Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Insurance, Financial Services & Consumer Protection Committee

HB 2297

Brief Description: Imposing a regulatory surcharge under the insurance code.

Sponsors: Representatives Roach, McDonald, Ross, Rodne, McCune, Dunn and Clibborn.

Brief Summary of 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.
- Explicitly states 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.

Hearing Date: 2/27/07

Staff: Sarah Beznoska (786-7109).

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 two percent. Additionally, the Insurance Commissioner is authorized to charge a fee of up to 0.125 percent against an insurer's premium volume to finance the Insurance Commissioner's Office 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 insurer's than the State of Washington would otherwise assess on foreign insurers writing insurance in Washington. All states, except Hawaii, use this retaliatory tax system.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The purposes of the retaliatory tax system are: (1) to equalize taxation of insurers in Washington and other states when other states place an overall higher tax burden on Washington insurers than Washington places on foreign insurers; and (2) to encourage more equal treatment of insurers by other states, thereby allowing Washington-domiciled insurers equal access to markets in other states.

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 two 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 Insurance Commissioner is authorized to charge insurers to pay the operating costs of the Office of the Insurance Commissioner is called the "regulatory surcharge." The definition of premium is modified to explicitly exclude the regulatory surcharge.

Insurers may recoup from policyholders the regulatory surcharge paid in previous years. 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.

If an insurer elects not to recover the regulatory surcharge from policyholders in this manner, it may recoup the regulatory surcharge through its rates. In these cases, the insurer must remit the amount not recouped.

The amount of recoupment is not considered part of a policy's premium for any purpose, including collection of premium taxes and calculation of an agent's commission. However, this provision does not apply if an insurer elects not to recoup the regulatory surcharge from the insured at a uniform rate listed separately on bills or policy declarations.

Appropriation: None.

Fiscal Note: Available.

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