
SENATE BILL 5919

State of Washington 60th Legislature 2007 Regular Session

By Senators Hobbs, Benton, Berkey, Schoesler, Hatfield, Roach and Shin

Read first time 02/07/2007. Referred to Committee on Financial
Institutions & Insurance.

1 AN ACT Relating to retaliatory tax relief on insurance premium
2 taxes; and amending RCW 48.18.170, 48.18.180, and 48.02.190.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.18.170 and 1947 c 79 s .18.17 are each amended to
5 read as follows:

6 "Premium" as used in this code means all sums charged, received, or
7 deposited as consideration for an insurance contract or the continuance
8 thereof. "Premium" does not include a regulatory assessment imposed by
9 RCW 48.02.190, except as otherwise provided in this section. Any
10 assessment, or any "membership," "policy," "survey," "inspection,"
11 "service" or similar fee or charge made by the insurer in consideration
12 for an insurance contract is deemed part of the premium.

13 **Sec. 2.** RCW 48.18.180 and 1994 c 203 s 2 are each amended to read
14 as follows:

15 (1) The premium stated in the policy shall be inclusive of all
16 fees, charges, premiums, or other consideration charged for the
17 insurance or for the procurement thereof.

1 (2) No insurer or its officer, employee, agent, solicitor, or other
2 representative shall charge or receive any fee, compensation, or
3 consideration for insurance which is not included in the premium
4 specified in the policy.

5 (3) Each violation of this section is a gross misdemeanor.

6 (4) This section does not apply to:

7 (a) A fee paid to a broker by an insured as provided in RCW
8 48.17.270; or

9 (b) A regulatory assessment imposed by RCW 48.02.190.

10 **Sec. 3.** RCW 48.02.190 and 2004 c 260 s 22 are each amended to read
11 as follows:

12 (1) As used in this section:

13 (a) "Organization" means every insurer, as defined in RCW
14 48.01.050, having a certificate of authority to do business in this
15 state and every health care service contractor or (~~{self-funded}~~)
16 self-funded multiple employer welfare arrangement registered to do
17 business in this state. "Class one" organizations shall consist of all
18 insurers as defined in RCW 48.01.050. "Class two" organizations shall
19 consist of all organizations registered under provisions of chapter
20 48.44 RCW. "Class three" organizations shall consist of self-funded
21 multiple employer welfare arrangements as defined in RCW 48.125.010.

22 (b)(i) "Receipts" means (A) net direct premiums consisting of
23 direct gross premiums, as defined in RCW 48.18.170, paid for insurance
24 written or renewed upon risks or property resident, situated, or to be
25 performed in this state, less return premiums and premiums on policies
26 not taken, dividends paid or credited to policyholders on direct
27 business, and premiums received from policies or contracts issued in
28 connection with qualified plans as defined in RCW 48.14.021, and (B)
29 prepayments to health care service contractors as set forth in RCW
30 48.44.010(3) or participant contributions to self-funded multiple
31 employer welfare arrangements as defined in RCW 48.125.010 less
32 experience rating credits, dividends, prepayments returned to
33 subscribers, and payments for contracts not taken.

34 (ii) Participant contributions, under chapter 48.125 RCW, used to
35 determine the receipts in this state under this section shall be
36 determined in the same manner as premiums taxable in this state are
37 determined under RCW 48.14.090.

1 (c) "Regulatory assessment" means the fees imposed by this section.

2 (2) The annual cost of operating the office of insurance
3 commissioner shall be determined by legislative appropriation. A pro
4 rata share of the cost shall be charged to all organizations as a
5 regulatory assessment. Each class of organization shall contribute a
6 sufficient ~~((in—fees))~~ amount to the insurance commissioner's
7 regulatory account to pay the reasonable costs, including overhead, of
8 regulating that class of organization.

9 ~~((Fees—charged))~~ The regulatory assessment shall be calculated
10 separately for each class of organization. The ~~((fee—charged))~~
11 assessment collected from each organization shall be that portion of
12 the cost of operating the insurance commissioner's office, for that
13 class of organization, for the ensuing fiscal year that is represented
14 by the organization's portion of the receipts collected or received by
15 all organizations within that class on business in this state during
16 the previous calendar year~~((:—PROVIDED, That))~~. However, the ~~((fee~~
17 ~~shall))~~ assessment must not exceed one-eighth of one percent of
18 receipts~~((:—PROVIDED—FURTHER, That))~~ and the minimum ~~((fee))~~
19 assessment shall be one thousand dollars.

20 (4) The commissioner shall annually, on or before June 1, calculate
21 and bill each organization for the amount of ~~((its—fee))~~ the regulatory
22 assessment. ~~((Fees))~~ The assessment shall be due and payable no later
23 than June 15 of each year~~((:—PROVIDED, That))~~. However, if the
24 necessary financial records are not available or if the amount of the
25 legislative appropriation is not determined in time to carry out such
26 calculations and bill such ~~((fees))~~ assessments within the time
27 specified, the commissioner may use the ~~((fee))~~ assessment factors for
28 the prior year as the basis for the ~~((fees))~~ assessment and, if
29 necessary, the commissioner may impose supplemental fees to fully and
30 properly charge the organizations. The penalties for failure to pay
31 fees and assessments when due shall be the same as the penalties for
32 failure to pay taxes pursuant to RCW 48.14.060. The ~~((fees))~~
33 assessment required by this section ~~((are))~~ is in addition to all other
34 taxes and fees now imposed or that may be subsequently imposed.

35 (5) All moneys collected shall be deposited in the insurance
36 commissioner's regulatory account in the state treasury which is hereby
37 created.

1 (6) Unexpended funds in the insurance commissioner's regulatory
2 account at the close of a fiscal year shall be carried forward in the
3 insurance commissioner's regulatory account to the succeeding fiscal
4 year and shall be used to reduce future ((fees)) assessments. During
5 the 2003-2005 fiscal biennium, the legislature may transfer from the
6 insurance commissioner's regulatory account to the state general fund
7 such amounts as reflect excess fund balance in the account.

8 (7)(a) Each insurer may annually collect assessments remitted in
9 preceding years by means of a policyholder surcharge on premiums
10 charged for all kinds of insurance. The surcharge shall be at a
11 uniform rate reasonably calculated to collect the assessment remitted
12 by the insurer.

13 (b) If an insurer fails to collect the entire amount of the
14 assessment in the first year under this section, it may repeat the
15 surcharge procedure provided for in this subsection (7) in succeeding
16 years until the assessment is fully collected or a de minimis amount
17 remains uncollected. Any such de minimis amount may be collected as
18 provided in (d) of this subsection.

19 (c) The amount and nature of any surcharge shall be separately
20 stated on either a billing or policy declaration sent to an insured.
21 The surcharge must not be considered a premium for any purpose,
22 including the premium tax or agents' commissions.

23 (d) An insurer may elect not to collect the surcharge from its
24 insured. In such a case, the insurer may recoup the assessment through
25 its rates, if the following requirements are met:

26 (i) The insurer remits the amount of surcharge not collected by
27 election under this subsection; and

28 (ii) The surcharge is not considered a premium for any purpose,
29 including the premium tax or agents' commission.

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