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SENATE BILL 5838

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State of Washington

58th Legislature

2003 Regular Session

By Senators Winsley, B. Sheldon and Kline; by request of Insurance Commissioner

Read first time 02/14/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to liability for taxes on unlawful or delinquent  
2 insurers or taxpayers; amending RCW 48.14.060 and 48.15.130; and adding  
3 a new section to chapter 48.14 RCW.

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

5 **Sec. 1.** RCW 48.14.060 and 1981 c 6 s 2 are each amended to read as  
6 follows:

7 (1) Any insurer or taxpayer, as defined in RCW 48.14.0201, failing  
8 to file its tax statement and to pay the specified tax or prepayment  
9 of tax on premiums and prepayments by the last day of the month in  
10 which the tax becomes due shall be assessed a penalty of five percent  
11 of the amount of the tax; and if the tax is not paid within forty-five  
12 days after the due date, the insurer (~~shall~~) will be assessed a total  
13 penalty of ten percent of the amount of the tax; and if the tax is not  
14 paid within sixty days of the due date, the insurer (~~shall~~) will be  
15 assessed a total penalty of twenty percent of the amount of the tax.  
16 (~~In such event~~) The tax may be collected by distraint, and the  
17 penalty recovered by any action instituted by the commissioner in any  
18 court of competent jurisdiction. The amount of any (~~such~~) penalty

1 collected (~~shall~~) must be paid to the state treasurer and credited to  
2 the general fund.

3 (2) (~~At his discretion~~) In addition to the penalties set forth in  
4 subsection (1) of this section, interest will accrue on the amount of  
5 the unpaid tax or prepayment at the maximum legal rate of interest  
6 commencing sixty-one days after the tax is due until paid. This  
7 interest will not accrue on taxes imposed under RCW 48.15.120.

8 (3) The commissioner may revoke the certificate of authority or  
9 registration of any (~~such~~) delinquent insurer or taxpayer, (~~such~~)  
10 and the certificate of authority or registration will not (~~to~~) be  
11 reissued until all taxes, prepayments of tax, interest, and penalties  
12 (~~incurred by the insurer~~) have been fully paid and the insurer or  
13 taxpayer has otherwise qualified for the certificate of authority or  
14 registration.

15 **Sec. 2.** RCW 48.15.130 and 1983 1st ex.s. c 32 s 5 are each amended  
16 to read as follows:

17 If any surplus line broker fails to file his or her annual  
18 statement, or fails to remit the tax provided by RCW 48.15.120, by the  
19 last day of the month in which the tax becomes due, the surplus line  
20 broker (~~shall~~) must pay the penalties provided in RCW 48.14.060(1).  
21 The tax may be collected by distraint, or the tax and fine may be  
22 recovered by an action instituted by the commissioner in any court of  
23 competent jurisdiction. Any fine collected by the commissioner  
24 (~~shall~~) must be paid to the state treasurer and credited to the  
25 general fund.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.14 RCW  
27 to read as follows:

28 (1) Except as provided in subsection (6) of this section, RCW  
29 48.14.020, 48.14.0201, and 48.14.060 apply to any insurer or taxpayer,  
30 as defined in RCW 48.14.0201, violating or failing to comply with RCW  
31 48.05.030(1), 48.17.060 (1) or (2), 48.36A.290(1), 48.44.015(1), or  
32 48.46.027(1).

33 (2) If an insurance contract, health care services contract, or  
34 health maintenance agreement covers risks or exposures, or enrolled  
35 participants only partially in this state, the tax payable is computed

1 on the portion of the premium that is properly allocated to a risk or  
2 exposure located in this state, or enrolled participants residing in  
3 this state.

4 (3) In determining the amount of taxable premiums under subsection  
5 (2) of this section, all premiums, other than premiums properly  
6 allocated or apportioned and reported as taxable premiums of another  
7 state, that are written, procured, or received in this state, or that  
8 are for a policy or contract negotiated in this state, are considered  
9 to be written on risks or property resident, situated, or to be  
10 performed in this state, or for health care services to be provided to  
11 enrolled participants residing in this state.

12 (4) Insurance on risks or property resident, situated, or to be  
13 performed in this state, or health coverage for the provision of health  
14 care services for residents of this state, is considered to be  
15 insurance procured, continued, renewed, or performed in this state,  
16 regardless of the location from which the application is made, the  
17 negotiations are conducted, or the premiums are remitted.

18 (5) Premiums on risks or exposures that are properly allocated to  
19 federal waters or international waters or under the jurisdiction of a  
20 foreign government are not taxable by this state.

21 (6) This section does not apply to premiums on insurance procured  
22 by a licensed surplus line broker under chapter 48.15 RCW.

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