

1-1 By: Ellis S.B. No. 1061  
1-2 (In the Senate - Filed March 10, 2003; March 17, 2003, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 May 12, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 12, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1061 By: Armbrister  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to discrimination related to the business of insurance and  
1-11 to the use of insurance policy proceeds for certain victims of past  
1-12 discrimination; creating an offense.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 5, Article 21.21-6, Insurance Code, as  
1-15 added by Chapter 415, Acts of the 74th Legislature, Regular  
1-16 Session, 1995, is amended to read as follows:

1-17 Sec. 5. SANCTIONS. (a) Any legal entity engaged in the  
1-18 business of insurance in this state found to be in violation of or  
1-19 failing to comply with this article is subject to the sanctions  
1-20 authorized by Chapter 82 [~~in Article 1.10~~] of this code or [~~7~~  
1-21 ~~including~~] administrative penalties authorized by Chapter 84  
1-22 [~~under Article 1.10E~~] of this code. The commissioner may also  
1-23 utilize the cease and desist procedures authorized by Chapter 83  
1-24 [~~Article 1.10A~~] of this code.

1-25 (b) It is not a defense to an action of the commissioner  
1-26 under Subsection (a) of this section that the contract giving rise  
1-27 to the alleged violation was entered into before the effective date  
1-28 of this article.

1-29 SECTION 2. Subchapter B, Chapter 21, Insurance Code, is  
1-30 amended by adding Article 21.21-6A to read as follows:

1-31 Art. 21.21-6A. CRIMINAL PENALTY. (a) In this section,  
1-32 "person" means a legal entity described by Section 2, Article  
1-33 21.21-6 of this code, as added by Chapter 415, Acts of the 74th  
1-34 Legislature, Regular Session, 1995, or an officer or director of  
1-35 one of those entities.

1-36 (b) A person commits an offense if the person with criminal  
1-37 negligence:

1-38 (1) offers insurance coverage at a premium based on a  
1-39 rate that is, because of race, color, religion, ethnicity, or  
1-40 national origin, different from another premium rate offered or  
1-41 used by the person for the same coverage and the same risk; or

1-42 (2) collects an insurance premium based on a rate that  
1-43 is, because of race, color, religion, ethnicity, or national  
1-44 origin, different from another premium rate offered or used by the  
1-45 person for the same coverage and the same risk.

1-46 (c) An offense under this section is a state jail felony.

1-47 SECTION 3. Subsection (c), Section 3, Article 21.21-8,  
1-48 Insurance Code, is amended to read as follows:

1-49 (c) All actions under this article must be commenced on or  
1-50 before the second anniversary of [~~within 12 months after~~] the date  
1-51 on which the plaintiff was denied insurance or the unfair act  
1-52 occurred or the date the plaintiff, in the exercise of reasonable  
1-53 diligence, should have discovered the occurrence of the unfair act.

1-54 SECTION 4. Section 1, Article 21.74, Insurance Code, is  
1-55 amended by amending Subdivisions (1) and (2) and adding Subdivision  
1-56 (4) to read as follows:

1-57 (1) "Holocaust victim" means a person who was killed  
1-58 or injured, or who lost real or personal property or financial  
1-59 assets, as the result of discriminatory laws, policies, or actions  
1-60 directed against any discrete group of which the person was a  
1-61 member, during the period of 1920 to 1945, inclusive, in Germany,  
1-62 areas occupied by Germany, [~~or~~] countries allied with Germany, or  
1-63 countries that were sympathizers with Germany.

2-1 (2) "Insurer" means an insurance company or other  
2-2 entity engaged in the business of insurance or reinsurance in this  
2-3 state. The term includes:

2-4 (A) a capital stock company, a mutual company, or  
2-5 a Lloyd's plan; and

2-6 (B) any parent, subsidiary, reinsurer, successor  
2-7 in interest, managing general agent, or affiliated company, at  
2-8 least 50 percent of the stock of which is in common ownership with  
2-9 an insurer engaged in the business of insurance in this state.

