



Reprinted
February 2, 2000

HOUSE BILL No. 1150

DIGEST OF HB 1150 (Updated February 1, 2000 4:16 PM - DI 97)

Citations Affected: IC 27-1.

Synopsis: Insurance premiums tax rate reduction. Reduces the insurance premium tax rate from 2% to 1.3% over a five year phase-in period. Provides that certain insurance companies domiciled in Indiana must maintain in Indiana: (1) a physical presence that provides an economic benefit to Indiana; and (2) company records.

Effective: July 1, 2000; January 1, 2001.

**Fry, Smith M, Herrell, Kruse,
Young M, Buck**

January 10, 2000, read first time and referred to Committee on Ways and Means.
January 26, 2000, reported — Do Pass.
February 1, 2000, read second time, amended, ordered engrossed.

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HB 1150—LS 6676/DI 73+



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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1150

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-6-21 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]: **Sec. 21. (a) A company that is approved by the**
4 **department after June 30, 2000, to be domiciled in Indiana, must**
5 **have and maintain in Indiana the following:**

6 (1) **A physical presence that provides economic benefit to the**
7 **state.**

8 (2) **Complete records of the company's assets, transactions,**
9 **and affairs in accordance with methods and systems that are**
10 **customary or suitable to the kind or kinds of insurance**
11 **transacted by the company, including all records required**
12 **under IC 27-1-7-16. Records may be maintained in a form**
13 **that is physically or electronically available to the department**
14 **within Indiana.**

15 (b) **The commissioner shall determine whether the requirements**
16 **of subsection (a) are met. In making a determination under**
17 **subsection (a)(1), the commissioner shall compare and consider the**

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1 following:

2 (1) The economic benefit to Indiana and Indiana communities
3 offered by the domestication of the company.

4 (2) The costs that may be incurred by the state in regulating
5 the company as a domestic company versus a foreign
6 company.

7 (c) If a domestic company subject to this section fails to comply
8 with the provisions of subsection (a), the commissioner may:

9 (1) require the company to transfer its domicile under
10 IC 27-1-6.5-2; or

11 (2) annually impose an additional administrative fee on the
12 company in an amount equal to the difference between the
13 cost of regulating the company as a domestic company and
14 the cost of regulating the company as a foreign company. The
15 fee shall be deposited in the department of insurance fund
16 established by IC 27-1-3-28.

17 (d) In the case of a company that is part of an insurance holding
18 company system (as defined in IC 27-1-23-1) whose presence
19 provides an economic benefit to the state, the commissioner shall
20 consider the insurance holding company system and any domestic
21 company in the aggregate when making the determination
22 required under subsection (b).

23 SECTION 2. IC 27-1-18-2, AS AMENDED BY P.L.268-1999,
24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JANUARY 1, 2001]: Sec. 2. (a) Every insurance company not
26 organized under the laws of this state, and each domestic company
27 electing to be taxed under this section, and doing business within this
28 state shall, on or before March 1 of each year, report to the department,
29 under the oath of the president and secretary, the gross amount of all
30 premiums received by it on policies of insurance covering risks within
31 this state, or in the case of marine or transportation risks, on policies
32 made, written, or renewed within this state during the twelve (12)
33 month period ending on December 31 of the preceding calendar year.
34 From the amount of gross premiums described in this subsection shall
35 be deducted:

36 (1) considerations received for reinsurance of risks within this
37 state from companies authorized to transact an insurance business
38 in this state;

39 (2) the amount of dividends paid or credited to resident insureds,
40 or used to reduce current premiums of resident insureds;

41 (3) the amount of premiums actually returned to residents on
42 account of applications not accepted or on account of policies not

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1 delivered; and

2 (4) the amount of unearned premiums returned on account of the
3 cancellation of policies covering risks within the state.

4 (b) A domestic company shall be taxed under this section only in
5 each calendar year with respect to which it files a notice of election.
6 The notice of election shall be filed with the insurance commissioner
7 and the commissioner of the department of state revenue on or before
8 November 30 in each year and shall state that the domestic company
9 elects to submit to the tax imposed by this section with respect to the
10 calendar year commencing January 1 next following the filing of the
11 notice. The exemption from license fees, privilege, or other taxes
12 accorded by this section to insurance companies not organized under
13 the laws of this state and doing business within this state which are
14 taxed under this chapter shall be applicable to each domestic company
15 in each calendar year with respect to which it is taxed under this
16 section. In each calendar year with respect to which a domestic
17 company has not elected to be taxed under this section it shall be taxed
18 without regard to this section.

19 ~~(c)(1)~~ (c) For the privilege of doing business in this state, every
20 insurance company required to file the report provided in this section
21 shall pay into the treasury of this state an amount equal to ~~two percent~~
22 ~~(2%)~~ of the excess, if any, of the gross premiums over the allowable
23 deductions **multiplied by the following rate for the year that the**
24 **report covers:**

25 (1) For 2000, two percent (2%).

