

SENATE AMENDMENTS TO SENATE BILL 179

By COMMITTEE ON FINANCE AND REVENUE

June 5

1 On page 1 of the printed bill, line 2, after "ORS" insert "317.122 and".

2 In line 8, delete ", as described in subsection (2) of this".

3 In line 9, delete "section,".

4 On page 2, delete lines 27 through 30.

5 In line 31, delete "(3)" and insert "(2)" and delete "subsections (1) and (2)" and insert "sub-
6 section (1)".

7 Delete lines 44 and 45.

8 On page 3, delete lines 1 and 2 and insert:

9 "**SECTION 2.** ORS 317.122 is amended to read:

10 "317.122. (1) A credit against taxes imposed by this chapter shall be allowed insurers for the
11 gross premium tax paid on fire insurance premiums in accordance with ORS 731.820.

12 "(2) A credit against the taxes otherwise due under this chapter shall be allowed to an insurer.
13 The amount of the credit shall be the lesser of:

14 "(a) The amount of any assessments paid by the insurer during the tax year pursuant to ORS
15 656.612; or

16 "(b) The total profit attributable to the workers' compensation line of business, net of reinsur-
17 ance and including all investment gain attributable to the workers' compensation line of business,
18 determined in the manner prescribed under ORS 731.574 by the Director of the Department of Con-
19 sumer and Business Services, with the modifications under ORS 317.655 attributable to the workers'
20 compensation line of business, and then apportioned in accordance with ORS 317.660 and multiplied
21 by the corporate tax rate set forth in ORS 317.061. In making the apportionment under ORS 317.660
22 for purposes of this paragraph, the *[factors]* **insurance sales factor** shall be determined using only
23 items attributable to the workers' compensation line of business.

24 "**SECTION 3.** ORS 317.660, as amended by section 1 of this 2007 Act, is amended to read:

25 "317.660. (1)(a) If the income of an insurer is derived from business done both within and with-
26 out this state, the determination of Oregon taxable income shall be arrived at by *[apportionment*
27 *based upon an averaging of the following three factors:]* **multiplying the insurer's net income by**
28 **the insurance sales factor.**

29 "[*(a)*] (b) *[An insurance sales factor,]* **The insurance sales factor shall consist of a fraction,**
30 **the numerator of which is the amount of** direct premiums (excluding reinsurance accepted and
31 without deduction of reinsurance ceded) received **or earned** by the insurer during the tax year on
32 policies and contracts that are allocated to this state and to other jurisdictions in which the insurer
33 is not authorized to do business, and the denominator of which is the total of such premiums re-
34 ceived **or earned** by the insurer during the tax year on policies and contracts that had been sold
35 within and without this state.

1 “(2) For purposes of this [paragraph,] section:

2 “(a) ‘Net income’ means net income properly recorded in the statement of income re-
3 ported in the annual statement filed by the insurer with the Director of the Department of
4 Consumer and Business Services.

5 “(b) ‘Premiums’ means sums properly included in those schedules of the annual statement filed
6 by the insurer with the Director of the Department of Consumer and Business Services that appro-
7 priately allocate premiums by jurisdiction. If the exclusion of reinsurance premiums results in
8 an insurance sales factor that does not fairly represent the extent of the taxpayer’s activity
9 in this state, the taxpayer may petition for and the Department of Revenue may permit, or
10 the Department of Revenue may require, the inclusion of reinsurance premiums in the in-
11 surance sales factor. If the annual statement of the insurer does not report received pre-
12 miums then the insurance sales factor shall be determined based on earned premiums.

13 “(3) If application of the apportionment formula described in subsection (1) of this section
14 results in an apportionment that does not fairly and equitably represent the taxpayer’s in-
15 surance business activity in this state, the taxpayer may petition the Department of Revenue
16 for and the department may permit, or the department may require, to achieve an appor-
17 tionment that fairly and equitably represents the taxpayer’s insurance business activity:

18 “(a)(A) The exclusion of the insurance sales factor; and

19 “(B) The inclusion of one or more additional factors that will fairly and equitably repre-
20 sent the taxpayer’s business activity in this state;

21 “(b) The inclusion of the insurance sales factor and one or more additional factors that
22 will fairly and equitably represent the taxpayer’s business activity in this state; or

23 “(c) The employment of any other method to achieve a fair and equitable apportionment
24 of the taxpayer’s income.

25 “[(b) A wage and commission factor, the numerator of which is the total of wages, salaries, com-
26 missions and other compensation for personal services paid in this state during the tax period to em-
27 ployees and insurance producers in connection with the business of the insurer, and the denominator
28 of which is the total wages, salaries, commissions and other compensation for personal services paid
29 everywhere during the tax period to employees and insurance producers in connection with the business
30 of the insurer. For purposes of this paragraph, the procedure set forth in ORS 314.660 (2) shall be used
31 to determine the place of payment.]

32 “[(c) A real estate income and interest factor, the numerator of which is the total net income re-
33 ceived from real property within this state plus gross interest received on loans secured by real property
34 within this state during the tax year, and the denominator of which is the total net income received
35 from real property within and without this state plus gross interest received on loans secured by real
36 property within and without this state during the tax year. For purposes of this paragraph:]

37 “[(A) ‘Total net income received from real property’ means gross rental income from real property
38 reduced by all of the following items attributable to the property, as reported by the insurer in the
39 annual statement filed with the Department of Consumer and Business Services:]

40 “[(i) Rental real estate expenses;]

41 “[(ii) Rental real estate property taxes; and]

42 “[(iii) Rental real estate depreciation.]

43 “[(B) Any imputed rent from property owned and occupied by the company shall be excluded from
44 total net income received from real property.]

45 “[(C) If the denominator of the factor is less than zero, the factor shall be zero.]

1 “(D) Unless subparagraph (C) of this paragraph applies, if the numerator is greater than the de-
2 nominator, the factor shall be one.]

3 “(2) If application of the apportionment formula described in subsection (1) of this section, in-
4 cluding but not limited to the exclusion of reinsurance premiums from the insurance sales factor under
5 subsection (1)(a) of this section, results in an apportionment that does not fairly and equitably represent
6 the taxpayer’s insurance business activity in this state, the taxpayer may petition the Department of
7 Revenue for and the department may permit, or the department may require, to achieve an apportion-
8 ment that fairly and equitably represents the taxpayer’s insurance business activity:]

9 “[(a) The exclusion of any one or more factors;]

10 “[(b) The inclusion of one or more additional factors that will fairly and equitably represent the
11 taxpayer’s business activity in this state;]

12 “[(c) The inclusion of reinsurance premiums in the insurance sales factor; or]

13 “[(d) The employment of any other method to achieve a fair and equitable apportionment of the
14 taxpayer’s income.]

15 “**SECTION 4. The amendments to ORS 317.660 by section 1 of this 2007 Act apply to tax**
16 **years beginning before January 1, 2007.**

17 “**SECTION 5. The amendments to ORS 317.122 and 317.660 by sections 2 and 3 of this 2007**
18 **Act apply to tax years beginning on or after January 1, 2007.”.**

19 In line 3, delete “3” and insert “6”.
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