GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

HOUSE BILL NO. 432

MONDAY, MARCH 10, 2014

The following bill was reported to the Senate from the House and ordered to be printed.

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DATE April 10, 2014
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to insurance premiums.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 91A.080 is amended to read as follows:

4 (1) The legislative body of each local government which elects to impose and collect
5 license fees or taxes upon insurance companies for the privilege of engaging in the
6 business of insurance may, except as provided in subsection (10) of this section,
7 enact or change its license fee or rate of tax to be effective July 1 of each year on a
8 prospective basis only and shall file with the commissioner of insurance at least one
9 hundred (100) days prior to the effective date, a copy of all ordinances and
10 amendments which impose a license fee or tax. No less than eighty-five (85) days
11 prior to the effective date, the commissioner of insurance shall promptly notify each
12 insurance company engaged in the business of insurance in the Commonwealth of
13 those local governments which have elected to impose the license fees or taxes and
14 the current amount of the license fee or rate of tax.

15 (2) Any license fee or tax imposed by a local government upon an insurance company
16 with respect to life insurance policies may be based upon the first year's premiums,
17 and, if so based, shall be applied to the amount of the premiums actually collected
18 within each calendar quarter upon the lives of persons residing within the corporate
19 limits of the local government.

20 (3) Any license fee or tax imposed by a local government upon any insurance company
21 with respect to any policy which is not a life insurance policy shall be based upon
22 the premiums actually collected by the insurance company within each calendar
23 quarter on risks located within the corporate limits of the local government on those
24 classes of business which the insurance company is authorized to transact, less all
25 premiums returned to policyholders. In determining the amount of license fee or tax
26 to be collected and to be paid to the local government, the insurance company shall
27 use the tax rate effective on the first day of the policy term. When an insurance

1 company collects a premium as a result of a change in the policy during the policy
2 term, the tax rate used shall be the rate in effect on the effective date of the policy
3 change. With respect to premiums returned to policyholders, the license fee or tax
4 shall be returned by the insurance company to the policyholder pro rata on the
5 unexpired amount of the premium at the same rate at which it was collected and
6 shall be taken as a credit by the insurance company on its next quarterly report to
7 the local government.
8 (4) The Department of Insurance shall, by administrative regulation, provide for a
9 reasonable collection fee to be retained by the insurance company or its agent as
10 compensation for collecting the tax, except that the collection fee shall not be more
11 than fifteen percent (15%) of the fee or tax collected and remitted to the local
12 government or two percent (2%) of the premiums subject to the tax, whichever is
13 less. To facilitate computation, collection, and remittance of the fee or tax and
14 collection fee provided in this section, the fees or taxes set out in subsection (1), (2),
15 or (3) of this section, together with the collection fee in this section, may be rounded
16 off to the nearest dollar amount.
17 (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky
18 domiciliary insurer because of the requirements of this section, the commissioner of
19 insurance shall impose an equal tax upon the premiums written in this state by
20 insurers domiciled in the other state.
21 (6) Accounting and reporting procedures for collection and reporting of the fees or
22 taxes and the collection fee herein provided shall be determined by administrative
23 regulations promulgated by the Department of Insurance.
24 (7) (a) Upon written request of the legislative body of any local government, at the
25 expense of the requesting local government, which shall be paid in advance by
26 the local government to the Department of Insurance, the Department of
27 Insurance shall audit, or cause to be audited by contract with qualified