26 (2) For 2001, one and nine-tenths percent (1.9%).

27 (3) For 2002, one and eight-tenths percent (1.8%).

28 (4) For 2003, one and seven-tenths percent (1.7%).

29 (5) For 2004, one and five-tenths percent (1.5%).

30 (6) For 2005 and thereafter, one and three-tenths percent
31 (1.3%).

32 ~~(c)(2)~~ (d) Payments of the tax imposed by this section shall be made
33 on a quarterly estimated basis. The amounts of the quarterly
34 installments shall be computed on the basis of the total estimated tax
35 liability for the current calendar year and the installments shall be due
36 and payable on or before April 15, June 15, September 15, and
37 December 15, of the current calendar year.

38 ~~(c)(3)~~ (e) Any balance due shall be paid in the next succeeding
39 calendar year at the time designated for the filing of the annual report
40 with the department.

41 ~~(c)(4)~~ (f) Any overpayment of the estimated tax during the
42 preceding calendar year shall be allowed as a credit against the liability



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1 for the first installment of the current calendar year.

2 ~~(e)~~(5) (g) In the event a company subject to taxation under this
3 section fails to make any quarterly payment in an amount equal to at
4 least:

5 (i) (1) twenty-five percent (25%) of the total tax paid during the
6 preceding calendar year; or

7 (ii) (2) twenty per cent (20%) of the actual tax for the current
8 calendar year;

9 the company shall be liable, in addition to the amount due, for interest
10 in the amount of one percent (1%) of the amount due and unpaid for
11 each month or part of a month that the amount due, together with
12 interest, remains unpaid. This interest penalty shall be exclusive of and
13 in addition to any other fee, assessment, or charge made by the
14 department.

15 ~~(d)~~ (h) The taxes under this article shall be in lieu of all license fees
16 or privilege or other tax levied or assessed by this state or by any
17 municipality, county, or other political subdivision of this state. No
18 municipality, county, or other political subdivision of this state shall
19 impose any license fee or privilege or other tax upon any insurance
20 company or any of its agents for the privilege of doing an insurance
21 business therein, except the tax authorized by IC 22-12-6-5. However,
22 the taxes authorized under IC 22-12-6-5 shall be credited against the
23 taxes provided under this chapter. This section shall not be construed
24 to prohibit the levy and collection of state, county, or municipal taxes
25 upon real and tangible personal property of such company, or to
26 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by
27 law. However, all insurance companies, foreign or domestic, paying
28 taxes in this state predicated in part on their premium income from
29 policies sold and premiums received in Indiana, shall have the same
30 rights and privileges from further taxation and shall be given the same
31 credits wherever applicable, as those set out for those companies
32 paying only a tax on premiums as set out in this section.

33 ~~(e)~~ (i) Any insurance company failing or refusing, for more than
34 thirty (30) days, to render an accurate account of its premium receipts
35 as provided in this section and pay the tax due thereon shall be subject
36 to a penalty of one hundred dollars (\$100) for each additional day such
37 report and payment shall be delayed, not to exceed a maximum penalty
38 of ten thousand dollars (\$10,000). The penalty may be ordered by the
39 commissioner after a hearing under IC 4-21.5-3. The commissioner
40 may revoke all authority of such defaulting company to do business
41 within this state, or suspend such authority during the period of such
42 default, in the discretion of the commissioner.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1150, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1150 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-6-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 21. (a) A company that is approved by the department after June 30, 2000, to be domiciled in Indiana, must have and maintain in Indiana the following:**

(1) A physical presence that provides economic benefit to the state.

(2) Complete records of the company's assets, transactions, and affairs in accordance with methods and systems that are customary or suitable to the kind or kinds of insurance transacted by the company, including all records required under IC 27-1-7-16. Records may be maintained in a form that is physically or electronically available to the department within Indiana.

(b) The commissioner shall determine whether the requirements of subsection (a) are met. In making a determination under subsection (a)(1), the commissioner shall compare and consider the following:

(1) The economic benefit to Indiana and Indiana communities offered by the domestication of the company.

(2) The costs that may be incurred by the state in regulating the company as a domestic company versus a foreign company.

(c) If a domestic company subject to this section fails to comply with the provisions of subsection (a), the commissioner may:

(1) require the company to transfer its domicile under IC 27-1-6.5-2; or

(2) annually impose an additional administrative fee on the company in an amount equal to the difference between the cost of regulating the company as a domestic company and the cost of regulating the company as a foreign company. The fee shall be deposited in the department of insurance fund established by IC 27-1-3-28.

(d) In the case of a company that is part of an insurance holding company system (as defined in IC 27-1-23-1) whose presence provides an economic benefit to the state, the commissioner shall consider the insurance holding company system and any domestic



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company in the aggregate when making the determination required under subsection (b)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1150 as printed January 27, 2000.)

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