

JAN 23 2006

A BILL FOR AN ACT

RELATING TO TAXATION.

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 plans as defined in chapter
7 393, 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,
17 situated, or located within the State. This presumption may be
18 rebutted as to any premium:



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

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

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

16 The tax also shall apply to premiums for insurance written
17 on individuals residing outside the State unless the direct
18 writing insurer shall show the payment of a comparable tax to
19 another appropriate taxing authority. Such showing may be
20 required as to any premium written, procured, or received in the
21 State.



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

16 (d) Each authorized insurer, with respect to real property
17 title insurance contracts written on real property situated
18 within this State during the year ending on the preceding
19 December 31, shall pay to the director of finance through the
20 commissioner a tax of 4.265 per cent of the amount of the risk
21 premium actually received by the authorized insurer for the
22 provision of such insurance. The amount of the risk premium



1 received by the authorized insurer for the provision of real
2 property title insurance shall be an amount equal to the amount
3 actually received by the authorized insurer solely for the
4 provision of real property title insurance coverage in
5 accordance with the underwriting agreement or contract between
6 the authorized insurer and the underwritten title company.

7 (e) Each authorized insurer, with respect to prepaid
8 health care plans defined in chapter 393, shall be exempt from
9 payment on the gross premiums received from all risks resident
10 within this State.

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

16 [~~(f)~~] (g) The taxes imposed by subsections (a), (b), (c),
17 and (d) shall be paid quarterly. The quarterly tax shall be due
18 and payable on or before the last day of the calendar month
19 following the quarter in which it accrues, coinciding with the
20 filing of the statement provided for in section 431:7-201.

21 In addition to the quarterly tax and quarterly tax
22 statement, the annual tax shall be due and payable on or before



1 March 1 coinciding with the filing of the statement provided for
2 in section 431:7-201.

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

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

10 Any insurer failing or refusing to pay the required taxes
11 above stated when due and payable shall be liable for a fine of
12 \$500 or ten per cent of the tax due, whichever is greater; plus
13 interest at a rate of twelve per cent per annum on the
14 delinquent taxes. The taxes may be collected by distraint, or
15 the taxes, fine, and interest may be recovered by an action to
16 be instituted by the commissioner in the name of this State, in
17 any court of competent jurisdiction. The commissioner may
18 suspend the certificate of authority of the delinquent insurer
19 until the taxes, fine, and interest, should any be imposed, are
20 fully paid.

21 [~~(g)~~] (h) In establishing the prepayment amount of an
22 insurer who has acquired the business of another insurer, the

1 amount of tax liability of the acquiring insurer for the
2 preceding calendar year shall be deemed to include the amount of
3 tax liability of the acquired insurer for that year."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect on July 1, 2006.

7

INTRODUCED BY: Jon Venn
By Request

8



SB 2093

Report Title:

Insurance; Taxation of Premiums

Description:

Eliminates the premium tax on health insurers, except on health care services furnished through the QUEST medical assistance program.

