **TION.**—Any State law creating a cause of action against
13 any insurer or related company based on a claim arising
14 out of or related to a covered policy shall not be invalid
15 or preempted by reason of any executive agreement be-
16 tween the United States and any foreign country.

17 (b) **VALIDITY OF LAWS REQUIRING DISCLOSURE OF**
18 **INFORMATION.**—Any State law that is enacted on or after
19 March 1, 1998, and that requires an insurer doing busi-
20 ness in that State, including any related company, to dis-
21 close information regarding any covered policy shall be
22 deemed to be in effect on the date of the enactment of
23 such law and shall not be invalid or preempted by reason
24 of any executive agreement between the United States and
25 any foreign country.

1 (c) WAIVER.—The President may waive the applica-
2 tion of subsection (a) or (b) with respect to any executive
3 agreement that is entered into between the United States
4 and a foreign country on or after the date of the enact-
5 ment of this Act and that involves covered policies if, not
6 later than 30 legislative days before the signing of the ex-
7 ecutive agreement—

8 (1) the President determines that the executive
9 agreement is vital to the national security interests
10 of the United States; and

11 (2) the President provides to the appropriate
12 congressional committees a report explaining the
13 reasons for such determination.

14 (d) STATEMENTS OF INTEREST.—No funds may be
15 used by the Department of State, or any other department
16 or agency of the United States, for the purpose of issuing
17 a statement of interest seeking to encourage a court in
18 the United States to dismiss any claim brought to recover
19 compensation arising out of or related to a covered policy.

20 (e) STATUTE OF LIMITATIONS.—No court may dis-
21 miss a claim that is brought under a State law described
22 in subsection (a) or (b) within 10 years after the date of
23 the enactment of this Act on the ground that the claim
24 is barred under any statute of limitations.

1 **SEC. 4. APPLICABILITY.**

2 This Act shall apply to any claim that is brought,
3 before, on, or after the date of the enactment of this Act,
4 under a State law described in subsection (a) or (b), in-
5 cluding—

6 (1) any claim dismissed, before the date of the
7 enactment of this Act, on the ground of executive
8 preemption; and

9 (2) any claim that is deemed released as a re-
10 sult of the settlement of a class action that was en-
11 tered into before the date of the enactment of this
12 Act, if the claimant did not receive any payment
13 pursuant to the settlement.

14 **SEC. 5. DEFINITIONS.**

15 In this Act:

16 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
17 **TEES.**—The term “appropriate congressional com-
18 mittees” means the Committee on Foreign Affairs in
19 the House of Representatives, the Committee on
20 Foreign Relations in the Senate, and the Commit-
21 tees on the Judiciary of the House of Representa-
22 tives and the Senate.

23 (2) **COVERED POLICY.**—

24 (A) **IN GENERAL.**—The term “covered pol-
25 icy” means any life, dowry, education, property,
26 or other insurance policy that—

1 (i) was in effect at any time after
2 January 30, 1933, and before December
3 31, 1945; and

4 (ii) was issued to a policyholder domi-
5 ciled in any area that was occupied or con-
6 trolled by Nazi Germany.

7 (B) NAZI GERMANY.—In this paragraph,
8 the term “Nazi Germany” means—

9 (i) the Nazi government of Germany;
10 and

11 (ii) any government in any area occu-
12 pied by the military forces of the Nazi gov-
13 ernment of Germany.

14 (3) INSURER.—The term “insurer” means any
15 person engaged in the business of insurance (includ-
16 ing reinsurance) in interstate or foreign commerce,
17 if the person issued a covered policy, or a successor
18 in interest to such person.

19 (4) LEGISLATIVE DAYS.—The term “legislative
20 days” means those days on which both Houses of
21 Congress are in session.

22 (5) RELATED COMPANY.—The term “related
23 company” means an affiliate, as that term is defined

1 in section 104(g) of the Gramm-Leach-Bliley Act
2 (15 U.S.C. 6701(g)).

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