

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1272

Short Title: Raise Workers' Comp. Premium Tax.

(Public)

Sponsors: Representatives Ethridge and H. Hunter.

Referred to: Finance.

May 10, 1991

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE TAX ON WORKERS' COMPENSATION
2 INSURANCE PREMIUMS AND TO DEDICATE PART OF THE ADDITIONAL
3 TAX REVENUE FOR SUPPORT OF THE INDUSTRIAL COMMISSION.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-228.5 reads as rewritten:

7 "**§ 105-228.5. Taxes measured by gross premiums.**

8 Every insurance company and every Articles 65 and 66 of Chapter 58 corporation
9 shall pay to the Commissioner of Insurance, at the time and rates provided in this
10 section, a tax measured by gross premiums from business done in this State during the
11 preceding calendar year, or, for Articles 65 and 66 of Chapter 58 corporations, a tax
12 measured by gross collections from membership dues, exclusive of receipts from cost
13 plus plans, received by such corporations during the preceding calendar year.

14 Gross premiums from business done in this State in the case of life insurance and
15 annuity contracts, including any supplemental contracts thereto providing for disability
16 benefits, accidental death benefits, or other special benefits, shall for the purposes of the
17 taxes levied in this section mean any and all premiums collected in the calendar year
18 (other than for contracts for reinsurance) for policies the premiums on which are paid by
19 or credited to persons, firms or corporations resident in this State, or in the case of group
20 policies for any contracts of insurance covering persons resident within this State, with
21 no deduction for considerations paid for annuity contracts which are subsequently

1 returned except as below specified, and with no other deduction whatsoever except for
2 premiums returned under one or more of the following conditions: premiums refunded
3 on policies rescinded for fraud or other breach of contract; premiums which were paid
4 in advance on life insurance contracts and subsequently refunded to the insured,
5 premium payer, beneficiary or estate; and in the case of group annuity contracts the
6 premiums returned by reason of a change in the composition of the group covered. Said
7 gross premiums shall be deemed to have been collected for the amounts as provided in
8 the policy contracts for the time in force during the year, whether satisfied by cash
9 payment, notes, loans, automatic premium loans, applied dividend or in any other
10 manner whatsoever, except in the case of premiums waived by any of said companies
11 pursuant to a contract for waiver of premium in case of disability.

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

15 Every insurer, in computing the premium tax, shall exclude from the gross amount
16 of premiums all premiums received on or after July 1, 1973, from policies or contracts,
17 issued in connection with the funding of a pension, annuity or profit-sharing plan,
18 qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the Code as
19 defined in G.S. 105-134.1(1) and the gross amount of all such premiums shall be
20 exempt from the tax levied by this section.

21 Gross premiums from business done in this State in the case of contracts for fire
22 insurance, casualty insurance, and any other type of insurance except life and annuity
23 contracts as above specified, including contracts of insurance required to be carried by
24 the Workers' Compensation Act, shall for the purposes of the taxes levied in this section
25 mean any and all premiums written during the calendar year, or the equivalent thereof in
26 the case of self-insurers under the Workers' Compensation Act, for contracts covering
27 property or risks in this State, other than for contracts of reinsurance, whether such
28 premiums are designated as premiums, deposits, premium deposits, policy fees,
29 membership fees, or assessments. Gross premiums shall be deemed to have been written
30 for the amounts as provided in the policy contracts, new and renewal, becoming
31 effective during the year irrespective of the time or method of making payment or
32 settlement for such premiums, and with no deduction for dividends whether returned in
33 cash or allowed in payment or reduction of premiums or for additional insurance, and
34 without any other deduction except for return of premiums, deposits, fees or
35 assessments for adjustment of policy rates or for cancellation or surrender of policies.

36 In determining the amount of gross premiums from business in this State all gross
37 premiums received in this State, or credited to policies written or procured in this State,
38 or derived from business written in this State shall be deemed to be for contracts
39 covering persons, property or risks resident or located in this State except for such
40 premiums as are properly reported and properly allocated as being received from
41 business done in some other nation, territory, state or states, and except for premiums
42 from policies written in federal areas for persons in military service who pay premiums
43 by assignment of service pay.

