

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 1031
HOUSE BILL 2103

AN ACT TO AMEND THE INSURANCE PREMIUM TAX LAW.

Whereas, the projection of the Fiscal Research Division indicates that under Sections 1 through 5 of this act in taxable year 1988 (the third year) there will be a shortfall of sixteen million dollars (\$16,000,000) as compared with the rates charged in 1985; and

Whereas, it is the intention of the General Assembly that any modification of insurance premium taxes be revenue neutral; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.5 is amended by rewriting the first paragraph to read:

"Every insurance company shall pay to the Commissioner of Insurance, at the time and rates provided in this section, a tax measured by gross premiums from business done in this State during the preceding calendar year."

Sec. 2. G.S. 105-228.5 is amended by inserting a new paragraph between paragraphs two and three to read:

"An insurer, in computing its premium taxes, shall pay premium taxes on a premium for the purchase of annuities at the time the premium is collected, instead of at the time the contract holder elects to commence annuity benefits."

Sec. 3. G.S. 105-228.5 is amended by rewriting paragraph six to read as follows:

"The tax rate to be applied to gross premiums collected on contracts applicable to liabilities under the Workers' Compensation Act shall be two and five-tenths percent (2.5%). The tax rate to be applied to gross premiums collected on annuities and all other insurance contracts issued by insurers shall be one and seventy-five hundredths percent (1.75%). The tax rate to be applied to amounts collected on contracts of insurance applicable to fire and lightning coverage (except marine and automobile policies) shall be one percent (1.0%) in addition to the one and seventy-five hundredths percent (1.75%) tax."

Sec. 4. G.S. 105-228.5 is amended by inserting a new paragraph between the eighth and ninth paragraphs to read:

"Insurance companies with a premium tax liability of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit an amount equal to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability in the immediately preceding taxable year on or before April

15 of the taxable year and an amount equal to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability in the immediately preceding taxable year on or before July 15 of the taxable year.

In addition each company required to make the installment payments required under this section shall submit, to the Commissioner of Insurance on or before October 15 of the taxable year, a document of estimated tax which shall state estimated gross premium receipts from business done in this State for the taxable year, estimated premium taxes, and any other information required by the Commissioner of Insurance. At the time the declaration of estimated tax is submitted, the company shall remit an amount such that on or before October 15 of the taxable year seventy-five percent (75%) of the estimated premiums tax for the taxable year has been remitted to the Commissioner of Insurance. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

For taxable years beginning on or after January 1, 1988, the second installment payment shall be due on or before June 15 of the taxable year.

If a company does not meet the installment payment requirement of this section, the Commissioner of Insurance shall assess a penalty on underpayments that is equal to the interest rate adopted by the Secretary of Revenue under G.S. 105-241.1(i). Any overpayment shall be credited to the company and applied against the taxes imposed upon the company under this Article."

Sec. 5. G.S. 105-228.5 is amended by adding two paragraphs between paragraphs six and seven to read:

"If the Commissioner finds, after a hearing held in accordance with G.S. 58-9.2, that in all or any part of this State, any amount or kind of insurance authorized by G.S. 58-72(4) through G.S. 58-72(22) is not readily available in the voluntary market and that the public interest requires the availability of that insurance, he may designate that insurance as a depressed line of insurance. The gross premium tax rate imposed on a line of insurance determined by the Commissioner to be a depressed line of insurance may be reduced to encourage the marketing of that depressed line. The Commissioner shall determine in December whether reduced rates in effect shall be continued for the next calendar year. In no event shall aggregate tax reductions under this paragraph for any taxable year exceed five percent (5.0%) of the gross premium tax revenues collected under this section during the immediately preceding fiscal year.

An insurance company domiciled in this State is entitled to a credit against the premium taxes imposed by this section for fifty percent (50%) of any retaliatory taxes paid to other states."

Sec. 5.1. Effective for taxable years beginning on or after January 1, 1988, G.S. 105-228.5 and G.S. 105-228.6 are repealed, except that the seventh paragraph of G.S. 105-228.5 as it existed before this act is not repealed, but is instead amended by deleting "The taxes levied herein measured by premiums shall be in lieu of all other taxes upon insurance companies except", and substituting "The only taxes upon insurance companies shall be". This section does not affect the rights or liabilities of the State, a taxpayer, or other persons arising under these sections before their repeal,

nor does it affect the right to any refund of a tax that would otherwise have been available before the repeal.

Sec. 5.2. Not later than for the taxable year 1988, the General Assembly will reexamine insurance premium taxes with a view to making the changes revenue neutral.

Sec. 6. This act shall be effective with respect to taxable years beginning on and after January 1, 1986.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.