

# FINAL BILL REPORT

## SHB 2880

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C 278 L 06

Synopsis as Enacted

**Brief Description:** Clarifying the taxation of insurers.

**Sponsors:** By House Committee on Finance (originally sponsored by Representative McIntire; by request of Department of Revenue).

### House Committee on Finance

#### Background:

Insurance companies must pay an insurance premiums tax to the state. The tax is imposed on net premiums received from the insurer, after deduction of premiums that are returned to policyholders. For ocean marine and foreign trade insurers, the tax is imposed on net underwriting profit, which is net premiums less net losses paid. The tax rate is 0.95 percent for ocean marine and foreign trade insurers and 2 percent for other insurers. Title insurers and fraternal benefit societies are exempt from this tax.

The statute imposing the insurance premiums tax states that the tax is in lieu of all other taxes, except taxes on real and tangible personal property, excise taxes on the sale, purchase or use of such property, and business and occupation tax imposed on nonprofit hospitals. A question has arisen as to whether the phrase "excise taxes on the sale, purchase or use of such property" means insurers are liable for retail sales taxes only on the sale of tangible personal property and not on the sale of services or extended warranties. This phrase was added to the insurance premium tax statutes in 1949.

When the retail sales tax was first adopted in 1935, it applied only to sales of tangible personal property. However, since the late 1930s the Legislature has expanded the retail sales tax base to include some services. For example, services such as installation, cleaning, and repair of tangible personal property were the first services subjected to retail sales tax, in 1939. In 1941, construction services were subjected to retail sales tax. Additional services have been subjected to retail sales taxes in more recent years. In 2005, sales tax was applied to sales of extended warranties. The sale of an extended warranty can be viewed as a sale of an intangible contractual right rather than the actual sales of repair parts and services.

#### Summary:

The Legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on insurers, but not in lieu of property taxes or retail sales taxes. The Legislature further finds that exemption of insurers from retail sales tax on services is unintentional, would be inequitable, and would be inconsistent with other excise tax statutes.

State and local excise taxes on the sale of services and extended warranties are expressly added to the statutory list of taxes that apply to insurers. This provision applies both prospectively and retroactively.

**Votes on Final Passage:**

House 55 43

Senate 40 7

**Effective:** March 28, 2006