

SENATE BILL NO. 234

INTRODUCED BY F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING PREMIUM TAX RATES AND FILING FEES FOR CASUALTY INSURERS OFFERING POLICIES OF LEGAL PROFESSIONAL LIABILITY INSURANCE; AMENDING SECTIONS 33-2-705, 33-2-708, AND 33-27-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, the application of Montana's premium tax rate of 2.75% and licensing fee of \$1,900, together with the application of other states' retaliatory tax, fees, and licensing laws, unnecessarily impedes the growth and financial stability of Montana-domiciled legal professional liability insurers by requiring these Montana-domiciled insurers to pay higher taxes and fees to another state under the laws of the other state; and

WHEREAS, the imposition by other states of higher taxes and fees on Montana-domiciled legal professional liability insurers than are applied to those states' own domestic insurance companies that do business in their state unfairly discriminates against and hinders the growth and stability of these Montana-domiciled legal professional liability insurers and is contrary to the best interests of Montana; and

WHEREAS, the purpose of this act is to aid in the protection, growth, and stability of Montana-domiciled legal professional liability insurers that have a principal business office located in Montana and employ Montana residents but that derive substantial net direct premiums on account of policies covering subjects or risks located, resident, or to be performed in states or jurisdictions outside of Montana; and

WHEREAS, the state of Montana will benefit by supporting the growth and stability of Montana-domiciled legal professional liability insurance companies that have a principal business office located in Montana, employ Montana residents, and issue legal professional liability insurance in Montana and other states and jurisdictions.

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

Section 1. Section 33-2-705, MCA, is amended to read:

"33-2-705. Report on premiums and other consideration -- tax. (1) Each authorized insurer and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner

1 showing total direct premium income, including policy, membership, and other fees, premiums paid by application
2 of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new
3 or additional or extended or renewed insurance, charges for payment of premium in installments, and all other
4 consideration for insurance from all kinds and classes of insurance, whether designated as a premium or
5 otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar
6 year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana,
7 with proper proportionate allocation of premium as to property, subjects, or risks in Montana insured under
8 policies or contracts covering property, subjects, or risks located or resident in more than one state, after
9 deducting from the total direct premium income applicable cancellations, returned premiums, the unabsorbed
10 portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life
11 policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings,
12 savings coupons, and other similar returns paid or credited to policyholders with respect to the policies. As to title
13 insurance, "premium" includes the total charge for the insurance. A deduction may not be made of the cash
14 surrender values of policies. Considerations received on annuity contracts may not be included in total direct
15 premium income and are not subject to tax.

16 (2) (a) Except as provided in subsection (2)(b), Coincident coincident with the filing of the tax report
17 referred to in subsection (1); and subject to 33-2-709, each insurer shall pay to the commissioner a tax ~~upon~~ on
18 the net premiums computed at the rate of ~~2-3/4%~~ 2.75%.

19 (b) All casualty insurers issuing policies of legal professional liability insurance pursuant to 33-1-206 shall
20 pay to the commissioner a tax on the net premiums derived from legal professional liability insurance computed
21 at a rate of 0.75%.

22 (3) That portion of the tax paid under this section by an insurer on account of premiums received for fire
23 insurance must be separately specified in the report required by the commissioner for apportionment as provided
24 by law. When insurance against fire is included with insurance of property against other perils at an undivided
25 premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the
26 coverage as must be stated in the report and as may be approved or accepted by the commissioner.

27 (4) With respect to authorized insurers, the premium tax provided by this section must be payment in
28 full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes,
29 licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes
30 on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer that fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose ~~upon~~ on an insurer who fails to pay the tax required under this section a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which tax liability is accrued."

Section 2. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2) and subsection (5) of this section, the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;

(ix) navigator certification:

(A) application for original certification, including issuance of certificate if issued, \$100;

(B) biennial renewal of certification, \$50;

(C) lapsed certification reinstatement fee, \$100;

(x) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) (a) Except as provided in subsection (3)(b), the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.

(c) All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts

1 in excess of \$10 will be refunded.

2 (5) The commissioner shall collect a licensing fee of \$500 for casualty insurance companies issuing
3 policies of legal professional liability insurance pursuant to 33-1-206."

4
5 **Section 3.** Section 33-27-118, MCA, is amended to read:

6 **"33-27-118. Taxation of independent liability fund contributions.** The net value of independent
7 liability fund contributions for any given fiscal year is taxed in accordance with 33-2-705(2)(a)."

8
9 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

10
11 NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the
12 meaning of 1-2-109, to tax years beginning after December 31, 2014.

13 - END -