**A** **BILL**

TO AMEND SECTION 38‑7‑160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MUNICIPAL LICENSE FEES AND TAXES ON INSURANCE, SO AS TO ALLOW A MUNICIPALITY TO TAX INSURANCE PREMIUMS, TO ESTABLISH REQUIREMENTS CONCERNING THE TAX, TO DEFINE DISCLOSURE REQUIREMENTS, TO ESTABLISH A REFUND PROCEDURE IF A TAXED INSURANCE POLICY IS CANCELED, AND TO GRANT AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO PROMULGATE REGULATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑7‑160 of the 1976 Code is amended to read:

“Section 38‑7‑160. ~~This title may not be construed as preventing any municipality from levying and collecting license fees or taxes in accordance with its ordinances. However, for surplus lines insurance no municipality may charge an additional license fee or tax based upon a percentage of premiums. A municipality may not charge a license fee to fire insurers or their agents licensed by the director or his designee in any other manner than on a percentage of the premiums collected in the municipality or realized from risks located within the limits of the municipality, or both, the license fee not to exceed two percent of the premiums collected in the municipality and realized from risks located in the municipality, except in cities of fifty thousand inhabitants or more, where not exceeding five percent may be charged. Preference must be given hereunder to the municipality wherein the insured property is located, and, if a license is levied against the insuring company on such basis, that company may not be subject to a similar license from a municipality wherein it may collect the premium for such transaction.~~

(A) The legislative body of each municipality, in accordance with its ordinances, may elect to impose and collect municipal premium taxes upon insurance companies. A municipality may charge a tax to insurers or their agents licensed by the director or his designee on a percentage of the written premiums realized from risks located within the limits of the municipality. The tax may not exceed two percent of the premiums realized from risks located in the municipality, except in cities of fifty thousand inhabitants or more, where the tax may not exceed five percent. An insurance company must use a risk location system or program verified by the director or his designee, pursuant to subsection (E), to determine the risks located within the limits of a municipality.

(B) Each municipality that elects to impose and collect a tax upon insurance company premiums may enact or change its tax rate to be effective January first of each year on a prospective basis only and shall file, at least one hundred days prior to the effective date, a copy of all ordinances and amendments which impose a municipal premium tax with the director or his designee. The director or his designee promptly shall notify each insurance company engaged in the business of insurance in this State of those municipalities which have elected to impose a tax and the current rate of tax no less than eighty‑five days prior to the effective date.

(C) If the municipality premium tax is included in the premium charge to the policyholder, the insurance company shall disclose the amount of the tax charged for the policy period and the name of the taxing jurisdiction. For newly issued policies, the disclosure must be included on the policy, the declaration, or the initial billing statement. For renewed policies, the disclosure must be included on the renewal certificate or the billing statement for each policy period that the premium is due.

(D) If premiums are returned to policyholders due to a policy cancellation, the tax must be returned by the insurance company to the policyholder, pro rata, on the unexpired amount of the premium. The tax must be returned at the same tax rate at which it was collected and must be taken as a credit by the insurance company on its annual report to the municipality.

(E) Before January 1, 2016, the director or his designee shall promulgate regulations establishing criteria for the verification of risk location systems and programs. The criteria for verification shall include, but not be limited to, a requirement that the municipal boundary information of a risk location system or program uses the municipal incorporation data available based upon municipal and other filings with the Secretary of State, Department of Transportation, or Department of Public Safety.

(1) A vendor or insurance company of a risk location system or program shall submit an application and application fee of two thousand five hundred dollars to the Department of Insurance. Upon application and payment of the application fee, the director or his designee shall test the risk location system or program to determine whether the program must be verified as meeting the criteria promulgated in the regulation required by this subsection. The director or his designee shall maintain a list of verified risk location systems or programs and shall make the list available to insurance companies and the public. The verification of a risk location system or program must remain valid for a period of three years unless revoked by the director or his designee.

(2) An insurance company must be considered to have performed its due diligence in the location of risks if the insurance company employs a verified risk location system or program in its collection of a tax imposed pursuant to subsection (A) and:

(a) expends reasonable resources to accurately and reliably implement such methods to collect and to remit the proper tax to the municipality that has imposed a tax;

(b) maintains adequate internal controls to include the location of the risk insured in its database of policyholders, in the proper address format, so that matching with the database is accurate; and

(c) corrects any errors in the assignment of addresses to the municipal taxing jurisdiction within the next renewal period after the insurance company discovers the errors, and, if applicable, reports the errors to the provider of the risk location system or program.

(3) Upon the presentation of proof that an insurance company has complied with the provisions of subsection (E)(2), the insurance company:

(a) must not be subject to penalties for failure to comply with this section that may otherwise be imposed for failure of a risk location system to properly locate risks; and

(b) must be held harmless from any liability including, but not limited to, liability for penalties, except for the tax that is due and interest on the tax that an insurance company has failed to timely remit, that would otherwise be due solely as a result of a failure to properly collect and remit the tax levied pursuant to this section because of failure of a risk location system or program to properly locate risks.

(F) Accounting and reporting procedures for the collection and reporting of municipal premium taxes pursuant to subsection (A) must be determined by regulations promulgated by the director or his designee. No entity, other than the Department of Insurance, may serve as the municipal premium tax collector. The director or his designee may establish a reasonable percentage of collected taxes from insurance companies to be retained by the Department of Insurance for administration of accounting and reporting procedures.

(G) The taxes provided for in this section are based on written premiums in this State during each calendar year ending on the thirty‑first day of December. An insurance company annually must file and report taxes in a manner established by regulation pursuant to subsection (F) before April first.”

SECTION 2. This act takes effect upon approval by the Governor.

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