DEPARTMENT OF TAXATION
2009 Fiscal Impact Statement

1. Patron Walter A. Stosch

2. Bill Number SB 1246

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

3. Committee Passed House and Senate

4. Title License Tax on Insurance Companies: Retaliatory Tax Credit

5. Summary/Purpose:

This bill would extend the carry forward period from 5 to 10 taxable years for the credit allowed against the premiums tax imposed on insurance companies for retaliatory costs paid by certain Virginia insurance companies to other states.

This bill would provide that any credit allowed prior to or after January 1, 2009, would qualify for the extended carry forward period.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

<u>Administrative Impact</u>

This bill would have no impact on the administrative costs of the Department of Taxation. It is assumed that the State Corporation Commission would incur minimal costs to implement the extended carryover period.

<u>Revenue Impact</u>

This bill would have no impact on the revenue forecast. In order for credits to expire, the tax liability must have been less than the available credit for at least five years. Therefore, the revenue forecast assumes that the affected taxpayers will continue to have credits in excess of tax liability.

9. Specific agency or political subdivisions affected:

State Corporation Commission

10. Technical amendment necessary: No.

11. Other comments:

Background

In a process unique to the insurance industry, some states impose a “retaliatory tax” on the premiums of insurance companies headquartered in another state when (i) the other state imposes a tax at a rate higher than their tax rates, and (ii) that higher rate is applied to insurance companies based in their state that do business in the other state. The retaliatory tax (which includes any fees or regulatory costs) is in addition to the regular taxes, fees or regulatory costs paid by all insurance companies.

When such a state imposes a retaliatory tax on Virginia insurance companies (because Virginia’s insurance premium tax rates are higher than the other state’s rates) Virginia grants a credit against its license tax on premiums based on the amount of retaliatory tax paid to the other state by the Virginia-based insurance company. In order to qualify for the credit, the taxpayer must apply to the State Corporation Commission and must have maintained a certain employment level.

Any credit not used to offset tax for the taxable year in which the credit was allowed may be carried forward for five taxable years. Unused credits, including credits carried forward from previous years, may be refunded in an amount up to $800,000 annually. Credits not absorbed against tax liability, or refunded, within five years will expire.

Proposal

This bill would extend the carry forward period from 5 to 10 taxable years for the credit allowed against the premiums tax imposed on insurance companies for retaliatory costs paid by certain Virginia insurance companies to other states.

This bill would provide that any credit allowed prior to or after January 1, 2009, would qualify for the extended carry forward period.

cc : Secretary of Finance

Date: 2/19/2009 TLG
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