2-10 (4) "Proceeds" means the face value or other payout  
2-11 value of insurance policies and annuities plus reasonable interest  
2-12 to date of payment without diminution for wartime or immediate  
2-13 postwar currency devaluation.

2-14 SECTION 5. Article 21.74, Insurance Code, is amended by  
2-15 adding Sections 2A and 2B to read as follows:

2-16 Sec. 2A. FILINGS AND CERTIFICATES OF INSURANCE. (a) This  
2-17 section applies to each insurer engaging in business in the state  
2-18 that, directly or through a related company, sold to persons in  
2-19 Europe insurance policies described by Section 1 of this article or  
2-20 dowry or educational insurance policies that were in effect during  
2-21 the period of 1920 to 1945, whether the sale occurred before or  
2-22 after the insurer and the related company became related.

2-23 (b) Each insurer shall file or cause to be filed with the  
2-24 commissioner the following information:

2-25 (1) the number of insurance policies described by  
2-26 Subsection (a) of this section sold by the insurer or a related  
2-27 company;

2-28 (2) the holder, beneficiary, and current status of the  
2-29 policies; and

2-30 (3) the city of origin, domicile, or address for each  
2-31 policyholder listed in the policies.

2-32 (c) Each insurer shall certify:

2-33 (1) that the proceeds of the policies described by  
2-34 Subsection (a) of this section have been paid to the designated  
2-35 beneficiaries or their heirs in circumstances in which that person  
2-36 or those persons, after diligent search, could be located and  
2-37 identified;

2-38 (2) that the proceeds of the policies, in  
2-39 circumstances in which the beneficiaries or heirs could not, after  
2-40 diligent search, be located or identified, have been distributed to  
2-41 Holocaust survivors or to qualified charitable nonprofit  
2-42 organizations for the purpose of assisting Holocaust survivors;

2-43 (3) that a court of law has certified in a legal  
2-44 proceeding resolving the rights of unpaid policyholders and their  
2-45 heirs and beneficiaries a plan for the distribution of the  
2-46 proceeds; or

2-47 (4) that the proceeds have not been distributed and  
2-48 the amount of those proceeds.

2-49 (d) The commissioner by rule shall require that insurers  
2-50 update the information submitted to the commissioner under this  
2-51 section at reasonable intervals.

2-52 Sec. 2B. ESTABLISHMENT AND MAINTENANCE OF REGISTRY; PUBLIC  
2-53 ACCESS. (a) The commissioner shall establish and maintain within  
2-54 the department a central registry containing records and  
2-55 information relating to insurance policies described by Section  
2-56 2A(a) of this article of Holocaust victims, living and deceased.  
2-57 The registry shall be known as the Holocaust Era Insurance  
2-58 Registry.

2-59 (b) The commissioner by rule shall establish appropriate  
2-60 mechanisms to ensure public access to the registry.

2-61 (c) Information contained in the registry:

2-62 (1) is public information;

2-63 (2) is not subject to any exceptions to disclosure  
2-64 under Chapter 552, Government Code; and

2-65 (3) cannot be withheld from disclosure under any other  
2-66 law.

2-67 SECTION 6. (a) Article 21.21-6A, Insurance Code, as added  
2-68 by this Act, applies only to an offense committed on or after the  
2-69 effective date of this Act. An offense committed before the

3-1 effective date of this Act is governed by the law in effect  
3-2 immediately before the effective date of this Act, and that law is  
3-3 continued in effect for that purpose. For the purposes of this  
3-4 subsection, an offense is committed before the effective date of  
3-5 this Act if any element of the offense occurs before that date.

3-6 (b) Subsection (c), Section 3, Article 21.21-8, Insurance  
3-7 Code, as amended by this Act, applies to a cause of action for which  
3-8 the limitations period established under that subsection before its  
3-9 amendment by this Act has not expired on the effective date of this  
3-10 Act.

3-11 SECTION 7. Not later than the 180th day after the effective  
3-12 date of this Act, an insurer subject to Article 21.74, Insurance  
3-13 Code, as amended by this Act, shall file the information and  
3-14 certification required by Section 2A of that article.

3-15 SECTION 8. This Act takes effect September 1, 2003.

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