

[Act 2001 No 40]



New South Wales

Insurance Protection Tax Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

This Bill is cognate with the *Appropriation Bill 2001*.

Overview of Bill

The object of this Bill is to impose a tax on the total annual amount of premiums received by insurers for general insurance. The tax is to be apportioned among insurers according to their share of the total premium income of all insurers for the relevant year. The tax for the year commencing 1 July 2001 is to be \$69 million. The tax for a subsequent year may be reduced below \$69 million by determination of the Governor made on the recommendation of the Treasurer.

* Amended in committee—see table at end of volume.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 July 2001.

Clause 3 defines certain words and expressions used in the proposed Act, in particular, *insurer*, *general insurance* and *premium*.

Part 2 Imposition of tax

Division 1 General

Clause 4 imposes tax on the total annual amount of all premiums received by insurers for general insurance as determined in accordance with the proposed Act.

Clause 5 provides that the total amount of tax that is to be imposed by the proposed Act for the year commencing on 1 July 2001, and for each subsequent year, is \$69 million, unless, for a year commencing on or after 1 July 2002, the Governor, on the recommendation of the Treasurer, determines a lesser amount.

Clause 6 requires an insurer to lodge a return with the Chief Commissioner of State Revenue (the *Chief Commissioner*) on or before 15 August in each year that will enable the determination of the total net premiums received by the insurer for general insurance in the preceding year. The return is to be accompanied with an auditor's certificate. Failure to comply with clause 6 is an offence.

Clause 7 makes it an offence to lodge a return under clause 6 that is false or misleading in a material particular.

Clause 8 requires the Chief Commissioner, on or before 1 September in each year, to assess the liability of each insurer to pay the tax imposed by the proposed Act. The tax is to be apportioned among insurers according to their share of the total premium income of all insurers for the relevant year.

Clause 9 contains a definition of *premium* for the purposes of the proposed Act.

Clause 10 determines when a premium, or an instalment of a premium, is received for the purposes of the proposed Act and when a premium, or an instalment of a premium, is refunded for the purposes of the proposed Act.

Clause 11 requires the Chief Commissioner, on or after 15 March and before 15 May in each year, to make a reassessment of the tax liability of each insurer. If, at the time before making the reassessment, the Chief Commissioner is satisfied that an insurer is unable to pay the full amount of the tax specified in the insurer's notice of assessment, the clause determines the basis on which the reassessment is to be made. No objection or appeal lies against a reassessment.

Division 2 Apportionment of premiums

Clause 12 provides the means for apportioning premiums between New South Wales and other places if a contract of insurance insures property that is in New South Wales as well as property in another place, or a risk that may occur in New South Wales or in another place.

Clause 13 provides the means for apportioning premiums between different types of insurance that are relevant to determining liability for tax.

Part 3 Payment of tax

Clause 14 provides that the proposed Act is to be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of the proposed Act and other taxation laws.

Clause 15 provides for payment of the tax by quarterly instalments.

Clause 16 provides that the tax payable under the proposed Act is to be paid into an account in the Special Deposits Account in the Treasury called the Policyholders Protection Fund.

Part 4 Registration of insurers

Clause 17 requires insurers to register with the Chief Commissioner. Failure to do so is made an offence.

Clause 18 requires the Chief Commissioner to register an insurer that applies for registration.

Clause 19 enables the Chief Commissioner to cancel an insurer's registration on the grounds set out in the clause.

Clause 20 requires an insurer that ceases to write general insurance business in New South Wales to give notice to the Chief Commissioner within 1 month after it ceases to write that business. Failure to do so is made an offence. The insurer's notice cancels its registration under the proposed Part on the day on which the notice is received by the Chief Commissioner.

Part 5 Miscellaneous

Clause 21 makes it an offence for an insurer to charge a person who effects insurance with the insurer any amount that is directly attributable to the tax it is required to pay under the proposed Act.

Clause 22 provides that a failure to comply with the proposed Act does not render a contract of insurance illegal or invalid.

Clause 23 provides that proceedings for an offence under the proposed Act, or any regulations made under the proposed Act, may be dealt with summarily before a Local Court.

Clause 24 enables the making of regulations for the purposes of the proposed Act.

Clause 25 requires the Treasurer to undertake a review of the proposed Act as soon as possible after 5 years from the date of assent to the proposed Act.

Clause 26 makes an amendment to the *Taxation Administration Act 1996* to apply the provisions of that Act to the proposed Act.