

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1837
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Finance
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Committee Report (Substituted)

DIGEST

In Texas, all insurance companies, except nonprofit cooperatives, farm mutual companies, and fraternal organizations, are subject to the premium tax. The premium tax rate varies depending on several factors, including the type of insurance the insurer sells, the insurer's place of domicile, and, in some cases, the level of investment a company has made in Texas-backed securities. Under the varying tax scheme, also called a tiered tax system, all property and casualty insurers are required to pay at a rate of 3.5 percent, and all title insurers at a rate of 2 percent. However, the Insurance Code permits these companies to qualify for a lower tax rate if they maintain certain tax levels in Texas-backed securities. For a property and casualty insurer, ownership of Texas investments with a value between 85 and 90 percent of those investments owned in a comparison state reduces the rate from 3.5 percent to 2.4 percent. If the property and casualty insurer owns Texas investments with a greater value than 90 percent of the value of investments owned in a comparison state, the rate is reduced to 1.6 percent. For a title insurer, ownership of Texas investments with a value greater than 90 percent of those investments owned in a comparison state reduces the rate from 2 percent to 1.3 percent. C.S.H.B. 1837 would establish conditions regarding certain insurance taxes.

PURPOSE

As proposed, C.S.H.B. 1837 establishes conditions regarding certain insurance taxes.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller in SECTION 4 (Article 21.46(d), Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12, Article 1.14-1, Insurance Code, by adding Subsection (f), to define "premium."

SECTION 2. Amends Section 10, Article 4.10, Insurance Code, to provide that there is imposed on each insurance carrier subject to this article an annual tax equal to 1.6 percent, rather than 3.5 percent of its premium receipts. Deletes text regarding the qualification of a lower tax rate for certain insurance carriers.

SECTION 3. Amends Section 4, Article 9.59, Insurance Code, to provide that there is a premium on title insurance annual tax equal to 1.35 percent, rather than 2 percent. Deletes text authorizing a title insurance company to remit on a lower tax rate providing certain conditions.

SECTION 4. Amends Article 21.46, Insurance Code, as follows:

Art. 21.46. RETALIATORY PROVISIONS; PAYMENT OF TAXES, FINES, PENALTIES, ETC.;
CONDITION PRECEDENT TO DOING BUSINESS IN STATE; EXEMPTIONS

Sec. 1. RETALIATORY TAX. Requires the comptroller to impose, whenever by the laws of any other state or territory of the United States any taxes, including maintenance or similar regulatory fees, or certain other financial obligations, prohibitions or restrictions are imposed upon any insurance company that is organized in this state and licensed and is doing business or that may do business in such other state or territory which, in the aggregate are in excess of the aggregate of the collected financial obligations, prohibitions, or restrictions, to also collect certain financial obligations, prohibitions, or restrictions on similar companies of this state that may be doing similar

business. Provides that whenever under the law of any other state or territory the rate of taxation is reduced or a tax credit is granted to any such company making investments in the state or territory, having maintained offices or met certain requirements in that state or territory, then those laws shall be applied in the same manner in this state in the determination of the aggregate obligations. Provides that this subsection expires December 31, 1999. Authorizes the comptroller to adopt rules concerning the administration and collection of taxes. Sets forth certain taxes and surcharges to which the provisions of this section do not apply to ad valorem taxes. Prohibits the provisions of this section from applying to certain assessments both under the laws of this state and the laws of any other state or territory. Requires any tax offset or credit related to such assessments that is offset or credited in computing aggregate taxes for this state and any other state or territory to be treated as a tax paid both under the laws of this state and any other state or territory.

Sec. 2. OTHER RETALIATORY PROVISIONS. Makes a conforming change.

SECTION 5. Repealers: (1) Sections 7, 8, and 9, Article 4.10, Insurance Code (regarding amount of taxes, Texas investments defined, and similar investments defined).

(2) Sections 13 and 14, Article 9.59, Insurance Code (regarding Texas investments defined and similar investments defined).

SECTION 6. Provides that Section 12(f), Article 1.14-1, Insurance Code, and Section 1(a), Article 21.46, Insurance Code, clarify the law as it existed immediately before the effective date of this Act and may not be interpreted to imply that the law as it existed immediately before the effective date of this Act is inconsistent with the law as amended by this Act.

SECTION 7. (a) Makes application of SECTIONS 2, 3, and 5 of this Act prospective to January 1, 2000.

(b) Provides that the change in the law made in Section 1(b), Article 21.46, Insurance Code applies only with the tax year that begins on January 1, 2000.

SECTION 8. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 4.

Amends Section 1, Article 21.46, Insurance Code, to establish provisions regarding a retaliatory tax. Deletes proposed text regarding a retaliatory tax.

SECTION 6.

Provides that Section 12(f), Article 1.14-1, Insurance Code, and Section 1(a), Article 21.46, Insurance Code, clarify the law as it existed immediately before the effective date of this Act and may not be interpreted to imply that the law as it existed immediately before the effective date of this Act is inconsistent with the law as amended by this Act.

SECTION 7.

Provides that the change in law made in Section 1(b), Article 21.46, Insurance Code applies only with the tax year that begins on January 1, 2000.

SECTION 8.

Effective date: upon passage.