

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2040

Chapter 341, Laws of 2003

58th Legislature
2003 Regular Session

TAX LIABILITY--DELINQUENT INSURERS, TAXPAYERS

EFFECTIVE DATE: 7/27/03

Passed by the House March 17, 2003
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 16, 2003
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved May 16, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2040** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 16, 2003 - 4:29 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2040

Passed Legislature - 2003 Regular Session

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Santos and Benson; by request of Insurance Commissioner)

READ FIRST TIME 03/05/03.

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 of
9 tax on premiums and prepayments for health care services by the last
10 day of the month in which the tax becomes due shall be assessed a
11 penalty of five percent of the amount of the tax; and if the tax is not
12 paid within forty-five days after the due date, the insurer (~~shall~~)
13 will be assessed a total penalty of ten percent of the amount of the
14 tax; and if the tax is not paid within sixty days of the due date, the
15 insurer (~~shall~~) will be assessed a total penalty of twenty percent of
16 the amount of the tax. (~~In such event~~) The tax may be collected by
17 distraint, and the penalty recovered by any action instituted by the
18 commissioner in any court of competent jurisdiction. The amount of any

1 ((such)) penalty collected ((shall)) must be paid to the state
2 treasurer and credited to 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 permitted under RCW 19.52.020 commencing sixty-one days after the tax
7 is due until paid. This interest will not accrue on taxes imposed
8 under RCW 48.15.120.

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

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

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

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

29 (1) This section applies to any insurer or taxpayer, as defined in
30 RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1),
31 48.17.060 (1) or (2), 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

32 (2) Except as provided in subsection (7) of this section, RCW
33 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or taxpayers
34 identified in subsection (1) of this section.

35 (3) If an insurance contract, health care services contract, or
36 health maintenance agreement covers risks or exposures, or enrolled

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

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

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

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

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

Passed by the House March 17, 2003.

Passed by the Senate April 16, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.