

HOUSE BILL REPORT

SHB 2880

As Passed Legislature

Title: An act relating to insurance premiums tax.

Brief Description: Clarifying the taxation of insurers.

Sponsors: By House Committee on Finance (originally sponsored by Representative McIntire; by request of Department of Revenue).

Brief History:

Committee Activity:

Finance: 1/18/06, 1/25/06 [DPS].

Floor Activity:

Passed House: 3/6/06, 55-43.

Passed Senate: 3/8/06, 40-7.

Passed Legislature.

Brief Summary of Substitute Bill

- Clarifies that insurers must pay state and local excise taxes on the sale of services and extended warranties on the same terms as other taxpayers.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Ericks, Hasegawa and Santos.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Ahern, Condotta and Shabro.

Staff: Bob Longman (786-7139).

Background:

Persons engaged in the business of making contracts of insurance must pay an insurance premiums tax to the state. The tax is imposed on net premiums received from the insurer, after deduction of premiums that are returned to policyholders. For ocean marine and foreign trade insurers, the tax is imposed on net underwriting profit, which is net premiums less net losses paid. The tax rate is 0.95 percent for ocean marine and foreign trade insurers, and 2 percent for other insurers. Title insurers and fraternal benefit societies are exempt from this tax.

The statute imposing the insurance premiums tax states that the tax is in lieu of all other taxes, except taxes on real and tangible personal property, excise taxes on the sale, purchase or use of such property, and business and occupation tax imposed on nonprofit hospitals. A question has arisen as to whether the phrase "excise taxes on the sale, purchase or use of such property" means insurers are liable for retail sales taxes only on the sale of tangible personal property and not on the sale of services or extended warranties.

When the retail sales tax was first adopted in 1935, it applied only to sales of tangible personal property. However, since the late 1930s the Legislature has expanded the retail sales tax base to include some services. For example, in 1939 installation, cleaning, and similar services related to tangible personal property were the first services subjected to retail sales tax. In 1941, construction services were subjected to retail sales tax. Additional services have been subjected to retail sales taxes in more recent years. In 2005, sales tax was applied to sales of extended warranties. The sale of an extended warranty can be viewed as a sale of an intangible contractual right rather than the actual sales of repair parts and services.

Summary of Substitute Bill:

The Legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on insurers, but not in lieu of property taxes or retail sales taxes. The Legislature further finds that exemption of insurers from retail sales tax on services is unintentional, would be inequitable, and would be inconsistent with other excise tax statutes.

State and local excise taxes on the sale of services and extended warranties are expressly added to the statutory list of taxes that apply to insurers. This provision applies both prospectively and retroactively.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill has an emergency clause and takes effect immediately.

Testimony For: (In support) This bill corrects an oversight in the statutes that dates to 1949. The insurance industry has always paid this tax. There is no public policy basis for the exemption. No other industry benefits from a similar exemption. Without this bill, insurance companies will be entitled to refunds for the current year and previous four years. The bill is made retroactive to maintain the status quo and prevent the loss of revenue to the General Fund.

(Concerns) The insurance industry requests the intent section be changed as in the substitute bill. This change clarifies the bill language without changing the substance. The insurance industry agrees with the stated policy of the bill, but requests time to review the technical language.

Testimony Against: None.

Persons Testifying: (In support) Cindi Holmstrom, Department of Revenue.

(With concerns) Gary Strannigan, SAFECO; and Cliff Webster, American Insurance Association.

Persons Signed In To Testify But Not Testifying: None.