

17: 32-15

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:32-15

(Property and casualty insurers-foreign-computation of retaliatory tax liability)

LAWS OF: 1985

CHAPTER: 88

Bill No: S1749

Sponsor(s): Brown and Feldman

Date Introduced: May 14, 1984

Committee: Assembly: /////

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes

Amendments during passage denoted by asterisks

Date of Passage:

Assembly:

Feb. 4, 1985

Senate:

Dec. 17, 1984

Date of Approval: March 26, 1985

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

No

Senate

Yes

Fiscal Note:

Yes

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

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## SENATE, No. 1749

## STATE OF NEW JERSEY

INTRODUCED MAY 14, 1984

By Senators BROWN and FELDMAN

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning certain taxation of insurance companies, and  
amending P. L. 1950, c. 231.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 1 of P. L. 1950, c. 231 (C. 17:32-15) is amended to  
2 read as follows:

3 1. When by the laws of any other state or foreign country any  
4 premium or income or other taxes, or any fees, fines, penalties,  
5 licenses, deposit requirements or other obligations, prohibitions or  
6 restrictions are imposed upon New Jersey insurance companies, or  
7 reciprocal or interinsurance exchanges, doing business in such other  
8 state or foreign country, or upon their agents therein, which are  
9 in excess of such taxes, fees, fines, penalties, licenses, deposit re-  
10 quirements or other obligations, prohibitions or restrictions im-  
11 posed upon insurance companies, or reciprocal or interinsurance  
12 exchanges of such other state or foreign country doing business in  
13 New Jersey, or upon their agents therein, so long as such laws  
14 continue in force the same premium or income or other taxes, or  
15 fees, fines, penalties, licenses, deposit requirements or other obli-  
16 gations, prohibitions and restrictions of whatever kind shall be  
17 imposed upon insurance companies, or reciprocal or interinsurance  
18 exchanges of such other state or foreign country doing business in  
19 New Jersey, or upon their agents therein. Any tax obligation  
20 imposed by any city, county, school district or other political sub-  
21 division of any other state or foreign country on New Jersey in-  
22 surance companies, or reciprocal or interinsurance exchanges, shall

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted October 18, 1984.

23 be deemed to be imposed by such state or foreign country within  
24 the meaning of this section, and the Commissioner of **[Banking**  
25 **and]** Insurance for the purpose of this section may compute the  
26 burden of any such tax obligation on an aggregate statewide or  
27 foreign countrywide basis as an addition to the rate of tax payable  
28 by similar New Jersey companies, or reciprocal or interinsurance  
29 exchanges, in such state or foreign country. The addition to the  
30 rate of tax payable by similar New Jersey companies, or reciprocal  
31 or interinsurance exchanges, shall be calculated by dividing (i) the  
32 aggregate of their tax obligations paid to any such city, county,  
33 school district or other political subdivision of such state or foreign  
34 country by (ii) the aggregate of the taxable premiums under the  
35 premium taxing statute of such state or foreign country. The  
36 commissioner may issue regulations to carry out the purpose of  
37 this act. The provisions of this section shall not apply to ad va-  
38 lorem taxes on real or personal property or to personal income  
39 taxes **\*[nor]** *\*or\** to special purpose **\*[obligations or]** *assess-*  
40 *ments imposed* **\*[by another state]** *\* in connection with particular*  
41 *kinds of insurance.*

1 2. This act shall take effect immediately.

