

No. 2011-29

AN ACT

SB 1097

Amending the act of July 6, 1917 (P.L.723, No.262), entitled "An act imposing a tax on premiums of insurance and reinsurance in foreign insurance companies and associations not registered in this Commonwealth; providing the method of collection of such tax, and imposing penalties," further providing for tax on contracts with unauthorized companies and deductions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act of July 6, 1917 (P.L.723, No.262), entitled "An act imposing a tax on premiums of insurance and reinsurance in foreign insurance companies and associations not registered in this Commonwealth; providing the method of collection of such tax, and imposing penalties" is amended to read:

Section 1. *(a) (1)* Be it enacted, &c., That whenever any person, corporation, copartnership, or association enters into any contract of insurance or reinsurance of any kind with any insurance company or association of another [State] *state* or of a foreign country, not registered or entitled to do business in this Commonwealth, such person, corporation, copartnership, or association shall, at the time of making such contracts and at the time of making any periodical payment, deduct from all premiums on such insurance or reinsurance a per centum thereof equal to the per centum tax imposed on the premiums of insurance companies and associations of other [States] *states* and of foreign countries that are registered and entitled to do business in this Commonwealth, and shall forthwith pay such amount into the State Treasury.

(2) For policies placed after the effective date of this provision, the premium taxes provided for in this section shall be levied upon that portion of the premium computed in accordance with section 1621(a) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(b) (1) Any person, corporation, copartnership, or association failing to make such deduction and payment into the State Treasury shall be liable for the amount of such tax, with interest at the rate of twelve per centum per annum, to be collected in the same manner as other taxes of the Commonwealth are collected.

(2) Within thirty days after the last day of the month in which the insurance was procured, continued or renewed, a report of the transaction shall be filed on forms prescribed by the Department of Revenue. The report shall set forth the information required of surplus lines licensees as required in any report described in section 1621 of The Insurance Company Law of 1921. The tax shall be paid on the date the report is due as provided in this section. The insured shall file a copy of the report with the Insurance Department upon its request.

(c) A penalty shall be imposed for failure to file the report required by this section on or before the due date in accordance with the rules of section 403(d) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(d) (1) The provisions of this section, insofar as they relate to the collection, reporting and remittance of tax for policies placed after June 30, 2011, shall apply when this Commonwealth is the home state of the insured.

(2) The provisions of this section, insofar as they relate to the imposition of tax and penalties for policies placed after June 30, 2011, shall apply when this Commonwealth is the home state of the insured.

(3) As used in this subsection, the term "home state" shall mean:

(i) Except as provided in subparagraph (ii), with respect to an insured:

(A) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(B) if one hundred per centum of the insured risk is located out of the state referred to in clause (A), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(ii) If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term means the home state, as determined under subparagraph (i), of the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract.

Section 2. This act shall take effect immediately.

APPROVED—The 30th day of June, A.D. 2011

TOM CORBETT