

HB 2487 - H AMD TO H AMD (H-3790.2/26) 2532
By Representative Corry

NOT ADOPTED 03/06/2026

1 Beginning on page 1, line 3, strike all material through "act."
2 on page 8, line 10 and insert the following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that in 1935
4 the legislature enacted as RCW 82.04.320 a business and occupation
5 tax exemption that applied to "any person in respect to insurance
6 business upon which a tax based on gross premiums is paid to the
7 state."

8 (2) In 2024, in *Envolve Pharmacy Solutions, Inc. v. Department of*
9 *Revenue*, 4 Wn.3d 142 (2024), the Washington supreme court construed
10 the exemption to apply to an affiliate of an insurer. The court
11 correctly reasoned the affiliate qualified for the business and
12 occupation tax exemption because it was a person performing work in
13 respect to insurance business upon which a premium tax had been paid.
14 While the court's decision was correct on the facts before it, its
15 interpretation of the business and occupation tax exemption leaves
16 open the possibility an affiliate or other entity may claim the
17 exemption merely on the basis of being paid by an insurer with
18 premium funds subject to premium taxes, even if the affiliate or
19 other entity is not engaged in insurance business.

20 (3) Therefore, the legislature intends to clarify the scope of
21 the business and occupation tax exemption such that it applies to
22 insurers and their affiliates in respect to insurance business
23 activities, but does not apply to such entities or others for the
24 purpose of conducting other kinds of business.

25 (4) The legislature further finds that on October 2, 2019, the
26 department of revenue issued public guidance in the form of an
27 interim guidance statement that explained, in part, that a person
28 claiming the exemptions in RCW 82.04.320 must show proof that it paid
29 premium tax to the state with respect to the gross income it claims
30 as exempt from business and occupation tax. The supreme court's
31 decision in *Envolve Pharmacy Solutions, Inc.* forced the department to
32 rescind that guidance.

1 (5) The legislature intends for this act to apply both
2 prospectively and retroactively to tax periods beginning on or after
3 October 2, 2019, the date that the department of revenue issued the
4 interim guidance statement. By applying the act retroactively to
5 October 2, 2019, the legislature intends to treat businesses that did
6 not follow the department's guidance equally to those businesses that
7 followed the guidance.

8 **Sec. 2.** RCW 82.04.320 and 2021 c 281 s 10 are each amended to
9 read as follows:

10 (1) Except as otherwise provided in this section, this chapter
11 does not apply to ~~((any person))~~ an insurer or an affiliate of an
12 insurer in respect to insurance business upon which a tax based on
13 gross premiums is paid to the state by an insurer.

14 ~~((The provisions of this section do not exempt any person~~
15 ~~engaging in the business of representing any insurance company,~~
16 ~~whether as general or local agent, or acting as broker for such~~
17 ~~companies.~~

18 ~~(3) The provisions of this section do not exempt any bonding~~
19 ~~company from tax with respect to gross income derived from the~~
20 ~~completion of any contract as to which it is a surety, or as to any~~
21 ~~liability as successor to the liability of the defaulting contractor.~~

22 ~~(4))~~ The exemption in subsection (1) of this section also
23 applies to gross premiums received by an insurer that are exempt from
24 premium taxes under RCW 48.14.0201(6).

25 (3) The exemption in subsection (1) of this section also applies
26 to an insurer or an affiliate of an insurer for any consideration
27 received by the insurer or affiliate for the granting of an annuity.

28 (4) The exemption in subsection (1) of this section does not
29 apply to an affiliate of an insurer, or any other person, for
30 payments received in connection with activities that are not
31 insurance business activities as defined in this section.

32 (5) For purposes of this section, for periods preceding May 12,
33 2021, eligible captive insurers as defined in RCW 48.201.020 are
34 deemed, in respect to their insurance business, to have paid a tax
35 under RCW 48.14.020 or 48.201.040 on ((gross)) their receipt of
36 premiums ((to the state)).

37 ~~((5))~~ (6) Eligible captive insurers affiliated with a public
38 institution of higher education that are exempt from paying a premium
39 tax under RCW 48.201.040 are exempt from the tax imposed by this

1 chapter in respect to their insurance business. For purposes of this
2 subsection (~~((+5+))~~) (6), the definitions in RCW 48.201.020 apply.

3 (7) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Affiliate" means a person that directly or indirectly,
6 through one or more intermediaries, controls, is controlled by, or is
7 under common control with another person.