1 auditors, the books or records of the insurance companies or agents subject to
2 the fee or tax to determine whether the fee or tax is being properly collected
3 and remitted, and the findings of the audit shall be reported to the local
4 government and the insurance company subject to the audit. An insurance
5 company may appeal the findings of the audit conducted under this subsection
6 and any assessment issued pursuant to the audit findings in accordance with
7 the provisions of KRS 91A.0804(5).
8 (b) Willful failure to properly collect and remit the fee or tax imposed by a local
9 government pursuant to the authority granted by this section shall constitute
10 grounds for the revocation of the license issued to an insurance company or
11 agent under the provisions of KRS Chapter 304.
12 (c) If the Department of Insurance finds that an insurance company has willfully
13 engaged in a pattern of business conduct that fails to properly collect and
14 remit the fee or tax imposed by a local government pursuant to the authority
15 granted by this section, the Department of Insurance may assess the
16 responsible insurance company an appropriate penalty fee no greater than ten
17 percent (10%) of the additional license fees or taxes determined to be owed to
18 the local government. The penalty fee shall be paid to the local government
19 owed the license fee or tax less any administrative costs of the Department of
20 Insurance in enforcing this section. Any insurance company or agent held
21 responsible for a penalty fee may request a hearing with the Department of
22 Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370 regarding
23 the finding of a willful violation and the subsequent penalty fee.
24 (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall
25 be due thirty (30) days after the end of each calendar quarter. Annually, by March
26 31, each insurance company shall furnish each local government to which the tax or
27 fee is remitted with a breakdown of all collections in the preceding calendar year for

1 the following categories of insurance:
2 (a) Casualty;
3 (b) Automobile;
4 (c) Inland marine;
5 (d) Fire and allied perils;
6 (e) Health; and
7 (f) Life.
8 (9) Any license fee or tax not paid on or before the due date shall bear interest at the tax
9 interest rate as defined in KRS 131.010(6) from the date due until paid. Such
10 interest payable to the local government is separate of penalties provided for in
11 subsection (7) of this section. In addition, the local government may assess a ten
12 percent (10%) penalty for a tax or fee not paid within thirty (30) days after the due
13 date.
14 (10) No license fee or tax imposed under this section shall apply to premiums~~[received~~
15 ~~on]~~:
16 (a) ***Received on*** policies of group health insurance provided for state employees
17 under KRS 18A.225;
18 (b) ***Received on*** policies insuring employers against liability for personal injuries
19 to their employees or the death of their employees caused thereby, under the
20 provisions of KRS Chapter 342;
21 (c) ***Received on*** health insurance policies issued to individuals;
22 (d) ***Received on*** policies issued through Kentucky Access created in Subtitle 17B
23 of KRS Chapter 304;
24 (e) ***Received on*** policies for high deductible health plans as defined in 26 U.S.C.
25 sec. 223(c)(2);~~[or]~~
26 (f) ***Received on*** multistate surplus lines, defined as non-admitted insurance as
27 provided in Title V, Subtitle B, the Non-Admitted and Reinsurance Reform

1 Act of 2010, of the Dodd-Frank Wall Street Reform and Consumer Protection
2 Act, Pub. L. No. 111-203***; or***
3 ***(g) Paid to insurance companies or surplus lines brokers by nonprofit self-***
4 ***insurance groups or self-insurance entities whose membership consists of***
5 ***school districts***.
6 (11) No county may impose the tax authorized by this section upon the premiums
7 received on policies issued to public service companies which pay ad valorem taxes.
8 (12) Insurance companies which pay license fees or taxes pursuant to this section shall
9 credit city license fees or taxes against the same license fees or taxes levied by the
10 county, when the license fees or taxes are levied by the county on or after July 13,
11 1990. For purposes of this subsection, a consolidated local government, urban-
12 county government, charter county government, or unified local government shall
13 be considered a county.
14 (13) No license fee or tax imposed under this section shall apply to premiums paid to
15 insurers of municipal bonds, leases, or other debt instruments issued by or on behalf
16 of a city, county, charter county government, urban-county government,
17 consolidated local government, special district, nonprofit corporation, or other
18 political subdivision of the Commonwealth. However, this exemption shall not
19 apply if the bonds, leases, or other debt instruments are issued for profit or on behalf
20 of for-profit or private organizations.
21 (14) A county may impose a license fee or tax covering the entire county or may limit
22 the application of the fee or tax to the unincorporated portions of the county.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 4/10/14