

HB 524

Premium Tax Administrative Reform

Bill Summary – GA Copy

Overview

HB 524 will help resolve many problems faced by local governments, insurance companies, and taxpayers with the municipal premium tax. The bill represents the cooperative efforts of the Kentucky League of Cities, the Kentucky Association of Counties, and the insurance industry.

Section-by-Section Summary

Section 1: Definitions.

Section 2: Administrative Procedures for amended returns, assessments by local governments, and refund requests from policyholders.

Subsection 1

Establishes sole and exclusive procedures for amended returns, assessments by local governments, and refund requests by policyholders.

Changes statute of limitations from 5 years to 2 years for 2009 forward. See Appendix A for a summary of the effect of the changes.

Establishes exception to statute change for litigation pending on the effective date of the act.

Subsection 2

Establishes procedures and appeals process for amended premium tax returns filed by insurance companies.

Requires that policy-level detail be filed as supporting documentation for amended returns that request a refund or credit.

Effective 2010, local governments may assess a 10% penalty on refund requests if the insurance company is not using a location system verified by KOI for accuracy.

Prohibits insurance companies from applying credits from an amended return to subsequent returns until the credit is approved by the local government.

Subsection 3

Establishes procedures and appeals process for refund requests by policyholders.

Subsection 4

Establishes procedures and appeals process for assessments by local government.

Local governments will still be required to use KOI to do audits of insurance companies under KRS 91A.080(7).

Subsection 5

Establishes that hearings under subsections 2-4 shall be KRS Chapter 13B hearings.

Subsection 6

Requires that insurance companies shall pass on the full amount of premium tax refunds received and not owed to another jurisdiction, together with the collection allowance retained by the companies, to policyholders within 90 days.

Effective 2010, a 10% penalty of the total refund amount is due to the policy holder if the insurance company is not using a location system verified by KOI for accuracy.

Subsection 7

Requires exhaustion of administrative remedies before litigation can commence.

Subsection 8

Establishes confidentiality standards for local governments in dealing with proprietary data submitted by insurance companies in accordance with subsection 2(b).

Requires destruction of proprietary data once it is no longer needed and establishes penalties for failure to comply.

Establishes exception to data destruction requirement for local governments certified to deal with IRS data (Louisville and Lexington are the only two which qualify).

Subsection 9

Requires notices to be sent by certified mail, return receipt requested.

Section 3: Verification of risk location systems by KOI

Requires KOI to promulgate a regulation for the verification of risk location systems. (1)

Specifies requirements to be included in the criteria, including the use of current data available from the Commonwealth Office of Technology. (1)

Establishes fee for vendors to be verified. (2)

Requires KOI to maintain a list of verified programs offered by vendors. (2)

Establishes a provision for specialty insurers with a limited number of risks to have alternative certification. (3)

Establishes requirements for due diligence by insurance companies in the use of verified risk location systems. (4)

Exempts insurance companies using verified systems with due diligence from penalties that might otherwise have been assessed for risk location errors. (5)

Effective 2010, mandates the use of verified location systems for all insurers with over 2,000 policies.

Section 4: Establish Local Premium Tax Advisory Council

Establishes membership and procedures. (1)

Establishes scope of activity. (2)

Section 5: Conforming and other changes to KRS 91A.080

Makes updates to language and various conforming changes. (1-4, 7-10, 12-13)

Establishes a 10% late payment penalty for returns filed late. (9)

Allows a county to impose premium tax only in unincorporated areas. (14)

Section 6: Conforming and other changes to KRS 304.10-180

Section 7: Notice requirements

Effective 12-31-08, requires that the jurisdiction and amount of any local premium tax assessed be listed as a separate item on insurance renewals or billings. (1)

Requires that all insurers send a one-time notification to current policy holders informing them of their rights under the act. (2)

Requires that KOI specify the text of the one-time notices, and sets criteria for the content of the notice. (2)

Requires that policy holders who contact insurance companies about refunds of overpaid taxes be sent information within 30 days containing information on the procedural requirements of the act. (3)

Section 8: Funding mechanism

Allows KOI to assess up to \$200 per insurer to fund the cost of administering the act.

Section 9: Funding repealer

Repeals Section 8 effective July 1, 2010.

Appendix A

HB 524

Statute of Limitations Change

<u>Quarter</u>	<u>Current Law</u>	<u>Proposed Law</u>
2008		
03/31/08	4/30/2013	4/30/2013
06/30/08	7/30/2013	7/30/2013
09/30/08	10/30/2013	10/30/2013
12/31/08	1/30/2014	1/30/2014
2009		
03/31/09	4/30/2014	3/31/2012
06/30/09	7/30/2014	3/31/2012
09/30/09	10/30/2014	3/31/2012
12/31/09	1/30/2015	3/31/2012
2010		
03/31/10	4/30/2015	3/31/2013
06/30/10	7/30/2015	3/31/2013
09/30/10	10/30/2015	3/31/2013
12/31/10	1/30/2016	3/31/2013