

Senate Bill 65

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that foreign or alien insurer may elect to apply credit allowed for qualified equity investment against corporate excise tax or against retaliatory tax.

Applies to tax years beginning on or after January 1, 2015, and to reports required of foreign or alien insurers due on or after April 1, 2014.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to calculation of retaliatory tax; creating new provisions; amending ORS 731.854; and pre-
3 scribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 731.854 is amended to read:

6 731.854. (1) When by or pursuant to the laws of any other state or foreign country any taxes,
7 licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other
8 material obligations, prohibitions or restrictions are or would be imposed upon insurers domiciled
9 in this state, or upon the insurance producers or representatives of such insurers, which are in ex-
10 cess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines,
11 penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed
12 upon similar insurers, or upon the insurance producers or representatives of such insurers, of such
13 other state or country under the statutes of this state, so long as such laws of such other state or
14 country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate,
15 or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions
16 of whatever kind shall be imposed by the Director of the Department of Consumer and Business
17 Services upon the insurers, or upon the insurance producers or representatives of such insurers, of
18 such other state or country doing business or seeking to do business in this state. Any tax, license
19 or other fee or other obligation imposed by any city, county, or other political subdivision or agency
20 of such other state or country on insurers domiciled in this state or their insurance producers or
21 representatives shall be deemed to be imposed by such state or country within the meaning of this
22 subsection.

23 (2) Foreign reciprocal or interinsurance exchanges filing a consolidated return for purposes of
24 ORS chapter 317 shall prepare and file a separate individual retaliatory tax calculation. The excise
25 tax for the consolidated group shall be allocated for retaliatory tax purposes among the individual
26 foreign insurers writing Oregon premiums. The allocation, after excluding the domestic share as
27 determined by the Director of the Department of Consumer and Business Services by rule, shall be
28 in the proportion that the premiums written in Oregon by a foreign insurer of the group bears to

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the total premiums written in Oregon by all foreign insurers in the group writing premiums in
2 Oregon.

3 (3) This section does not apply as to personal income taxes, nor as to local ad valorem taxes
4 on real or personal property nor as to special purpose obligations or assessments heretofore imposed
5 by another state in connection with particular classes of insurance, other than property insurance;
6 except that deductions, from premium taxes or other taxes otherwise payable, allowed on account
7 of real estate or personal property taxes paid shall be taken into consideration by the director in
8 determining the propriety and extent of retaliatory action under this section.

9 (4) For the purpose of applying this section to an alien insurer, its domicile shall be determined
10 in accordance with ORS 731.092 and 731.096.

11 (5) For the purpose of applying this section to foreign and alien insurers, the following specif-
12 ically shall be treated as taxes imposed by this state:

13 (a) The corporate excise tax imposed under ORS chapter 317, without taking into consideration
14 the amount of any reduction due to the credit allowed under ORS 315.533.

15 (b) The assessments imposed under ORS 731.804 made to support the legislatively authorized
16 budget of the Department of Consumer and Business Services with respect to the functions of the
17 department under the Insurance Code.

18 (c) The assessments paid by insurers on behalf of their insureds under ORS 656.612.

19 **(6) A foreign or alien insurer may elect to claim all or a portion of any credit allowable**
20 **under ORS 315.533 (3)(b) or (5) as a credit against the amounts otherwise due under this**
21 **section, up to the amount of the insurer's liability under this section. An amount claimed**
22 **under this subsection reduces the credit allowable to the insurer under ORS 315.533. The**
23 **total amount of credit claimed under this subsection and under ORS 315.533 may not exceed**
24 **the amount allowed for the tax year under ORS 315.533 without regard to the limitation de-**
25 **scribed in ORS 315.533 (4).**

26 **SECTION 2. The amendments to ORS 731.854 by section 1 of this 2015 Act apply to tax**
27 **years beginning on or after January 1, 2015, and to reports pursuant to ORS 731.859 due on**
28 **or after April 1, 2014.**

29 **SECTION 3. This 2015 Act takes effect on the 91st day after the date on which the 2015**
30 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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