1 The tax rate to be applied to gross premiums collected on contracts applicable to
2 liabilities under the Workers' Compensation Act shall be ~~two and five tenths percent~~
3 ~~(2.5%)~~ two and seventy-five hundredths percent (2.75%) plus an additional dedicated
4 special purpose tax of twenty-five hundredths percent (0.25%). The net proceeds of the
5 special purpose tax shall be used for operating expenses of the North Carolina Industrial
6 Commission. The tax rate to be applied to gross premiums collected on annuities and
7 all other insurance contracts issued by insurers shall be one and seventy-five hundredths
8 percent (1.75%). The tax rate to be applied to amounts collected on contracts of
9 insurance applicable to fire and lightning coverage (except marine and automobile
10 policies) shall be one and thirty-three hundredths percent (1.33%) in addition to the one
11 and seventy-five hundredths percent (1.75%) tax. Twenty-five percent (25%) of the net
12 proceeds of the one and thirty-three hundredths percent (1.33%) tax on amounts
13 collected on contracts of insurance applicable to fire and lightning coverage shall be
14 deposited in the Rural Volunteer Fire Department Fund established in Articles 84
15 through 88 of Chapter 58 of the General Statutes. Effective July 1, 1988, the tax rate to
16 be applied to gross premiums and/or gross collections from membership dues, exclusive
17 of receipts from cost plus plans, received by Articles 65 and 66 of Chapter 58
18 corporations shall be one-half of one percent (1/2 of 1%).

19 The taxes levied herein measured by premiums and/or membership dues shall be in
20 lieu of all other taxes upon insurance companies except: fees and licenses under this
21 Article, or as specified in Articles 1 through 64 of Chapter 58 of the General Statutes of
22 North Carolina as amended; taxes imposed by Articles 84 through 88 of Chapter 58 of
23 the General Statutes of North Carolina; taxes imposed by Article 5 of Chapter 105 of
24 the General Statutes of North Carolina as amended; and ad valorem taxes upon real
25 property and personal property owned in this State.

26 For the tax above levied as measured by gross premiums and/or gross collections
27 from membership dues exclusive of receipts from cost plus plans the president,
28 secretary, or other executive officer of each insurance company and Articles 65 and 66
29 of Chapter 58 corporation doing business in this State shall within the first 15 days of
30 March file with the Commissioner of Insurance a full and accurate report of the total
31 gross premiums as above defined or the total gross collections from membership dues
32 exclusive of receipts from cost plus plans collected in this State during the preceding
33 calendar year. The report shall be in such form and contain such information as the
34 Commissioner of Insurance may specify, and the report shall be verified by the oath of
35 the company official transmitting the same or by some principal officer at the home or
36 head office of the company or association in this country. At the time of making such
37 report the taxes above levied with respect to the gross premiums or the gross collections
38 from membership dues shall be paid to the Commissioner of Insurance. The provisions
39 above shall likewise apply as to reports and taxes for any firm, corporation, or
40 association exchanging reciprocal or interinsurance contracts, and said reports and taxes
41 shall be transmitted by their attorneys-in-fact.

42 Insurance companies and Articles 65 and 66 of Chapter 58 corporations subject to
43 the tax imposed by this section with a premium tax liability of ten thousand dollars
44 (\$10,000) or more for business done in North Carolina during the immediately

1 preceding year shall remit three equal quarterly installments with each installment equal
2 to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability
3 incurred in the immediately preceding taxable year. The quarterly installment payments
4 shall be made on or before April 15, June 15, and October 15 of each taxable year. The
5 company shall remit the balance by the following March 15 in the same manner
6 provided in this section for annual returns. For taxable years beginning on or after
7 January 1, 1989, each of the three quarterly installments shall be equal to at least thirty-
8 three and one-third percent (33 1/3%) and payment of these installments shall be made
9 on or before April 15, June 15, and October 15 of each taxable year. The balance shall
10 be remitted by the following March 15 in the same manner provided in this section for
11 annual returns.

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

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

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

25 With respect to the taxes levied in this section on the equivalent of premiums of self-
26 insurers under the provisions of the Workers' Compensation Act, the reports required
27 herein shall be transmitted to and the taxes collected by the Insurance Commissioner as
28 provided in G.S. 97-100(j)."

29 Sec. 2. This act is effective for taxable years beginning on or after January 1,
30 1991.