

SENATE BILL REPORT

SB 5919

As Reported By Senate Committee On:
Financial Institutions & Insurance, February 27, 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: Senators Hobbs, Benton, Berkey, Schoesler, Hatfield, Roach and Shin.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/20/07, 2/27/07 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5919 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Hatfield, Parlette and Schoesler.

Staff: Vanessa Firnhaber-Baker (786-7471)

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 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.

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

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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 insurance commissioner is authorized to charge insurers to pay the operating costs of the Office of the Insurance Commissioner is called the "regulatory assessment."

Insurers may collect the regulatory assessment they paid in previous years through a policyholder surcharge on policy premiums. This surcharge must be listed separately on bills or policy declarations sent to the insured.

Neither the regulatory assessment, 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 assessment through a policyholder surcharge, it may recoup the assessment through its rates so long as the insurer remits the amount of the surcharge it elected not to collect and the surcharge was not considered a premium for any purpose.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Financial Institutions & Insurance): 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."

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Washington has a higher premium tax than a lot of other states; consequently, Washington-domiciled insurers operate at a competitive disadvantage because of retaliatory taxes. This bill helps to even the playing field by decreasing the number of states that will charge Washington insurers retaliatory taxes. Essentially, this is just a change in nomenclature, it does not affect the general fund nor does it adversely impact the amount of fees that go to the Office of the Insurance Commissioner. Insurance companies already pay 2 percent in tax on their gross premium written, this is higher than the business and occupation tax paid by any other industry.

Persons Testifying: PRO: Sen. Steve Hobbs, 44th District; Gary Strannigan, Safeco Insurance Company.