

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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HOUSE BILL 1289  
Committee Substitute Favorable 7/1/99

Short Title: 1999 Fee Bill.

(Public)

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Sponsors:

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Referred to:

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April 15, 1999

A BILL TO BE ENTITLED

1  
2 AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES, TO SET THE  
3 INSURANCE REGULATORY CHARGE, TO IMPOSE THE INSURANCE  
4 REGULATORY CHARGE ON SERVICE CORPORATIONS AND ON HEALTH  
5 MAINTENANCE ORGANIZATIONS IN THE YEAR 2000, AND TO ALLOW  
6 THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO  
7 IMPOSE FEES THAT REFLECT THE ACTUAL COST OF RENDERING THE  
8 SERVICE.

9 The General Assembly of North Carolina enacts:

10 Section 1. The percentage rate to be used in calculating the public utility  
11 regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public  
12 utility's North Carolina jurisdictional revenues earned during each quarter that begins on  
13 or after July 1, 1999.

14 Section 2. The annual fee imposed on The North Carolina Electric  
15 Membership Corporation under G.S. 62-302(b1), as enacted by House Bill 476, 1999  
16 General Assembly, S.L. 1999-180, for the 1999-2000 fiscal year is two hundred thousand  
17 dollars (\$200,000).

18 Section 3. The percentage rate to be used in calculating the insurance  
19 regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 1999 calendar year.

1 Section 4. G.S. 58-6-25 reads as rewritten:

2 **"§ 58-6-25. Insurance regulatory charge.**

3 (a) Charge Levied. – There is levied on each insurance company an annual charge  
4 for the purposes stated in subsection (d) of this section. ~~As used in this section, the term~~  
5 ~~"insurance company" means a company that pays the gross premiums tax levied in G.S. 105-~~  
6 ~~228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A~~  
7 ~~health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes~~  
8 ~~and is therefore not subject to the charge levied in this section.~~ The charge levied in this  
9 section is in addition to all other fees and taxes. The percentage rate of the charge is  
10 established pursuant to subsection (b) of this section. For each insurance company that is  
11 not an Article 65 corporation nor a health maintenance organization, the rate is applied to  
12 charge shall be at a percentage rate of the company's premium tax liability for the taxable  
13 year. For Article 65 corporations and health maintenance organizations, the rate is  
14 applied to a presumed premium tax liability for the taxable year calculated as if the  
15 corporation or organization were an insurer providing health insurance. In determining  
16 an insurance company's premium tax liability for a taxable year, the following shall be  
17 disregarded:

18 (1) Additional taxes imposed by G.S. 105-228.8.

19 (2) The additional local fire and lightning tax imposed by G.S. 105-  
20 228.5(d)(4).

21 (3) Any tax credits for guaranty or solvency fund assessments under G.S.  
22 105-228.5A or G.S. 97-133(a).

23 (4) Any tax credits allowed under Chapter 105 of the General Statutes other  
24 than tax payments made by or on behalf of the taxpayer.

25 (b) Rates. – The rate of the charge for ~~the 1991 taxable year shall be six and five-~~  
26 ~~tenths percent (6.5%). For subsequent taxable years, the rate each taxable year shall be the~~  
27 percentage rate established by the General Assembly. When the Department prepares its  
28 budget request for each upcoming fiscal year, the Department shall propose a percentage  
29 rate of the charge levied in this section. The Governor shall submit that proposed rate to  
30 the General Assembly each fiscal year. The General Assembly shall set by law the  
31 percentage rate of the charge levied in this section. The percentage rate may not exceed  
32 the rate necessary to generate funds sufficient to defray the estimated cost of the  
33 operations of the Department for each upcoming fiscal year, including a reasonable  
34 margin for a reserve fund. The amount of the reserve may not exceed one-third of the  
35 estimated cost of operating the Department for each upcoming fiscal year. In calculating  
36 the amount of the reserve, the General Assembly shall consider all relevant factors that  
37 may affect the cost of operating the Department or a possible unanticipated increase or  
38 decrease in North Carolina premiums or other charge revenue.

