

FINAL BILL REPORT

SSB 5919

C 153 L 07
Synopsis as Enacted

Brief Description: Providing relief from retaliatory taxes on insurance premium taxes.

Sponsors: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Hobbs, Benton, Berkey, Schoesler, Hatfield, Roach and Shin).

Senate Committee on Financial Institutions & Insurance

House Committee on Finance

House Committee on Insurance, Financial Services & Consumer Protection

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 to: (1) 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) 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 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: 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."

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

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

Votes on Final Passage:

Senate	49	0
House	77	20

Effective: July 22, 2007