8 (b) (i) "Insurance business" means activity performed by an
9 insurer as defined in RCW 48.01.050, which relates to and includes
10 the assumption of insurance risk, either directly or through
11 reinsurance, upon which premiums or other considerations have been
12 earned or received with respect to those risks.

13 (ii) "Insurance business" also means activities regulated under
14 Title 48 RCW. Examples of insurance business include, but are not
15 limited to:

16 (A) Setting rates for, and underwriting insurance policies;

17 (B) Investigating claims;

18 (C) Determining cause;

19 (D) Appraising insured property;

20 (E) Inspecting, evaluating, and testing insured, or prospective
21 insured, property for risk of property loss;

22 (F) Processing, adjudicating, and paying claims for insurance
23 benefits;

24 (G) Making coverage benefit determinations and handling internal
25 grievances or appeals;

26 (H) Customer service and support for policyholders, subscribers,
27 and their dependents; and

28 (I) Pursuing subrogation or reimbursement rights arising from
29 insurance claims.

30 (iii) "Insurance business" does not include general business
31 activities that are not regulated under Title 48 RCW including, but
32 not limited to:

33 (A) Cafeteria operations for employees;

34 (B) Building maintenance and janitorial services;

35 (C) Corporate security services;

36 (D) General information technology support or software
37 development unrelated to regulated activities;

38 (E) Legal and accounting services unrelated to regulated
39 activities;

40 (F) Human resources unrelated to regulated activities;

1 (G) Event planning and hospitality services, including
2 conferences, retreats, and other entertainment events; and

3 (H) Real estate management and leasing unrelated to regulated
4 activities.

5 (c) "Insurer" means a person that lawfully transacts insurance
6 business in this state or qualifies as a "taxpayer" under RCW
7 48.14.0201. "Insurer" includes an insurance broker who pays premium
8 taxes pursuant to chapter 48.14 or 48.15 RCW on behalf of insurance
9 businesses.

10 (d) "Premium" has the same meaning as in RCW 48.18.170.

11 NEW SECTION. Sec. 3. This act does not affect any final
12 judgment, no longer subject to appeal, entered by a court of
13 competent jurisdiction before the effective date of section 2 of this
14 act.

15 NEW SECTION. Sec. 4. Section 2 of this act applies both
16 prospectively and retroactively to October 2, 2019."

EFFECT: (1) Modifies the business and occupation (B&O) insurance premium exemption such that it applies to: (a) An insurer or an affiliate of an insurer in respect to insurance business upon which a tax based on gross premiums is paid to the state by an insurer; (b) gross premiums received by an insurer exempt from premium taxes under state law; and (c) an insurer or an affiliate of an insurer for any consideration received by the insurer or affiliate for the granting of an annuity.

(2) Provides the B&O insurance premium exemption does not apply to an affiliate of an insurer, or any other person, for payments received in connection with activities that are not insurance business activities.

(3) Defines the terms "affiliate," and "insurer," and removes the definition for the term "person."

(4) Defines "insurance business" as activity performed by an insurer which relates to and includes the assumption of insurance risk, either directly or through reinsurance, upon which premiums or other considerations have been earned or received with respect to those risks. Provides that "insurance business" also means activities regulated under the title of state law that governs insurance. Includes a list of activities that qualify as insurance business and a list of activities that do not qualify as insurance business.

(5) Removes the section of the bill that repeals RCW 82.04.322 (Exemptions—Health maintenance organization, health care service contractor, certified health plan), leaving that exemption in place in state law.

(6) Removes the section of the bill that directs the Department of Revenue (DOR) to waive penalties and interest on retroactively owed taxes, subject to certain requirements and exceptions.

(7) Removes the section of the bill that requires DOR to consult with the Office of the Insurance Commissioner to adopt rules and issue tax guidance.

(8) Removes the section of the bill that creates a new exemption from the workforce education investment surcharge for qualifying insurers who report and pay insurance premium taxes to the state and persons exempt from premium taxes under state law.

(9) Modifies the bill's legislative findings and statements of intent by removing statements regarding tax loopholes, the purpose of the insurance premium exemption, the nature of the B&O tax, restoring parity between the exemption statute and its intent, consolidating exemption statutes, intent to not affect tax obligations for income received by an insurer in connection with annuities, and intent that certain enforcement actions by DOR before the bill's effective date remain valid.

(10) Modifies the bill's legislative findings by removing and revising content regarding the Washington Supreme Court's decision in the *Envolve Pharmacy Solutions* case, and by stating the Court's opinion was correctly reasoned but its interpretation of the insurance premium exemption requires further clarification.

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