

HOUSE BILL REPORT

SSB 5919

As Passed House:

April 6, 2007

Title: An act relating to retaliatory tax relief on insurance premium taxes.

Brief Description: Providing relief from retaliatory taxes on insurance premium taxes.

Sponsors: By Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Hobbs, Benton, Berkey, Schoesler, Hatfield, Roach and Shin).

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 3/20/07, 3/27/07 [DP];

Finance: 3/30/07, 4/2/07 [DP].

Floor Activity:

Passed House: 4/6/07, 77-20.

Brief Summary of Substitute Bill

- Changes the word "fee" to "regulatory surcharge" when referring to the amount that the Insurance Commissioner charges insurers to pay the operating costs of the Office of the Insurance Commissioner.
- States explicitly that the regulatory surcharge is not part of a policy's premium.
- Creates a mechanism for recouping the amount of regulatory surcharge paid in previous years from policyholders at a uniform rate separately listed on bills or policy declarations.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: Do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos and Simpson.

Staff: Sarah Beznoska (786-7109).

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HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 7 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, McIntire, Roach and Santos.

Minority Report: Do not pass. Signed by 1 member: Representative Orcutt, Ranking Minority Member.

Staff: Mark Matteson (786-7145).

Background:

The premium tax is a gross receipts tax that is similar to the business and occupation tax. This tax is levied against an insurer's premium volume at 2 percent. Additionally, the Office of the Insurance Commissioner (OIC) is authorized to charge a fee of up to 0.125 percent against an insurer's premium volume to finance the OIC's operations. Currently, that fee is at 0.10 percent.

Washington assesses retaliatory taxes on foreign (meaning out-of-state) insurers when the foreign insurer's state of domicile assesses higher aggregate taxes, fees, and assessments on insurance policies written by a Washington-domiciled insurers than the state would otherwise assess on foreign insurers writing insurance in Washington. All states, except Hawaii, use this retaliatory tax system.

Generally, in determining whether a retaliatory tax should apply to a foreign insurer, states aggregate all taxes, fees, and assessments charged by the other state. However, states may exclude some fees and assessments from the retaliatory tax calculation. States may be more likely to exclude fees from their retaliatory tax calculations if the fees are assessments for special purposes or are fees that insurers are permitted to recoup from policyholders.

Currently, other states take into account both the 2 percent premium tax and the 0.10 percent assessment charged by the insurance commissioner in calculating whether the retaliatory tax should apply to Washington-domiciled insurers.

Summary of Bill:

The fee that the OIC is authorized to charge insurers to pay the operating costs of the OIC is called the "regulatory surcharge."

Insurers may collect the regulatory surcharge they paid in previous years through a policyholder surcharge on policy premiums. This recoupment must be at a uniform rate reasonably calculated to collect the regulatory surcharge. This amount must be listed separately on bills or policy declarations sent to the insured.

Neither the regulatory surcharge, nor the related policyholder surcharge, is to be considered part of a policy's premium for any purpose, including collection of premium taxes and calculation of an agent's commission.

If an insurer elects not to recover the regulatory surcharge through a policyholder surcharge, the insurer may recoup it through rates so long as the insurer remits the amount of the surcharge he or she elected not to collect and the surcharge was not considered a premium for any purpose.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Insurance, Financial Services & Consumer Protection)

(In support) This bill passed the Senate unanimously. The 2 percent premium tax goes directly to the State General Fund and it generates more than \$800 million every biennium. The 2 percent plus the regulatory element of up to 0.125 makes insurers the highest taxed business entity in Washington.

Changing the treatment of the regulatory element effectively changes nomenclature making it a regulatory surcharge that is passed through to consumers. There is no change in tax rate, no change in revenues flowing to the Office of the Insurance Commissioner or the State General Fund. This bill will help insurers avoid some retaliatory taxation in other states. However there is no perfect way to completely avoid retaliation in every state. There are always bills that seek to finance programs using a surcharge on insurance policies. The framework established in this bill will minimize retaliatory impact, but there will still be states that will impose retaliation no matter what we do.

This year there are at least three surcharge proposals. If this bill passes, the retaliatory impact is minimized for a domestic company. This bill is about competitive equity.

(Opposed) None.

Staff Summary of Public Testimony: (Finance)

(In support) This bill helps domestic insurers in other states. To illustrate, the Montana premiums tax is lower, at 1.75 percent. Presently, we pay 2.1 percent because the Commissioner's fee is lumped into the calculation. This bill would allow us to pay at 2 percent.

There are several bills that include surcharges on insurance premiums as financing mechanisms. These surcharges will be added to the premiums tax base for retaliatory tax calculation purposes. Safeco would be affected in every state that it does business, but the out of state companies like GEICO and State Farm would just have to face it in Washington. This bill will help in-state business.

(Opposed) None.

Persons Testifying: (Insurance, Financial Services & Consumer Protection) Senator Hobbs, prime sponsor; Gary Strannigan, Safeco Insurance; and Bill Stauffacher, Independent Insurance Agents and Brokers.

Persons Testifying: (Finance) Bill Stauffacher, Stauffacher Communications; and Gary Strannigan, Safeco.

Persons Signed In To Testify But Not Testifying: (Insurance, Financial Services & Consumer Protection) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.