
Finance Committee

HB 2880

Brief Description: Regarding insurance premiums tax.

Sponsors: Representative McIntire; by request of Department of Revenue.

Brief Summary of 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.

Hearing Date: 1/18/06

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 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 & 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 Bill:

The Legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on the privilege of conducting an insurance business, 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: Requested on 1/16/06.

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