

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 ENROLLED ACT No. 1150

AN ACT to amend the Indiana Code concerning taxation.

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

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

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

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

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

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

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

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

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election.

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The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

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

- (1) For 2000, two percent (2%).**
- (2) For 2001, one and nine-tenths percent (1.9%).**
- (3) For 2002, one and eight-tenths percent (1.8%).**
- (4) For 2003, one and seven-tenths percent (1.7%).**
- (5) For 2004, one and five-tenths percent (1.5%).**
- (6) For 2005 and thereafter, one and three-tenths percent (1.3%).**

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

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

~~(c)(4)~~ **(f)** Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

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

- (1) twenty-five percent (25%) of the total tax paid during the**

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preceding calendar year; or

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

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

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

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

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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