

BILL ANALYSIS

C.S.H.B. 3454
By: Eiland
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State law has long exempted insurance companies required to pay the premium tax from paying the franchise tax. Interested parties assert that, previously, the franchise tax was paid at the same time as the premium tax on a separate entity basis and it was clear that an insurance company that was domiciled in another state and wrote no policies in Texas was not subject to the franchise tax, but since the franchise tax is now reported on a unitary combined-group basis, it is unclear whether an out-of-state insurance company can qualify for the exemption. There are concerns that the comptroller of public accounts has indicated that out-of-state insurance companies should be included in the combined group of their non-insurance affiliates because the exemption applies only to insurance companies that paid premium taxes to the State of Texas.

The parties contend that the law should be clarified to protect Texas-based insurance companies from the higher retaliatory taxes that other states are likely to levy in response to a Texas policy that denies insurance companies domiciled in those states the benefit of the franchise tax exemption and to eliminate potential constitutional challenges arising from a policy that imposes the franchise tax on multistate taxpayers but not on Texas taxpayers. C.S.H.B. 3454 seeks to clarify this issue.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3454 amends the Tax Code to exempt a nonadmitted insurance organization that is subject to an occupation tax or any other tax that is imposed for the privilege of doing business in another state or a foreign jurisdiction, including a tax on gross premium receipts, from the franchise tax.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3454 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 171.052(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (c), an insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state that is [now] required to pay an annual tax [under Chapter 4 or 9, Insurance Code,] measured by its gross premium receipts is exempted from the franchise tax. A nonadmitted insurance organization that is required to pay a gross premium receipts tax during a tax year is exempted from the franchise tax for that same tax year. A nonadmitted insurance organization that is subject to an occupation tax in another state or a foreign jurisdiction is exempted from the franchise tax.

SECTION 2. This Act applies to a report originally due on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2014.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 171.052(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (c), an insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state that is [now] required to pay an annual tax [under Chapter 4 or 9, Insurance Code,] measured by its gross premium receipts is exempted from the franchise tax. A nonadmitted insurance organization that is required to pay a gross premium receipts tax during a tax year is exempted from the franchise tax for that same tax year. A nonadmitted insurance organization that is subject to an occupation tax or any other tax that is imposed for the privilege of doing business in another state or a foreign jurisdiction, including a tax on gross premium receipts, is exempted from the franchise tax.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.