

JAN 22 2007

---

---

# 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 as 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 State,  
14 during the year ending on the preceding December 31, less return  
15 premiums, dividends paid or credited to policyholders, and  
16 reinsurance accepted (the tax upon [~~such~~] the 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~~] the ocean marine  
11 insurance contracts, the net losses paid (i.e., gross losses  
12 paid less salvage and recoveries on reinsurance ceded) during  
13 [~~such~~] each year under [~~such~~] the contracts. In the case of an  
14 insurer issuing participating contracts, the gross underwriting  
15 profit shall not include, for computation of the tax prescribed  
16 by this subsection, the amount refunded, or paid as  
17 participation dividends, by [~~such~~] the insurer to the holders of  
18 [~~such~~] the 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 as defined in chapter 393, shall be  
12 exempt from payment on the gross premiums received from all  
13 risks resident within this 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 State, in  
21 any court of competent jurisdiction. The commissioner may  
22 suspend the certificate of authority of the delinquent insurer



1 until the taxes, fine, and interest, should any be imposed, are  
2 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, 2007.

11

INTRODUCED BY:

*[Signature]* *David Y. Lee*  
*[Signature]* *Jim*  
*[Signature]* *Carol Johnson*  
*[Signature]* *S. Smith*  
*[Signature]* *For more*

---

*[Signature]* *Deborah H. Park*  
*[Signature]* *J. Kim Gish*  
*[Signature]* *Nancy Sato*  
*[Signature]* *Erzanne Chun Halland*


**Report Title:**

Tax Exemption; Health Insurer; Prepaid Health Plan Premiums

**Description:**

Eliminates the premium tax on health insurers of prepaid health care plan contracts.

