

AMENDED IN SENATE APRIL 13, 1998

SENATE BILL

No. 1530

Introduced by Senator Hayden

February 10, 1998

An act to ~~add Section 790.15 to~~ amend Section 1523 of the Code of Civil Procedure, and to amend Section 12936 of, and to add Sections 790.15 and 12967 to, the Insurance Code, relating to insurance practices, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1530, as amended, Hayden. Insurance practices: suspension for nonpayment of claims.

Under existing law, it is an unfair claims practice for an insurer to knowingly or with frequency fail to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear. Existing law provides for civil penalties and administrative sanctions for violations.

This bill would provide that if an insurer or any affiliate of an insurer has failed to pay any valid claim from Holocaust survivors, as defined, the certificate of authority of the insurer shall be suspended until the insurer, or its affiliates, pays the claim or claims.

Under existing law, the Insurance Commissioner and the Department of Insurance have various duties with respect to the investigation of insurers.

This bill would require the department to develop and implement a coordinated approach to gather, review, and

analyze the archives of affect insurance groups, and other archives and records, using onsite teams and an oversight committee, to provide for research and investigation into insurance policies, unpaid insurance claims, and related matters of victims of the Holocaust or of the Nazi-controlled German government or its allies, and the beneficiaries and heirs of those victims, and for losses arising from the activities of the Nazi-controlled German government or its allies for insurance policies issued before and during World War II by insurers who have affiliates or subsidiaries authorized to do business in California.

Existing law provides that if an insurer is unable to locate and deliver a Proposition 103 rebate, the funds attributable to the rebate escheat to the state and are required to be transferred to the Insurance Fund to be used to repay a specified loan that was made to the Insurance Fund.

This bill would also provide for the transfer of an unspecified amount of those moneys over a 4-year period to the Insurance Fund for expenditure for the above purposes relating to Holocaust claims, and would provide that the money is continuously appropriated for that purpose.

Vote: —majority ²/₃. Appropriation: —no yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1523 of the Code of Civil*
 2 *Procedure is amended to read:*
 3 1523. If an insurer, after a good faith effort to locate
 4 and deliver to a policyholder a Proposition 103 rebate
 5 ordered or negotiated pursuant to Section 1861.01 of the
 6 Insurance Code, determines that a policyholder cannot
 7 be located, all funds attributable to that rebate escheat to
 8 the state and shall be delivered to the Controller. The
 9 funds subject to escheat on or after July 1, 1997, shall be
 10 transferred by the Controller to the Department of
 11 Insurance for deposit in the Insurance Fund—~~up~~ *in the*
 12 *following amounts and for the following purposes:*
 13 (a) *Up* to the amount that will repay principal and
 14 interest on the General Fund loan authorized by Item



1 0845-001-0001 of the Budget Act of 1996 for expenditure
2 as provided in Section 12936 of the Insurance Code.

3 (b) A total of ___ dollars (\$___) per year for
4 four years for expenditure as provided in Section 12967 of
5 the Insurance Code.

6 SEC. 2. Section 790.15 is added to the Insurance Code,
7 to read:

8 790.15. (a) If an insurer or any affiliate of an insurer
9 has failed to pay any valid claim from Holocaust survivors,
10 the certificate of authority of the insurer shall be
11 suspended until the insurer, or its affiliates, pays the claim
12 or claims.

13 (b) As used in this section:

14 (1) "Holocaust survivor" means any person who is the
15 beneficiary of an insurance policy, if the insurance policy
16 insured a person's life, property, or other interest, and the
17 insured person was killed, died, was displaced, or was
18 otherwise a victim of German persecution of Jewish and
19 other peoples preceding and during World War II.

20 (2) "Beneficiary" means any person entitled to
21 recover under any policy of insurance, including any
22 named beneficiary, any heir of a named beneficiary, and
23 any other person entitled to recover under the policy.

24 (3) "Claim" means any claim submitted by a
25 Holocaust survivor or other beneficiary arising under an
26 insurance policy for any loss or damage caused by or
27 arising because of discriminatory practices or persecution
28 by the Nazi-controlled German government or its allies,
29 or by insurers that refused to pay claims because of a claim
30 that policies of insurance or records were missing or
31 confiscated because of actions by the Nazi-controlled
32 German government or its agents or allies. Claim also
33 includes any claim by Holocaust survivors or beneficiaries
34 to collect proceeds from dowry or education policies or
35 from annuities.

36 (c) An action to suspend a certificate of authority
37 under this section shall be conducted in accordance with
38 the Administrative Procedure Act (Chapter 5
39 (commencing with Section 11500) of Part 1 of Division 3
40 of Title 2 of the Government Code).



