

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 513

2023 Regular Session

Magee

TAX CREDITS: Establishes an insurance premium tax credit for retaliatory taxes paid by certain domestic insurers

Synopsis of Senate Amendments

1. Changes the tax credit from a carry forward tax credit to a refundable tax credit.
2. Limits the maximum amount of credits that may be claimed by domestic insurers in any fiscal year to \$9M; however, if credits claimed exceed \$9M in any fiscal year, the commissioner shall make refunds on a pro rata basis to eligible domestic insurers based on the proportion of the total amount of retaliatory tax paid by each insurer for the relevant time period.
3. Authorizes amounts of the credit unused because the total amount of refundable credits exceeds \$9M in a fiscal year to be carried forward for a period not to exceed 10 years.
4. Authorizes a domestic insurer to transfer unclaimed credits to a domestic admitted insurer within the same insurance holding company.
5. Establishes procedures and limitations for transferring tax credits, disallowing tax credits, and for the recapture of tax credits under certain circumstances.
6. Requires domestic insurers receiving credits to certify to the commissioner of insurance that tax credit monies will be utilized exclusively for Louisiana-specific purposes.
7. Adds applicability provision for proposed law to apply to retaliatory taxes based on insurance premiums written in other states on or after Jan. 1, 2024.
8. Changes the effective date of proposed law from signature of the governor to effectiveness is conditioned on adoption and concurrence of Senate Concurrent Resolution No. 3 of the 2023 R.S.

Digest of Bill as Finally Passed by Senate

Present law with regard to retaliatory fees, provides that when any other state imposes additional fees, taxes, or penalties on La. insurers doing business in the other state, La. shall impose the same additional fees, taxes, and penalties on the other states' insurers doing business in La. Present law requires insurers organized under other state's laws that are admitted to transact business in La. to pay the same fees to the commissioner of insurance as any other state may require of any similar insurer incorporated by or organized under the laws of La.

Proposed law retains present law.

Proposed law establishes a refundable insurance premium tax credit for any La. domestic insurer (domestic insurer) that is authorized to write and does write insurance in this state and writes insurance in at least one other state as of July 1, 2023. The amount of the credit is the amount of any retaliatory tax paid to any other state for the period in which the retaliatory tax was paid. The credit shall be applied against the domestic insurer's state premium tax liability and any credit amount in excess of its premium tax liability shall be refunded to the domestic insurer.

Proposed law requires the commissioner of insurance (commissioner) to administer the refundable tax credit for the payment of retaliatory taxes paid by domestic insurers.

Proposed law limits the maximum amount of credits that may be claimed by domestic insurers in any fiscal year to \$9M. However, if credits claimed exceed \$9M in any fiscal year, the commissioner shall make refunds on a pro rata basis to eligible domestic insurers based on the proportion of the total amount of retaliatory tax paid by each insurer for the relevant time period.

Proposed law authorizes unused amounts of the credit that are unused because the total amount of refundable credits for retaliatory tax paid claimed by all domestic insurers exceeds \$9M in a fiscal year to be carried forward for a period not to exceed 10 years. Authorizes a domestic insurer to transfer unclaimed amounts of the credit to a domestic insurer within the same insurance holding company.

Proposed law establishes the procedure and limitations for transferring tax credits, including notice requirements to the Dept. of Insurance and authorization for the commissioner to disallow tax credits if the transferor did not have rights to claim or use the refundable credit at the time of transferor to recapture credits from transferees.

Proposed law requires domestic insurers who have paid retaliatory tax in the preceding year to provide evidence of such payment by the date and in a form prescribed by the commissioner. Further requires the commissioner to refund the retaliatory tax paid within 60 days of the filing of the evidence of the payment of retaliatory taxes by the domestic insurer.

Proposed law requires a domestic insurer which receives a credit pursuant to proposed law to certify to the commissioner that it will utilize tax credit monies exclusively for Louisiana-specific purposes that are lawful expenditures for domestic insurer.

Proposed law authorizes the commissioner to promulgate rules in accordance with present law (Administrative Procedure Act) as are necessary to implement the provisions of proposed law, subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

Proposed law prohibits a credit established in proposed law from being allowed for retaliatory taxes incurred or paid after Dec. 31, 2029.

Proposed law shall be applicable to retaliatory taxes based on insurance premiums written in other states on or after Jan. 1, 2024.

Proposed law conditions the effectiveness of proposed law on the adoption and concurrence by a favorable vote of at least two-thirds of the elected members of each house of Senate Concurrent Resolution No. 3 of the 2023 R.S.

(Amends R.S. 22:836)