

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 814  
SENATE BILL 685

AN ACT TO REFORM THE INSURANCE PREMIUM TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.8 is rewritten to read:

"§ 105-228.8. **Retaliatory premium taxes.**—(a) When the laws of any other state impose, or would impose, any premium taxes, upon North Carolina insurers doing business in the other state that are, on an aggregate basis, in excess of the premium taxes directly imposed upon similar insurers by the statutes of this State, the Commissioner of Insurance shall impose the same premium taxes, on an aggregate basis, upon the insurers chartered in the other state doing business or seeking to do business in North Carolina. Any insurer subject to the retaliatory tax imposed by this section shall report and pay such tax with the annual premium tax return required by G.S. 105-228.5. The retaliatory tax imposed by this section shall be included in the quarterly prepayment rules for premium taxes.

(b) For purposes of this section, the following definitions shall be applied:

(1) 'State' includes the District of Columbia and other states, territories, and possessions of the United States, the provinces of Canada, and other nations.

(2) 'Insurers' includes all entities subject to tax under G.S. 105-228.5.

(c) For purposes of this section, any premium taxes that are, or would be, imposed upon North Carolina insurers by any city, county, or other political subdivision or agency of another state shall be deemed to be imposed directly by that state.

(d) In computing the premium taxes that another state imposes, or would impose, upon a North Carolina insurer doing business in the state, it shall be assumed that North Carolina insurers pay the highest rates of premium tax that are generally imposed by the other state on similar insurers chartered outside of the state.

(e) This section shall not apply to special purpose obligations or assessments based on premiums imposed in connection with particular kinds of insurance, or to dedicated special purpose taxes based on premiums.

(f) If the laws of another state retaliate against North Carolina insurers on other than an aggregate basis, the Commissioner of Insurance shall retaliate against insurers chartered in such state on the same basis."

Sec. 2. G.S. 105-228.5 is amended as follows:

(1) By rewriting the first paragraph to read:

"Every insurance company and every Chapter 57 corporation 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, or, for Chapter 57 corporations, a tax measured by gross collections from membership dues, exclusive of receipts from cost plus plans, received by such corporations during the preceding calendar year."

(2) By rewriting the third paragraph 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 contract holder elects to commence annuity benefits, instead of at the time the premium is collected.

(3) By inserting in the fourth paragraph the phrase ",457" after the phrase "408".

(4) By adding a new sentence at the end of the seventh paragraph to read:

"Effective July 1, 1988, the tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Chapter 57 corporations shall be one-half of one percent (1/2 of 1%)."

(5) By rewriting the tenth, eleventh, twelfth, and thirteenth paragraphs to read:

"The taxes levied herein measured by premiums and/or membership dues shall be in lieu of all other taxes upon insurance companies except: fees and licenses under this Article, or as specified in Chapter 58 of the General Statutes of North Carolina as amended; taxes imposed by Chapter 118 of the General Statutes of North Carolina; taxes imposed by Article 5 of Chapter 105 of the General Statutes of North Carolina as amended; and ad valorem taxes upon real property and personal property owned in this State.

For the tax above levied as measured by gross premiums and/or gross collections from membership dues exclusive of receipts from cost plus plans the president, secretary, or other executive officer of each insurance company and Chapter 57 corporation doing business in this State shall within the first 15 days of March file with the Commissioner of Insurance a full and accurate report of the total gross premiums as above defined or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. The report shall be in such form and contain such information as the Commissioner of Insurance may specify, and the report shall be verified by the oath of the company official transmitting the same or by some principal officer at the home or head office of the company or association in this country. At the time of making such report the taxes above levied with respect to the gross premiums or the gross collections from membership dues shall be paid to the Commissioner of Insurance. The provisions above shall likewise apply as to reports and taxes for any firm, corporation, or association exchanging reciprocal or interinsurance contracts, and said reports and taxes shall be transmitted by their attorneys-in-fact.

Insurance companies and Chapter 57 corporations subject to the tax imposed by this section 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 three equal quarterly installments with each installment equal to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability incurred in the immediately

preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. 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, 1989, each of the three quarterly installments shall be equal to at least thirty-three and one-third percent (33 1/3%) and payment of these installments shall be made on or before April 15, June 15, and October 15 of each taxable year. The balance shall be remitted by the following March 15 in the same manner provided in this section for annual returns.

The Commissioner of Insurance may, by regulation, permit an insurance company to pay less than the required estimated payment when the insurer reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year."

(6) By deleting the eighth paragraph.

(7) By deleting the ninth and fourteenth paragraphs.

(8) By rewriting the sixteenth paragraph to read:

"The provisions as to reports and taxes as measured by gross premiums shall not apply to farmers' mutual assessment fire insurance companies or to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except members."

Sec. 3. G.S. 58-152 is amended by rewriting the first sentence to read:

"When, by the laws of any other state or nation, any fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are imposed upon insurance companies of this State doing business in such other state or nation or upon their agents therein greater than those imposed by this State upon insurance companies of such other state, then, so long as such laws continue in force, the same fines, penalties, licenses, fees, deposits, obligations and prohibitions, of whatever kind, may in the discretion of the Commissioner be imposed upon all such insurance companies of such other state or nation doing business within this State and upon companies of such other state or nation doing business within this State and upon their agents here."

Sec. 4. Section 5.1 of Chapter 1031 of the 1986 Session Laws is amended in the first sentence by deleting "January 1, 1988" and substituting "January 1, 1990".

Sec. 5. G.S. 57-14 is repealed.

Sec. 6. Sections 1 and 3 of this act are effective for taxable years beginning on or after January 1, 1987. Section 2 of this act is effective for taxable years beginning on or after January 1, 1988, except that subdivisions (3) and (6) of Section 2 are effective for taxable years beginning on or after January 1, 1987. Section 4 of this act is effective upon ratification. Section 5 of this act is effective July 1, 1988.

In the General Assembly read three times and ratified this the 13th day of August, 1987.