

HOUSE BILL REPORT

HB 2040

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to liability for taxes on unlawful or delinquent insurers or taxpayers.

Brief Description: Establishing liability for taxes on unlawful or delinquent insurers or taxpayers.

Sponsors: Representatives Santos and Benson; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/4/03, 3/5/03 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Insurance Commissioner to impose penalties on health maintenance organizations and health care services contractors who fail to pay premium taxes on time.
- Allows assessment of penalties for failure to make timely prepayments on premium taxes.
- Authorizes the Insurance Commissioner to charge interest on unpaid premium taxes and prepayments.
- Subjects entities or individuals unlawfully engaged in the insurance business to the same tax and penalty provisions applicable to authorized insurers.
- Limits premium taxes by making them applicable to only that portion of the premium related to risks or exposures in this state, or enrolled participants residing in this state.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Hunter, Roach and Santos.

Staff: Thamas Osborn (786-7129).

Background:

The Insurance Commissioner (Commissioner) is authorized to collect premium taxes, including prepayments, from insurers, health maintenance organizations, and health care services contractors doing business in this state. Prepayments must be made for the current calendar year and are credited towards the total tax obligation owed for that year.

The Commissioner must assess penalties against insurers that fail to make timely payments on their premium taxes. Under current law, neither health maintenance organizations nor health care services contractors are subject to such penalties. In addition, current law does not allow the assessment of penalties for failure to make timely *prepayments*.

Summary of Substitute Bill:

Health maintenance organizations and health care services contractors are made subject to the same penalties as are other insurers for failure to make timely payments on premium taxes.

Covered entities are subject to penalties for failure to make timely *prepayments* on their premium taxes.

The Commissioner must assess interest at the maximum legal rate on unpaid premium taxes and/or prepayments, commencing 61 days after the tax is due. The provision does not apply with respect to taxes owed by surplus lines brokers.

The premium taxes owed by covered entities are apportioned so as to apply to only that portion of a premium related to risks or exposures located in this state, or enrolled participants residing in this state.

Those entities and/or individuals that engage in the unlawful solicitation or transaction of insurance business are subject to the same tax and penalty provisions as those that are lawfully doing business in Washington. Licensed surplus lines brokers are exempted from this provision.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- Adds a statutory citation to the provision allowing the assessment of interest charges for delinquent taxes or prepayments; and

- Makes Section 3 of the bill applicable to individuals or entities who are unlawfully engaged in the insurance business.

Appropriation: None.

Fiscal Note: Requested on March 2, 2003.

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

Testimony For: This bill facilitates the ability of the Insurance Commissioner to collect premium taxes from insurers, insofar as it puts some teeth in the tax law by allowing penalties and interest to be assessed for nonpayment. The bill also subjects unauthorized insurers to the same tax obligations as are authorized insurers. This will help discourage unauthorized companies from doing business in Washington.

Testimony Against: None.

Testified: Representative Santos, prime sponsor; and John Woodall and John Hamje, Office of the Insurance Commissioner.