39 (c) Returns; When Payable. – The charge levied on each health maintenance  
40 organization is payable March 15 following the end of each calendar year. The charge  
41 levied on each insurance company other than a health maintenance organization is  
42 payable at the time the insurance company remits its premium tax. If the insurance  
43 company is required to remit installment payments of premiums tax under G.S. 105-

1 228.5 for a taxable year, it shall also remit installment payments of the charge levied in  
2 this section for that taxable year at the same time and on the same basis as the premium  
3 tax installment payments. Each installment payment shall be equal to at least thirty-three  
4 and one-third percent (33.3%) of the insurance company's regulatory charge liability  
5 incurred in the immediately preceding taxable year.

6 Every insurance company shall, on or before the date the charge levied in this section  
7 is due, file a return on a form prescribed by the Secretary of Revenue. The return shall  
8 state the company's total North Carolina premiums or presumed premiums for the taxable  
9 year and shall be accompanied by any supporting documentation that the Secretary of  
10 Revenue may by rule require.

11 (d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State  
12 treasury, under the control of the Office of State Budget and Management. The proceeds  
13 of the charge levied in this section and all fees collected under Articles 69 through 71 of  
14 this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be  
15 credited to the Fund. The Fund shall be placed in an interest-bearing account and any  
16 interest or other income derived from the Fund shall be credited to the Fund. Moneys in  
17 the Fund may be spent only pursuant to appropriation by the General Assembly and in  
18 accordance with the line item budget enacted by the General Assembly. The Fund is  
19 subject to the provisions of the Executive Budget Act, except that no unexpended surplus  
20 of the Fund shall revert to the General Fund. All money credited to the Fund shall be used  
21 to reimburse the General Fund for the following:

22 (1) Money appropriated to the Department of Insurance to pay its expenses  
23 incurred in regulating the insurance industry and other industries in this  
24 State.

25 (2) Money appropriated to State agencies to pay the expenses incurred in  
26 regulating the insurance industry, in certifying statewide data processors  
27 under Article 11A of Chapter 131E of the General Statutes, and in  
28 purchasing reports of patient data from statewide data processors  
29 certified under that Article.

30 (3) Money appropriated to the Department of Revenue to pay the expenses  
31 incurred in collecting and administering the taxes on insurance  
32 companies levied in Article 8B of Chapter 105 of the General Statutes.

33 (e) Definitions. – The following definitions apply in this section:

34 (1) Article 65 corporation. – Defined in G.S. 105-228.3.

35 (2) Insurance company. – A company that pays the gross premiums tax  
36 levied in G.S. 105-228.5 and G.S. 105-228.8 or a health maintenance  
37 organization.

38 (3) Insurer. – Defined in G.S. 105-228.3."

39 Section 5. G.S. 106-6.1 reads as rewritten:

40 "**~~§ 106-6.1. Fees not to exceed actual cost. Fees.~~**

41 ~~Fees or charges established by any board or commission within the Department of~~  
42 ~~Agriculture and Consumer Services for services rendered or for duties performed shall~~  
43 ~~not exceed the actual cost to the Department of rendering such service or performing such~~

1 ~~duty. As used herein, "cost" shall mean expenses incurred for mileage, subsistence,~~  
2 ~~postage, computer time, salaries, materials, supplies, or other similar expenses which are~~  
3 ~~incurred as a direct result of rendering the service or performing the duty. As used herein,~~  
4 ~~"cost" shall not include fixed overhead expenses such as buildings, equipment, machinery,~~  
5 ~~or other similar expenses which are indirectly related to a particular service or duty. A~~  
6 board or commission within the Department of Agriculture and Consumer Services may  
7 establish fees or charges for the services it provides. The Board of Agriculture, subject  
8 to the provisions of Chapter 146 of the General Statutes, may establish a rate schedule for  
9 the use of facilities operated by the Department of Agriculture and Consumer Services."

10 Section 6. Section 4 of this act becomes effective January 1, 2000, and applies  
11 to the insurance regulatory charge levied for the 2000 calendar year. The remainder of  
12 this act is effective when it becomes law.