SENATE DOCKET, NO. 1087 FILED ON: 1/20/2011

SENATE . . . . . No. 416

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to Holocaust victims insurance relief.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	

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SENATE . . . . . No. 416

By Ms. Creem, a petition (accompanied by bill, Senate, No. 416) of Cynthia S. Creem for legislation relative to Holocaust victims insurance relief. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *466* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to Holocaust victims insurance relief.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The general court hereby finds that:

(a) During World War II, untold millions of lives and property were destroyed.

(b) In addition to the many atrocities that befell the victims of the Nazi regime, insurance claims that rightfully should have been paid out to the victims and their families, in many cases, were not.

(c) In many instances, insurance company records are the only proof of insurance policies held. In some cases, recollection of such policies' very existence may have perished along with the Holocaust victims.

(d) Many documented Holocaust survivors are living in Massachusetts today. Many of these survivors and their descendents have been fighting for over 50 years to persuade

insurance companies to settle unpaid or wrongfully paid claims. Survivors are asking that insurance companies come forth with any information they possess that could show proof of insurance policies held by Holocaust victims and survivors, in order to ensure that closure on this issue is swiftly brought to pass.

(e) Insurance companies doing business in the commonwealth have a responsibility to ensure that any involvement they or their related companies may have had with insurance policies of Holocaust victims are disclosed to the commonwealth and to ensure the rapid resolution of these questions and to eliminate the further victimization of these policyholders and their families.

(f) The international Jewish community is in active negotiations with responsible insurance companies through the International Commission on Holocaust Era Insurance Claims to resolve all outstanding insurance claims issues. This chapter is necessary to protect the claims and interests of Massachusetts residents, as well as to encourage the development of a resolution to these issues through the international process or through direct action by the commonwealth, as necessary.

SECTION 2. The General Laws are hereby amended by inserting after chapter 175K the following chapter:- "

Chapter 175L – Holocaust Victim's Insurance

Section 1. For purposes of this chapter, the following words shall, unless the content clearly requires otherwise, have the following meanings:-

"Commissioner", the commissioner of insurance.

“Division”, the division of insurance.

"Holocaust victim", any person who was persecuted during the period of 1929 to 1945, inclusive, by Nazi Germany, its allies, or sympathizers.

"Insurer", an insurance company doing business in the commonwealth, or whose contacts in the commonwealth satisfy the constitutional requirements for jurisdiction, that sold life, property, liability, health, annuities, dowry, educational, casualty, or any other insurance covering persons or property to persons in Europe at any time before 1945, directly or through a related company, whether the sale of the insurance occurred before or after the insurer and the related company became related.

"Proceeds", the face value or other payout value of insurance policies and annuities plus reasonable interest to date of payment without diminution for wartime or immediate postwar currency devaluation.

"Related company", any parent, subsidiary, successor in interest, managing general agent, or affiliate company of the insurer.

Section 2. (a) The commissioner shall establish and maintain within the division a central registry containing records and information relating to insurance policies of Holocaust victims, living and deceased. The registry shall be known as the Holocaust Era Insurance Registry. The attorney general, in coordination with the division, shall establish appropriate mechanisms to ensure public access to the registry.

Section 3. (a) An insurer doing business in the commonwealth that sold life, property, liability, health, annuities, dowry, educational, or casualty insurance policies, directly

or through a related company, to persons in Europe, which were in effect between 1920 and 1945, whether the sale occurred before or after the insurer and the related company became related, shall file or cause to be filed the following information with the commissioner to be entered into the registry:

(1) the number of such insurance policies;

(2) the holder, beneficiary, and current status of such policies; and

(3) the city of origin, domicile, or address for each policyholder listed in the policies.

(b) In addition, each insurer subject to subsection (a) shall certify to any of the following that:

(1) the proceeds of the policies described in subsection (a) have been paid to the designated beneficiaries or their heirs where such person or persons, after diligent search, could be located and identified;

(2) the proceeds of the policies where the beneficiaries or heirs could not, after diligent search, be located or identified, have been distributed to Holocaust survivors or to qualified charitable nonprofit organizations for the purpose of assisting Holocaust survivors;

(3) a court of law has certified in a legal proceeding resolving the rights of unpaid policyholders, their heirs, and beneficiaries, a plan for the distribution of the proceeds;

(4) the proceeds have not been distributed.

(c) An insurer who certifies as true any material matter pursuant to subsection (b), which the insurer knows to be false, is guilty of a misdemeanor and shall be subject to the penalty set forth in section 5.

(d) An insurer currently doing business in the commonwealth that did not sell any insurance policies in Europe prior to 1945, shall not be subject to this section if a related company, whether or not authorized and currently doing business in the commonwealth, has made a filing under this section.

Section 4. An insurer who knowingly files false information about a policy required by this chapter shall, with respect to that policy, be liable for a civil penalty not to exceed $5,000. Such penalties shall be appropriated to the division to be used by it to aid in the resolution of Holocaust insurance claims.

Section 5. The commissioner shall suspend the license or certificate of authority to conduct insurance business in the commonwealth of any insurer that fails to comply with the requirements of this chapter until such time that the insurer complies with this chapter.

Section 6. (a) Notwithstanding the provisions of any general or special laws to the contrary, any Holocaust victim, or heir or beneficiary of a Holocaust victim, who resides in the commonwealth and has a claim arising out of an insurance policy or policies purchased or in effect in Europe before 1945 from an insurer may bring a legal action to recover on that claim in any superior court of the commonwealth for the county in which the plaintiff or one of the plaintiffs resides, which court shall be vested with jurisdiction over that action until its completion or resolution. (b) An action brought by a Holocaust victim or the heir or beneficiary of a Holocaust victim, whether a resident or nonresident of this state, seeking proceeds of the

insurance policies issued or in effect before 1945 shall not be dismissed for failure to comply with the applicable statute of limitation; provided, however, that the action is commenced on or before December 31, 2015.

Section 7. The commissioner shall adopt regulations to implement this chapter.

SECTION 3. Section 4 of chapter 175L of the General Laws shall take effect 180 days after the effective date of this act.

SECTION 4. Section 6 of chapter 175L of the General Laws shall take effect 210 days after the effective date of this act.

SECTION 5. The commissioner of insurance shall adopt regulations under section 7 of chapter 175L of the General Laws within 90 days of the effective date of this act.