

JAN 19 2007

A BILL FOR AN ACT

RELATING TO INSURANCE PREMIUM 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 for-profit accident and health or sickness
7 insurers doing business under chapter 431:10A, shall pay to the
8 director of finance through the commissioner a tax of 4.265 per
9 cent on the gross premiums written from all risks or property
10 resident, situated, or located within this State, during the
11 year ending on the preceding December 31, less return premiums
12 (but not including dividends paid or credited to policyholders),
13 and less any reinsurance accepted (the tax upon such business
14 being payable 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 business being payable
17 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 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, pay to the
6 director of finance through the commissioner a tax of .8775 per
7 cent on its gross underwriting profit. The gross underwriting
8 profit shall be ascertained by deducting from the net premiums
9 (i.e., gross premiums less all return premiums and premiums for
10 reinsurance ceded) on such ocean marine insurance contracts, the
11 net losses paid (i.e., gross losses paid less salvage and
12 recoveries on reinsurance ceded) during such year under such
13 contracts. In the case of an insurer issuing participating
14 contracts, the gross underwriting profit shall not include, for
15 computation of the tax prescribed by this subsection, the amount
16 refunded, or paid as participation dividends, by such insurer to
17 the holders of such contracts.

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



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

9 (e) Each authorized for-profit insurer, with respect to
10 accident and health insurance or sickness insurance policies
11 issued or delivered pursuant to section 431:10A-101, shall pay
12 to the director of finance through the commissioner a tax of
13 2.00 per cent on the gross premiums written from all risks or
14 property resident, situated, or located within this State,
15 during the year ending on the preceding December 31, less return
16 premiums (but not including dividends paid or credited to
17 policyholders), and less any reinsurance accepted (the tax upon
18 such business being payable by the direct writing insurer).

19 All premiums written, procured, or received in the State
20 shall be presumed to have been from risks or property resident,
21 situated, or located within the State. This presumption may be
22 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 [~~e~~] (f) No return premium shall be deductible unless the
9 original gross premium, or an adjustment thereof, in an amount
10 equal to or in excess of the return premium, has been
11 concurrently or previously reported as taxable under this
12 section or a prior similar law of the State.

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

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



1 All amounts paid under this subsection, other than fines,
2 shall be allowed as a credit on the annual tax imposed by
3 subsections (a), (b), (c), [~~and~~] (d) ~~[-]~~, and (e).

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

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

19 [~~g~~] (h) In establishing the prepayment amount of an
20 insurer who has acquired the business of another insurer, the
21 amount of tax liability of the acquiring insurer for the



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

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

5 SECTION 3. This Act shall take effect on July 1, 2007 and
6 shall apply to taxable years beginning after December 31, 2006.

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Report Title:

Health Insurers; For-Profit; Premium Tax

Description:

Reduces the premium tax on for-profit health insurers.