1 SEC. 3. Section 12936 of the Insurance Code is
2 amended to read:

3 12936. (a) (1) Escheated funds deposited in the
4 Insurance Fund pursuant to *subdivision (a)* of Section
5 1523 of the Code of Civil Procedure shall be transferred
6 to the General Fund on June 30, 1998, to repay the
7 principal and interest on the General Fund loan provided
8 pursuant to Item 0845-001-0001 of the Budget Act of 1996,
9 and such funds are hereby continuously appropriated for
10 that purpose.

11 (2) If the Director of Finance determines that funds
12 subject to escheat for the 1997-98 fiscal year are
13 insufficient to repay the General Fund loan plus the
14 interest owed, funds subject to escheat in the 1998-99
15 fiscal year, up to the amount necessary to repay the
16 General Fund loan plus the interest owed, shall be
17 available for expenditure by the commissioner to repay
18 the principal and interest on the General Fund loan.
19 Notwithstanding the loan repayment date specified in
20 Item 0845-001-0001 of the Budget Act of 1996, such a
21 determination by the Director of Finance shall trigger an
22 extension of the loan repayment date to June 30, 1999.

23 (b) A policyholder who was entitled to a rebate
24 pursuant to settlement or order of the commissioner and
25 who has not received the escheated rebate may submit a
26 claim to the Controller. The Controller shall pay the claim
27 from among the Proposition 103 refunds that have
28 escheated to the state and been deposited in the
29 Unclaimed Property Fund upon verification that the
30 claim is valid.

31 SEC. 4. Section 12967 is added to the Insurance Code,
32 to read:

33 12967. (a) (1) The department shall develop and
34 implement a coordinated approach to gather, review,
35 and analyze the archives of insurers and other archives
36 and records, using onsite teams and an oversight
37 committee, to provide for research and investigation into
38 insurance policies, unpaid insurance claims, and related
39 matters of victims of the Holocaust or of the
40 Nazi-controlled German government or its allies, and the



1 beneficiaries and heirs of those victims, and for losses
2 arising from the activities of the Nazi-controlled German
3 government or its allies for insurance policies issued
4 before and during World War II by insurers who have
5 affiliates or subsidiaries authorized to do business in
6 California. Information compiled shall be placed in a
7 centralized data base for the retention of policy and
8 claimant data, and the data shall be used to implement
9 this section and Section 790.15.

10 (2) The department shall cooperate with, participate
11 in, and promote coordination with, the National
12 Association of Insurance Commissioners Holocaust
13 Working Group, and with any other national or
14 international commission or entity involved in the
15 documentation, resolution, settlement, or distribution of
16 insurance claims, including documentation of unpaid
17 claims and distribution of proceeds, and establishment
18 and maintenance of a data base to contain information
19 relevant to claimants and documents and historical
20 information. The department shall work to recover
21 information and records that will strengthen the claims
22 of California residents.

23 (3) The department shall employ insurance
24 archaeologists, economists, attorneys, accountants, and
25 other specialists, in this country and in Europe, to
26 implement this section. The department shall, to the
27 extent feasible, work jointly with the National Association
28 of Insurance Commissioners and other organizations for
29 this purpose.

30 (b) Notwithstanding Section 13340 of the
31 Government Code, escheated funds deposited into the
32 Insurance Fund pursuant to subdivision (b) of Section
33 1523 of the Code of Civil Procedure are continuously
34 appropriated for expenditure by the commissioner for
35 the purposes set forth in subdivision (a), relating to
36 research and investigation into insurance policies and
37 unpaid insurance claims and related matters of victims of
38 the Holocaust or the Nazi-controlled German
39 government or its allies, and the beneficiaries and heirs
40 of those victims. The funds shall be used to develop and



1 *implement a coordinated approach to gather, review,*
2 *and analyze the archives of affected insurance groups,*
3 *and other archives and records, using onsite teams and an*
4 *oversight committee consisting of individuals with*
5 *expertise in accounting, law, insurance archaeology,*
6 *economics, and public information. The information*
7 *compiled shall be placed in a centralized data base for the*
8 *retention of policy and claimant data, and that data shall*
9 *be used by the department to implement this section.*

10 (c) (1) *Any funds recovered by the department for*
11 *the purpose of reimbursing the state for costs associated*
12 *with investigation and enforcement actions under this*
13 *section shall not be deposited in the Insurance Fund, but*
14 *instead shall be delivered to the Controller for deposit*
15 *into the General Fund.*

16 (2) *To the maximum extent possible, the department*
17 *shall seek reimbursement for its costs incurred in*
18 *implementing this section from any settlements reached*
19 *with affected insurers.*

20 (d) *The department shall report its progress in*
21 *implementing this section and its participation in the*
22 *identification and resolution of insurance claims of*
23 *Holocaust survivors and their beneficiaries and heirs. The*
24 *report shall also include an overview of current and*
25 *anticipated expenditures in implementing this section.*
26 *The department shall make this report annually to the*
27 *insurance and budget committees of the Legislature.*

