

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 35

Representative Wolpert

Cosponsors: Representatives McGregor, J., Gibbs, Raussen

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A B I L L

To amend sections 3901.17 and 3905.36 of the Revised Code to decrease from 5% to 1.4% the foreign insurers tax rate.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3901.17 and 3905.36 of the Revised Code be amended to read as follows:

Sec. 3901.17. (A) As used in this section:

(1) "Captive insurer" has the meaning defined in section 3905.36 of the Revised Code.

(2) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in division (F) of section 3901.32 of the Revised Code.

(3) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.

(4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Any of the following acts in this state, effected by mail 19
or otherwise, by any foreign or alien insurer not authorized to 20
transact business within this state, any nonresident person acting 21
on behalf of an insurer, or any nonresident insurance agent 22
subjects the insurer, person, or agent to the exercise of personal 23
jurisdiction over the insurer, person, or agent to the extent 24
permitted by the constitutions of this state and of the United 25
States: 26

(1) Issuing or delivering contracts of insurance to residents 27
of this state or to corporations authorized to do business 28
therein; 29

(2) Making or proposing to make any insurance contracts; 30

(3) Soliciting, taking, or receiving any application for 31
insurance; 32

(4) Receiving or collecting any premium, commission, 33
membership fee, assessment, dues, or other consideration for any 34
insurance contract or any part thereof; 35

(5) Disseminating information as to coverage or rates, 36
forwarding applications, inspecting risks, fixing rates, 37
investigating or adjusting claims or losses, or transacting any 38
matters subsequent to effecting a contract of insurance and 39
arising out of it; 40

(6) Doing any kind of business recognized as constituting the 41
doing of an insurance business under Title XXXIX of the Revised 42
Code or subject to regulation by the superintendent of insurance 43
under the laws of this state relating to insurance. 44

Any such act shall be considered to be the doing of an 45
insurance business in this state by such insurer, person, or agent 46
and shall be its agreement that service of any lawful subpoena, 47
notice, order, or process is of the same legal force and validity 48
as personal service of the subpoena, notice, order, or process in 49

this state upon the insurer, person, or agent. 50

(C) Service of process in judicial proceedings shall be as 51
provided by the Rules of Civil Procedure. Service in or out of 52
this state of notice, orders, or subpoenas in administrative 53
proceedings before the superintendent shall be as provided in 54
section 3901.04 of the Revised Code. 55

(D) Service of any notice, order, subpoena, or process in any 56
such action, suit, or proceeding shall, in addition to the manner 57
provided in division (C) of this section, be valid if served upon 58
any person within this state who, in this state on behalf of such 59
insurer, person, or agent is or has been: 60

(1) Soliciting, procuring, effecting, or negotiating for 61
insurance; 62

(2) Making, issuing, or delivering any contract of insurance; 63

(3) Collecting or receiving any premium, membership fees, 64
assessment, dues, or other consideration for insurance; 65

(4) Disseminating information as to coverage or rates, 66
forwarding applications, inspecting risks, fixing rates, 67
investigating or adjusting claims or losses, or transacting any 68
matters subsequent to effecting a contract of insurance and 69
arising out of it. 70

(E) Nothing in this section shall limit or abridge the right 71
to serve any subpoena, order, process, notice, or demand upon any 72
insurer, person, or agent in any other manner permitted by law. 73

(F) Every person investigating or adjusting any loss or claim 74
under a policy of insurance not excepted under division (I) of 75
this section and issued by any such insurer and covering a subject 76
of insurance that was resident, located, or to be performed in 77
this state at the time of issuance shall immediately report the 78
policy to the superintendent. 79

(G) Each such insurer that does any of the acts set forth in 80
division (B) of this section in this state by mail or otherwise 81
shall be subject to a tax of five per cent on the gross premiums, 82
membership fees, assessments, dues, and other considerations 83
received on all contracts of insurance covering subjects of 84
insurance resident, located, or to be performed within this state. 85
Such insurer shall annually, on or before the first day of July, 86
pay such tax to the treasurer of state, as calculated on a form 87
prescribed by the treasurer of state. If the tax is not paid when 88
due, the tax shall be increased by a penalty of twenty-five per 89
cent. An interest charge computed as set forth in section 5725.221 90
of the Revised Code shall be made on the entire sum of the tax 91
plus penalty, which interest shall be computed from the date the 92
tax is due until it is paid. The treasurer of state shall 93
determine and report all claims for penalties and interest 94
accruing under this section to the attorney general for 95
collection. 96

For purposes of this division, payment is considered made 97
when it is received by the treasurer of state, irrespective of any 98
United States postal service marking or other stamp or mark 99
indicating the date on which the payment may have been mailed. 100

