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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. General Regulations [680 - 1113] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 1.5. Retaliation [685 - 685.5] (*Article 1.5 added by Stats. 1959, Ch. 2120.*)

685. (a) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of those insurers, that are in excess of the taxes, licenses and other fees, in the aggregate, or that are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of those insurers, of that other state or country under the statutes of this state, so long as the laws of the other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties, deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind, shall be imposed upon the insurers, or upon the agents or representatives of those insurers, of the other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of the other state or country on California insurers or their agents or representatives shall be deemed to be imposed by that state or country within the meaning of this article.

(b) On and after January 1, 1994, and before January 1, 1995, every insurer whose annual taxes exceed fifty thousand dollars (\$50,000) shall make payment by electronic funds transfer. On and after January 1, 1995, every insurer whose annual taxes exceed twenty thousand dollars (\$20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 for completing the electronic funds transfer.

(c) Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) (1) Any insurer required to remit taxes by electronic funds transfer pursuant to this section who remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the department finds that an insurer's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (b) is due to reasonable cause or circumstances beyond the insurer's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer seeking to be relieved of the penalty provided in paragraph (1) shall file with the department a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(Amended by Stats. 1995, Ch. 721, Sec. 1. Effective January 1, 1996.)

685.1. This article shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this article.

(Added by Stats. 1959, Ch. 2120.)

685.2. For the purposes of this article the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

(Added by Stats. 1959, Ch. 2120.)

685.3. To the extent permitted by the California Constitution there is hereby imposed upon the commissioner the duty to enforce Section 685. It shall be the duty of the commissioner to initiate the enforcement and execution of Section 685 in respect to all matters which by the California Constitution or laws of this state require further or final action by other officials of this state. In respect to any matter initiated by the commissioner, it shall be the duty of the Board of Equalization and the Controller to complete the enforcement and execution of Section 685 in respect to that matter within the scope of the duties and powers of each as set forth in the California Constitution and laws of this state.

(Amended by Stats. 1996, Ch. 320, Sec. 29. Effective January 1, 1997.)

685.4. The provisions of this article shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(Added by Stats. 1959, Ch. 2120.)

685.5. The reduction in the gross premiums tax rate made by Section 12202.2 of the Revenue and Taxation Code shall not be considered in any determination by the Insurance Commissioner to impose or enforce a tax under the retaliatory tax provisions of Sections 685 to 685.4, inclusive, and reported pursuant to Sections 12281, 12287, 12288, and 12289 of the Revenue and Taxation Code.

(Added by Stats. 2016, 2nd Ex. Sess., Ch. 2, Sec. 2. (SB 2 2x) Effective June 9, 2016. Operative on July 1, 2016, or later date, as prescribed by Sec. 6 of Ch. 2. Conditionally inoperative as prescribed by Secs. 7 and 8 of Ch. 2.)