

JAN 22 2008

A BILL FOR AN ACT

RELATING TO TAXATION OF PREMIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:7-202, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§431:7-202 Taxation.** (a) Each authorized insurer,
4 except with respect to all life insurance contracts, ocean
5 marine insurance contracts, ~~and~~ real property title insurance
6 contracts, and prepaid health care plan contracts defined in
7 chapter 393, shall pay to the director of finance through the
8 commissioner a tax of 4.265 per cent on the gross premiums
9 written from all risks or property resident, situated, or
10 located within this State, during the year ending on the
11 preceding December 31, less return premiums (but not including
12 dividends paid or credited to policyholders), and less any
13 reinsurance accepted (the tax upon such business being payable
14 by the direct writing insurer).

15 All premiums written, procured, or received in the State
16 shall be presumed to have been from risks or property resident,



1 situated, or located within the State. This presumption may be
2 rebutted as to any premium:

3 (1) By showing that it has been properly allocated or
4 apportioned and reported as a taxable premium of
5 another state or other appropriate taxing authority;

6 or

7 (2) By facts as to the residence, situation, or location
8 of the risks or property, conclusively showing the
9 nontaxability of the premium.

10 (b) Each authorized insurer, with respect to life
11 insurance contracts, shall pay to the director of finance
12 through the commissioner a tax of 2.75 per cent on the gross
13 premiums received from all risks resident within ~~[this]~~ the
14 State, during the year ending on the preceding December 31, less
15 return premiums, dividends paid or credited to policyholders,
16 and reinsurance accepted (the tax upon such business being
17 payable by the direct writing insurer).

18 The tax also shall apply to premiums for insurance written
19 on individuals residing outside the State unless the direct
20 writing insurer shall show the payment of a comparable tax to
21 another appropriate taxing authority. ~~[Such]~~ A showing may be



1 required as to any premium written, procured, or received in the
2 State.

3 (c) Each authorized insurer [~~shall~~], with respect to all
4 ocean marine insurance contracts written within the State,
5 during the year ending on the preceding December 31, shall pay
6 to the director of finance through the commissioner a tax of
7 .8775 per cent on its gross underwriting profit. The gross
8 underwriting profit shall be ascertained by deducting from the
9 net premiums (i.e., gross premiums less all return premiums and
10 premiums for reinsurance ceded) on such ocean marine insurance
11 contracts, the net losses paid (i.e., gross losses paid less
12 salvage and recoveries on reinsurance ceded) during such year
13 under such contracts. In the case of an insurer issuing
14 participating contracts, the gross underwriting profit shall not
15 include, for computation of the tax prescribed by this
16 subsection, the amount refunded, or paid as participation
17 dividends, by [~~such~~] the insurer to the holders of [~~such~~] the
18 contracts.

19 (d) Each authorized insurer, with respect to real property
20 title insurance contracts written on real property situated
21 within this State during the year ending on the preceding
22 December 31, shall pay to the director of finance through the



1 commissioner a tax of 4.265 per cent of the amount of the risk
2 premium actually received by the authorized insurer for the
3 provision of [~~such~~] the insurance. The amount of the risk
4 premium received by the authorized insurer for the provision of
5 real property title insurance shall be an amount equal to the
6 amount actually received by the authorized insurer solely for
7 the provision of real property title insurance coverage in
8 accordance with the underwriting agreement or contract between
9 the authorized insurer and the underwritten title company.

10 (e) Each authorized insurer, with respect to prepaid
11 health care plan contracts defined in chapter 393, shall be
12 exempt from payment on the gross premiums received from all
13 risks resident within the State.

14 [~~(e)~~] (f) No return premium shall be deductible unless the
15 original gross premium, or an adjustment thereof, in an amount
16 equal to or in excess of the return premium, has been
17 concurrently or previously reported as taxable under this
18 section or a prior similar law of the State.

19 [~~(f)~~] (g) The taxes imposed by subsections (a), (b), (c),
20 and (d) shall be paid quarterly. The quarterly tax shall be due
21 and payable on or before the last day of the calendar month



1 following the quarter in which it accrues, coinciding with the
2 filing of the statement provided for in section 431:7-201.

3 In addition to the quarterly tax and quarterly tax
4 statement, the annual tax shall be due and payable on or before
5 March 1 coinciding with the filing of the statement provided for
6 in section 431:7-201.

7 All amounts paid under this subsection, other than fines,
8 shall be allowed as a credit on the annual tax imposed by
9 subsections (a), (b), (c), and (d).

10 If the total amount of installment payments for any
11 calendar year exceeds the amount of annual tax for that year,
12 the excess shall be treated as an overpayment of the annual tax
13 and be allowed as a refund under section 431:7-203.

14 Any insurer failing or refusing to pay the required taxes
15 above stated when due and payable shall be liable for a fine of
16 \$500 or ten per cent of the tax due, whichever is greater; plus
17 interest at a rate of twelve per cent per annum on the
18 delinquent taxes. The taxes may be collected by distraint, or
19 the taxes, fine, and interest may be recovered by an action to
20 be instituted by the commissioner in the name of ~~this~~ the
21 State, in any court of competent jurisdiction. The commissioner
22 may suspend the certificate of authority of the delinquent



1 insurer until the taxes, fine, and interest, should any be
2 imposed, are fully paid.

3 ~~(g)~~ (h) In establishing the prepayment amount of an
4 insurer who has acquired the business of another insurer, the
5 amount of tax liability of the acquiring insurer for the
6 preceding calendar year shall be deemed to include the amount of
7 tax liability of the acquired insurer for that year."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2008.

11

INTRODUCED BY: Amid J. Jg (BR)



Report Title:

Taxation of Premiums

Description:

Eliminates the insurance premium tax on health insurers.

