TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 301 - SB 1189

February 27, 2017

SUMMARY OF BILL: Establishes that any burden imposed on Tennessee insurance companies by any other state or foreign country, regardless of how designated or described in the laws or regulations of that state or country, the same shall be imposed by Tennessee upon any insurance company based in such state or foreign country. Specifies that assessments, including any "special fund assessment," are subject to reciprocity of treatment. Establishes principles by which the Commissioner of the Department of Commerce and Insurance (TDCI) and the appropriate courts shall examine the relevant statutes, regulations, policy statements, and administrative practices of another state or foreign country to determine applicability of reciprocity of treatment.

Establishes the Commissioner of the TDCI as having the authority to administer the assessment and collection of all taxes, fees, assessments, fines, penalties, licenses, deposit requirements, and other obligations or liabilities. Establishes that any disputes arising from any such imposition be brought in the Chancery Court of Davidson County. This bill shall take effect upon becoming law and apply to all tax years beginning on or after January 1, 2017.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - $8,840,300/FY17-18 and Subsequent Years

The Governor's Recommended Budget Document for FY17-18 recognizes a one-time increase in state revenue to the General Fund of $2,325,000 for FY16-17 (page A-28), and a recurring increase in state revenue to the General Fund of $9,300,000 beginning in FY17-18 (page A-38).

Assumptions:

- Pursuant to Tenn. Code Ann. § 56-4-218, Tennessee currently applies reciprocity of treatment against insurance companies domiciled in any other state or foreign country which imposes any premium or income or other taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions, or restrictions imposed upon insurance companies domiciled in Tennessee.
- Based on information provided by TDCI, this bill will effectively re-impose the retaliatory tax on non-domestic insurance companies who are domiciled in states that impose other assessments, taxes, fees, fines, penalties, licenses, deposit requirements or

other obligations, prohibitions, or restrictions that are de facto taxes on Tennessee domiciled insurance companies.

- In October of 2015, the Tennessee Supreme Court ruled against the TDCI in favor of plaintiffs representing domestic insurance companies from Pennsylvania State in a retaliatory tax lawsuit. As a result of this ruling, Tennessee was forced to refund approximately $24,500,000 for tax years FY06-07 through FY13-14; thus estimated annual revenue of approximately $3,062,500 ($24,500,000 / 8 years).
- Previously, in June of 2015, litigation between the State of Tennessee and appellants representing three New York State domestic insurance companies resulted in the court upholding TDCI's collection of approximately $52,000,000 in retaliatory tax collections from FY04-05 through FY12-13, thus estimated annual revenue of approximately of $5,777,778 ($52,000,000 / 9 years).
- As a result of the ruling against the State of Tennessee in favor of domestic insurance companies from the Pennsylvania State, the State of New York changed its laws to reflect Pennsylvania State law, which now, in the absence of this bill jeopardizes the cumulative $52,000,000 the state collected from the New York domestic insurance companies from FY06-07 through FY13-14.
- Passage of this bill will (1) allow the state to retain this otherwise jeopardized revenue, and (2) begin collecting similar annual amounts of revenue from both the Pennsylvania and New York entities in future years. As a result, the total recurring increase in state revenue is estimated to be $8,840,278 ($3,062,500. + $5,777,778).
- The bill applies to tax year beginning January 1, 2017. All payments will be due by March 1, 2018; therefore these funds will be collected in FY17-18.

IMPACT TO COMMERCE:

Other Fiscal Impact – The degree to which passage of this bill prevents other states from imposing additional taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions, or restrictions on Tennessee domestic insurance companies is unknown; however, the overall impact to such businesses is generally assumed to be positive.

Assumptions:

- This bill is not expected to result in any significant impact upon insurance companies in Tennessee as this bill is not expected to result in a reduction in the amount of taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions, or restrictions currently imposed by other states upon Tennessee domestic insurance companies.
- This bill is anticipated to effectively prevent other states from changing laws to reflect that of the state of Pennsylvania, which now, in the absence of this bill, would result in additional taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions, or restrictions upon Tennessee domestic insurance companies.

- The total amount of taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions, or restrictions that would, in the absence of this bill been levied against Tennessee domestic insurance companies by other states is unknown; however, the impact upon Tennessee domestic insurance companies is considered positive.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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