

CHAPTER 233

S.B. No. 1316

An Act relating to the handling, records, and disposition of protest payments of taxes imposed in certain insurance business and to suits in connection with protest payments; amending Section 112.058 and Subsection (c), Section 112.060, Tax Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 112.058, Tax Code, is amended to read as follows:

“Section 112.058. **SUBMISSION OF PROTEST PAYMENTS TO TREASURER.** (a) *Except as provided in Subsections (b) and (c) of this section, payments made under protest are to be handled as follows:*

“(1) An officer who receives payments made under protest as required by Section 112.051 of this code shall each day send to the treasurer the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

“(2) ~~[(b)]~~ The comptroller shall issue a deposit receipt to each state department for the daily total of payments received from each department.

“(3) ~~[(c)]~~ The treasurer shall make and keep a suspense cash book in which deposit receipts are entered.

“(4) ~~[(d)]~~ The treasurer shall, immediately on receipt, place the payments in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest.

"(5) [(e)] The treasurer shall allocate the interest earned on these funds and credit the amount allocated to the suspense account until the status of the funds is finally determined.

"(b) All protest payment relating to each tax imposed by Articles 1.14-1, 1.14-2, 4.10, 4.11, 14.42, 21.46, and 23.08, Insurance Code, or by Section 28, Article 8306, Revised Statutes, or by Section 33, Texas Health Maintenance Organization Act (Article 20A-33, Vernon's Texas Insurance Code), shall be handled as follows:

"(1) All protest payments that were made pursuant to requirements for the quarterly prepayment of premium tax due on March 1, 1985, and that are presently in the suspense account or that are subsequently paid shall be immediately transferred to the General Revenue Fund.

"(2) All protest payments that are made pursuant to requirements for the quarterly prepayment of premium tax due on May 15, 1985, which have been placed in the suspense account or that are subsequently paid shall be transferred to the General Revenue Fund.

"(3) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax due on August 15, 1985, which have been placed in the suspense account or that are subsequently paid shall be transferred to the General Revenue Fund.

"(4) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax or pursuant to the requirements for annual premium tax that become due after August 15, 1985, but before November 15, 1987, shall not be placed in the suspense account, but shall immediately be deposited in the General Revenue Fund.

"(5) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax or pursuant to the requirement for annual premium tax that become due on or after November 15, 1987, are governed by Subsection (a) of this section.

"(6) The State Board of Insurance shall keep detailed records of protest payments relating to the tax imposed by Articles 1.14-1, 1.14-2, 4.10, 4.11, 14.42, 21.46, and 23.08, Insurance Code, or by Section 28, Article 8306, Revised Statutes, or by Section 33, Texas Health Maintenance Organization Act (Article 20A-33, Vernon's Texas Insurance Code).

"(c) Protest payments relating to the tax imposed by Articles 5.12, 5.24, 5.49, 5.68, 5.91, and 9.46 of the Insurance Code shall be handled as follows:

"(1) All protest payments that are made pursuant to assessments for the calendar years 1985 and 1986 shall be immediately deposited in the State Treasury to the credit of the State Board of Insurance operating fund.

"(2) All protest payments that are made pursuant to assessments for a calendar year after 1986 are governed by Subsection (a) of this section.

"(3) The State Board of Insurance shall keep detailed records of protest payments relating to the tax imposed by Articles 5.12, 5.24, 5.49, 5.68, 5.91, and 9.46, Insurance Code."

SECTION 2. Subsection (c), Section 112.060, Tax Code, is amended to read as follows:

"(c) Each tax refund warrant shall be drawn against the suspense account. If there are not sufficient funds in the suspense account to pay a refund required to be paid under Subsection (a) of this section, then the warrant shall be drawn against the General Revenue Fund or other funds from which refund appropriations may be made."

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 18, 1985, by the following vote: Yeas 28, Nays 1; Senate concurred in House amendments on May 26, 1985, by the following vote: Yeas 29, Nays 2; passed the House, with amendments, on May 26, 1985, by the following vote: Yeas 143, Nays 2, one present not voting.

Approved: June 3, 1985

Effective: Immediately