

69J-137.010 Holocaust Victims Insurance Report and Standards of Proof.

(1) Purpose and Scope. This rule implements Section 626.9543, F.S. The “Holocaust Victims Assistance Act” was established to ensure that the potential and actual insurance claims, actual financial claims, and the assets and property of holocaust victims and their heirs and beneficiaries be expeditiously identified and properly paid, compensated, or returned. This rule establishes the procedure by which:

(a) An insurer must file a report relating to the insurance claims of Holocaust victims or insureds, or their heirs, descendants, or beneficiaries with the Department;

(b) The method by which the Department will monitor and verify compliance with the provisions of subsections (7) and (8) of Section 626.9543, F.S.; and

(c) The standards of proof necessary to substantiate a claim against an insurer pursuant to paragraph 626.9543(5)(b), F.S.

(2) For the purposes of this rule unless the context otherwise requires:

(a) “Department” means the Department of Financial Services.

(b) “Insurer” means an insurer doing business in this state, not excluding an authorized insurer or an eligible surplus lines insurer.

(c) “Eligible surplus lines insurer” shall have the meaning set forth in subsection 626.914(2), F.S.

(d) “Authorized” shall have the meaning set forth in Section 624.09, F.S.

(e) “Report” shall mean the written document described as set forth in subsection (4) and submitted to the Department in the format set forth in subsection (5) of this rule.

(f) “International Commission on Holocaust Era Insurance Claims” is that entity established in 1998 to identify, settle, and pay individual Holocaust era insurance claims at no cost to claimants and that ceased operations in 2007.

(3)(a) Each insurer shall annually file a report with the Department no later than December 31st of the year in which:

1. An insurer begins conducting business in this state, or

2. An insurer who has previously filed a report, takes any action or discovers any information that changes information filed in a previous report, or

3. An insurer is notified by the Department that it has previously failed to file a report or that the Department is requesting a new or updated report.

(b) A holding company may file a report for all member insurers of the holding company system; however, the holding company must supply the Federal Employer Identification Number (FEIN) for each member insurer for which it is making the required reporting.

(4) Each report shall contain the following separate sections:

(a) Below a heading entitled “Relationship with Insurance Companies,” the report shall identify any insurance company, with which the insurer has a legal relationship, which issued an insurance policy to a Holocaust victim or insured.

1. The report shall provide:

a. The date on which the legal relationship commenced;

b. A description of the legal relationship;

c. The country of domicile and licensure of the insurance company; and

d. The country (and district or city, if available) in which the insurance company issued any insurance policy to a Holocaust victim or insured.

2. The information shall include a detailed description of the efforts made to determine whether the insurer, or any insurer with which the reporting insurer has a legal relationship, issued an insurance policy to a Holocaust victim or insured.

(b) Below a heading entitled “Number and Total Value of Policies,” the report shall, with respect to each insurance company that issued an insurance policy to a Holocaust victim or insured, provide the number and total value in current U.S. dollars, of the insurance policies unpaid in full or in part, including, if available, an annual running tally of exposure.

1. The information shall include a detailed explanation of the methodologies used by the insurer to determine the number and total value of the insurance policies required to be reported under this rule.

2. To the best of its ability, the insurer shall indicate whether there were additional insurance policies issued to Holocaust victims by it (or any insurance company with which it has a legal relationship) for which there is no direct evidence or documentation. The insurer shall also provide a complete description of the efforts being made to document the existence of such insurance policies.

(c) Below a heading entitled "Claims Filed," the report shall provide a list of any insurance claim filed by a policyholder who is a Holocaust victim, or insured, or by his or her beneficiary, heir, or descendant, against the insurer or against any insurance company with which the insurer has a legal relationship, on an insurance policy. The report should include the disposition thereof, with a detailed explanation of any attempt to locate insurance claims of Holocaust victims or insureds, or their heirs, descendants, or beneficiaries.

(d) Below a heading entitled "Attempts to Locate Beneficiaries," the report shall provide a detailed explanation of the attempts made by the insurer, or by any insurance company having a legal relationship with the insurer, to locate the beneficiaries of any insurance policy issued to a Holocaust victim or insured for which no claim of benefits has been made, including a list of any heirs, descendants, or beneficiaries who have been located, and for every such policy: the name or identity of the purchaser, the name or identity of the beneficiary, the date and place of policy issuance, the type of policy, and the name or identity of the agent.

(e) Below a heading entitled "Explanation of Denial or Pending Payment," the report shall provide a detailed explanation of any attempt to identify insurance claims of Holocaust victims or insureds which were denied. The report shall also include a detailed explanation as to why such claims were denied or payment withheld.

(f) The insurer may supplement the report with additional information as it becomes available.

(5) The report shall be submitted in English and either on paper or in an Adobe PDF or other digital format compatible with Microsoft Word. The report shall be submitted to the Department of Financial Services, Division of Consumer Services, 200 East Gaines Street, Room 524B, Tallahassee, Florida 32399-0317, or via e-mail to HolocaustAssistance@MyFloridaCFO.com. An insurer that has no information to report may submit its report stating that fact in letter form.

(6) To achieve statutorily required restitution, an insurer shall pay in full on behalf of, or cause to be paid in full by, an insurance company with which it has a legal relationship, the amount due with respect to any substantiated insurance claim made by policyholders who are Holocaust victims or insureds, from or by their heirs, descendants, or beneficiaries. Payment shall be calculated according to the procedures established by the International Commission on Holocaust Era Insurance Claims in the Guide to Valuation Procedures: Edition Dated 22-10-02 and Annex D thereto. The Guide to Valuation Procedures and Annex D thereto are hereby incorporated by reference and available on the website of the International Commission on Holocaust Era Insurance Claims at: <http://www.icheic.org/claims.html>.

(7) For purposes of this rule and pursuant to paragraph 626.9643(5)(b), F.S., a claim shall be considered adequately substantiated by one of the following:

(a) An original or copy of an insurance policy;

(b) Information in the records of the insurer that evidences the existence of an insurance policy that remains unpaid in full or in part to the policyholder, or his or her heirs, descendants, or beneficiaries;

(c) Written confirmation from the insurer that its files verify the policy status, including the name or identification of the insured, their heirs, descendants, or beneficiaries; or

(d) Other evidence, including parole evidence, that a reasonable person would accept as reliable in the conduct of his or her affairs, as contemplated by paragraph 626.9543(5)(b), F.S.

Insurers shall not reject any evidence as being insufficiently probative of any fact necessary to establish the claim if the evidence provided is plausible in the light of all the special circumstances involved, including but not limited to the destruction caused by World War II, the Holocaust, and the lengthy period of time that has passed since the insurance policy under consideration was obtained.

Rulemaking Authority 624.308(1), 626.9543(11) FS. Law Implemented 624.307(1), 626.9543 FS. History—New 5-12-99, Formerly 4-137.010, 690-137.010, Amended 5-11-14.