

**SUBJECT:** Taxation of insurance companies and certain insurance agents

**COMMITTEE:** Ways and Means — favorable, with amendment

**VOTE:** 8 ayes — Oliveira, McCall, Hartnett, Bonnen, Y. Davis, Keffer, Ramsay, Ritter  
0 nays  
3 absent — Craddick, Heflin, Hilbert

**SENATE VOTE:** On final passage, April 27 — voice vote

**WITNESSES:** For — None  
Against — None  
On — Eleanor Kim, Comptroller's Office

**BACKGROUND:** Most insurance carriers doing business in Texas are required to pay a tax on their gross premium receipts. The tax rate varies according to insurance line, ranging from 1.35 percent for title insurance to 4.85 percent for unauthorized, independently procured, and surplus lines.

**DIGEST:** SB 1690, as amended, would specify that an insurance organization, other than a surplus lines insurer, authorized to do business in Texas is exempt from paying any additional tax in proportion to its gross premium receipts levied by the state or any county or city. It also would exempt title insurance companies and title insurance agents from paying such additional premium taxes. However, these exemptions could not be construed to limit the applicability of other taxes, fees, and assessments imposed by the Insurance Code or to limit the levy of property taxes or other state or local taxes imposed by other laws.

The bill would delete certain provisions relating to the imposition of an occupational tax on insurance organizations, title insurance companies, title insurance agents, and insurance carriers or related companies. It would

repeal the prohibition on requiring domestic insurance companies to pay any occupation or gross receipts taxes. It also would specify that farm mutuals, local mutual aid associations, and burial associations are not subject to the franchise tax.

The bill would take effect September 1, 2001, and would not affect taxes imposed before that date.

**SUPPORTERS  
SAY:**

SB 1690 would codify the comptroller's position that insurers who are subject to gross premium receipts taxes are not exempt from other taxes, except for franchise taxes. The Insurance Code states that no other tax in proportion to gross receipts may be assessed on insurance companies. Over the years, some insurers have interpreted the law to mean that they are exempt from all other taxes except for real and personal property taxes, as stated in art. 4.11, sec. 9. The comptroller is involved in litigation with certain insurers who are suing the state for years of sales-tax payments.

SB 1690 would specify that insurance companies must pay only the gross premium receipts tax and no other type of tax on their earnings. It does not follow, however, that the Legislature intended for insurance companies to be exempt from all other state and local taxes, including the sales tax. In fact, an attorney general's opinion from 1968, Opinion No. M-188, supports that position. This claim of an across-the-board exemption by a few insurers stretches the law to the point of distortion. SB 1690 would clarify existing law and state explicitly that insurance companies are not exempt from all other types of taxes.

**OPPONENTS  
SAY:**

The differences in interpretation of this statute between the comptroller and certain insurers are the subject of ongoing litigation. The Legislature should avoid intervening in this matter while it is still in the courts.

**NOTES:**

The bill's fiscal note indicates no significant fiscal implication to the state. However, it notes that enactment of the bill would "mitigate possible legal vulnerabilities" that otherwise might result in more than \$1 billion in refunds and ongoing tax-base losses.

The committee amendment would restore a provision, deleted by the Senate version, that farm mutuals, local mutual aid associations, and burial associations would not be subject to the franchise tax.