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4 premium or income or other taxes, or any fees, fines, penalties,  
5 licenses, deposit requirements or other obligations, prohibitions or  
6 restrictions are imposed upon New Jersey insurance companies, or  
7 reciprocal or interinsurance exchanges, doing business in such other  
8 state or foreign country, or upon their agents therein, which are  
9 in excess of such taxes, fees, fines, penalties, licenses, deposit re-  
10 quirements or other obligations, prohibitions or restrictions im-  
11 posed upon insurance companies, or reciprocal or interinsurance  
12 exchanges of such other state or foreign country doing business in  
13 New Jersey, or upon their agents therein, so long as such laws  
14 continue in force the same premium or income or other taxes, or  
15 fees, fines, penalties, licenses, deposit requirements or other obli-  
16 gations, prohibitions and restrictions of whatever kind shall be  
17 imposed upon insurance companies, or reciprocal or interinsurance  
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 24 the meaning of this section, and the Commissioner of [Banking  
 25 and] Insurance for the purpose of this section may compute the  
 26 burden of any such tax obligation on an aggregate statewide or  
 27 foreign countrywide basis as an addition to the rate of tax payable  
 28 by similar New Jersey companies, or reciprocal or interinsurance  
 29 exchanges, in such state or foreign country. The addition to the  
 30 rate of tax payable by similar New Jersey companies, or reciprocal  
 31 or interinsurance exchanges, shall be calculated by dividing (i) the  
 32 aggregate of their tax obligations paid to any such city, county,  
 33 school district or other political subdivision of such state or foreign  
 34 country by (ii) the aggregate of the taxable premiums under the  
 35 premium taxing statute of such state or foreign country. The  
 36 commissioner may issue regulations to carry out the purpose of  
 37 this act. The provisions of this section shall not apply to ad va-  
 38 lorem taxes on real or personal property or to personal income  
 39 taxes *nor to special purpose obligations or assessments imposed*  
 40 *by another state in connection with particular kinds of insurance.*  
 1 2. This act shall take effect immediately.

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STATEMENT

This bill would amend P. L. 1950, c. 231 (C. 17:32-15) to clarify the original intent of the Legislature to exclude special purpose obligations and assessments, like those imposed by State second injury funds, from the computation of the retaliatory tax liability of foreign property and casualty insurers. In amending that law to exclude special purpose obligations and assessments, the bill brings the law as it relates to retaliatory taxation of property and casualty insurers, into conformance with the treatment of retaliatory taxes imposed on foreign life insurers under N. J. S. 17B:23-5.

51749(1985)

SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**SENATE, No. 1749**

with committee amendments

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**STATE OF NEW JERSEY**

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DATED: OCTOBER 16, 1984

As amended, this bill would amend the State's retaliatory tax law applicable to foreign (out-of-State) property and casualty insurers to exclude "special purpose assessments" from any retaliatory tax computation. In doing so, the bill reverses the holding of the New Jersey Tax Court in *Employers Fire Insurance Company v. Director*, 5. N. J. Tax 326 (1983). That decision construed New Jersey's retaliatory tax statute (P. L. 1950, c. 231) as requiring the State to include its Second Injury Fund assessments on domestic companies in any retaliatory tax computation of an out-of-State insurer.

The Tax Court decision may result in unintended adverse consequences including both the potential loss of substantial revenues collected by New Jersey from foreign insurers under the retaliatory tax statute, and the likelihood that New Jersey-based property and casualty insurers will face increases in the level of retaliatory taxes they are required to pay other states.

This bill clarifies the original intent of the retaliatory tax statute to exclude special assessments relating to specific types of insurance coverage. In doing so, this legislation would bring P. L. 1950, c. 231 into conformance with the existing retaliatory tax statute for life insurance companies.

**FISCAL IMPACT:**

The Department of Insurance estimates that enactment of this bill will result in a revenue savings or retention to the State over the estimated loss that would occur if the Tax Court decision were to stand. These projected savings are as follows:

FY 1985 .....	\$2,500,000.00
FY 1986 .....	2,675,000.00
FY 1987 .....	2,860,000.00

**COMMITTEE AMENDMENTS:**

At the request of the Department of Insurance, and with the concurrence of the sponsor, the committee made several technical amendments to clarify the application of the bill.

FISCAL NOTE TO  
**SENATE, No. 1749**

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**STATE OF NEW JERSEY**

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DATED: DECEMBER 4, 1984

Senate Bill No. 1749 of 1984 amends P. L. 1950, c. 231 (C. 17:32-15) to exclude special purpose obligations and assessments imposed by New Jersey from the computation of the retaliatory tax imposed on out-of-state property and casualty insurance companies.

According to the Department of Insurance, enactment of this bill would provide additional State revenue by eliminating the credit out-of-state insurance companies receive for payment of State imposed special assessments from computation of the retaliatory tax. The Department estimates that this bill would generate approximately \$2,500,000.00 in additional revenue during the first year following enactment. This amount would increase to \$2,675,000.00 and \$2,860,000.00 during the second and third years, respectively, assuming a 7% inflation rate.

The Office of Legislative Services concurs with this estimate.

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This fiscal note has been prepared pursuant to P. L. 1980, c. 67.