DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 1359
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. **Committee** House Finance

4. **Title** Insurance premiums tax; retaliatory costs tax credit

5. **Summary/Purpose:**

This bill would increase the maximum annual retaliatory tax credit refund amount for the insurance premiums tax from $800,000 to $7 million for qualified companies receiving a credit in taxable year 2000 that file a refund application with the State Corporation Commission for taxable years beginning on and after January 1, 2011.

Effective for license years beginning on and after July 1, 2006 and taxable years ending on and after December 31, 2006, this bill would limit the amount of the credit for qualified companies not receiving a credit for the 2000 taxable year to 60 percent of the retaliatory costs paid to other states.

This bill would require that all refunds be made after July 1 following the filing of the refund application.

Finally, this bill would allow taxpayers to carry forward any unused credits until the entire credit amount is used.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

This bill would result in no cost to TAX as the SCC administers the insurance premiums tax and the tax credit for retaliatory costs. The SCC has stated that this bill would not increase its cost to administer the credit.

Revenue Impact

Although the *Virginia Code* currently allows a retaliatory tax credit refund of up to $800,000, the 2010 Budget Act (*Acts of Assembly* 2010, Chapter 874) allows taxpayers to claim a refund of up to $1.6 million beginning with taxable year 2011. Accordingly, the impact of this bill would be an initial increase in the maximum amount of annual credit by $5.4 million beginning with taxable year 2011. Taxable year 2011 returns are filed in 2012, and the refund would be paid after July 1, 2012.

Because of the current limitation on the annual credit amount that may be claimed, companies have a backlog of accrued credits. It is not anticipated that the annual credits claimed will equal $7 million once the backlog of unused credits is used.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: No.

11. Other comments:

Background

In a process unique to the insurance industry, some states impose an assessment for "retaliatory costs" on insurance companies headquartered in another state when the other state imposes taxes and regulatory costs that are higher than their tax rates. The retaliatory assessment is in addition to the regular taxes, fees or regulatory costs paid by all insurance companies.

When such a state imposes a retaliatory assessment 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 assessment 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 ten taxable years. Unused credits, including credits carried forward from previous years, may be refunded in an amount up to $800,000 annually (increasing to $1.6 million for taxable year 2011). Credits not absorbed against tax liability or refunded within ten years will expire.

Proposal

This bill would increase the maximum annual retaliatory tax credit refund amount for the insurance premiums tax from $1.6 million to $7 million for qualified companies receiving a credit in taxable year 2000 that file a refund application with the State Corporation

Commission for taxable years beginning on and after January 1, 2011. It would also allow taxpayers to carry forward any unused credits until the entire credit amount is used.

This bill would require that all refunds be made after July 1 following the filing of the refund application.

Finally, this bill would limit the amount of the credit for qualified companies not receiving a credit for the 2000 taxable year to 60 percent of the retaliatory costs paid to other states. The provision is retroactive to license years beginning on and after July 1, 2006 and taxable years ending on and after December 31, 2006, which is the effective date of the same provision in the Appropriation Act.

The effective dates for the refund date and carryover portions of this bill are not specified.

Similar Legislation

House Bill 2335 is identical to this bill.

cc : Secretary of Finance

Date: 2/9/2011 KLC
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