(H) No contract of insurance effected in this state by mail 101
or otherwise by any such insurer is enforceable by the insurer. 102

(I) This section does not apply to: 103

(1) Insurance obtained pursuant to sections 3905.30 to 104
3905.36 of the Revised Code; 105

(2) The transaction of reinsurance by insurers; 106

(3) Transactions in this state involving a policy solicited, 107
written, and delivered outside this state covering only subjects 108
of insurance not resident, located, or to be performed in this 109
state at the time of issuance, provided such transactions are 110

subsequent to the issuance of the policy;	111
(4) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;	112 113 114
(5) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported to the superintendent and with respect to which the tax provided by section 3905.36 of the Revised Code is paid;	115 116 117 118 119
(6) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses;	120 121
(7) Except as provided in division (C) of this section, any <u>Any</u> insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section, an "employer insured" is an insured to whom all of the following apply:	122 123 124 125 126
(a) The insured procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (I)(7)(a) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code.	127 128 129 130 131 132 133
(b) The insured's aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and	134 135
(c) The insured has at least twenty-five full-time employees.	136
(8) Ocean marine insurance;	137
(9) Transactions involving policies issued by a captive insurer.	138 139

Sec. 3905.36. (A) Except as provided in divisions (B) and (C) 140
of this section, every insured association, company, corporation, 141
or other person that enters, directly or indirectly, into any 142
agreements with any insurance company, association, individual, 143
firm, underwriter, or ~~Lloyd~~ Lloyd's, not authorized to do business 144
in this state, whereby the insured shall procure, continue, or 145
renew contracts of insurance covering subjects of insurance 146
resident, located, or to be performed within this state, with such 147
unauthorized insurance company, association, individual, firm, 148
underwriter, or ~~Lloyd~~ Lloyd's, for which insurance there is a 149
gross premium, membership fee, assessment, dues, or other 150
consideration charged or collected, shall annually, on or before 151
the thirty-first day of January, return to the superintendent of 152
insurance a statement under oath showing the name and address of 153
the insured, name and address of the insurer, subject of the 154
insurance, general description of the coverage, and amount of 155
gross premium, fee, assessment, dues, or other consideration for 156
such insurance for the preceding twelve-month period and shall at 157
the same time pay to the treasurer of state a tax of ~~five~~ one and 158
four-tenths per cent of such gross premium, fee, assessment, dues, 159
or other consideration, after a deduction for return premium, if 160
any, as calculated on a form prescribed by the treasurer of state. 161
All taxes collected under this section by the treasurer of state 162
shall be paid into the general revenue fund. If the tax is not 163
paid when due, the tax shall be increased by a penalty of 164
twenty-five per cent. An interest charge computed as set forth in 165
section 5725.221 of the Revised Code shall be made on the entire 166
sum of the tax plus penalty, which interest shall be computed from 167
the date the tax is due until it is paid. For purposes of this 168
section, payment is considered made when it is received by the 169
treasurer of state, irrespective of any United States postal 170
service marking or other stamp or mark indicating the date on 171

which the payment may have been mailed.	172
(B) This section does not apply to:	173
(1) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy;	174 175 176 177 178
(2) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;	179 180
(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:	181 182 183
(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;	184 185 186 187 188
(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;	189 190 191 192
(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.	193 194 195 196
(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code.	197 198
(C) In transactions that are subject to sections 3905.30 to 3905.35 of the Revised Code, each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state,	199 200 201

on or before the thirty-first day of January of each year, ~~five~~ 202
one and four-tenths per cent of the balance of the gross premiums 203
charged for insurance placed or procured under the license after a 204
deduction for return premiums, as reported on a form prescribed by 205
the treasurer of state. The tax shall be collected from the 206
insured by the surplus line broker who placed or procured the 207
policy of insurance at the time the policy is delivered to the 208
insured. No license issued under section 3905.30 of the Revised 209
Code shall be renewed until payment is made. If the tax is not 210
paid when due, the tax shall be increased by a penalty of 211
twenty-five per cent. An interest charge computed as set forth in 212
section 5725.221 of the Revised Code shall be made on the entire 213
sum of the tax plus penalty, which interest shall be computed from 214
the date the tax is due until it is paid. For purposes of this 215
section, payment is considered made when it is received by the 216
treasurer of state, irrespective of any United States postal 217
service marking or other stamp or mark indicating the date on 218
which the payment may have been mailed. 219

Section 2. That existing sections 3901.17 and 3905.36 of the 220
Revised Code are hereby repealed. 221