

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 236

Short Title: Repeal Health Insurance Premiums Tax.

(Public)

Sponsors: Representatives Lemmond; Arnold, Baker, Barnes, Berry, Black, Bowie, Braswell, Brawley, J. Brown, Buchanan, Cansler, Carpenter, Creech, Culp, Culpepper, Cummings, Cunningham, Daughtry, Decker, Dickson, Dockham, Earle, Eddins, Edwards, Esposito, Fitch, Gamble, Gardner, Grady, Gray, Hensley, Hiatt, Hill, Holmes, Ives, Justus, Kiser, Linney, McComas, McCombs, McLaughlin, McMahan, Mercer, K. Miller, Mitchell, Nichols, Nye, Pate, Preston, Rayfield, Redwine, Reynolds, Richardson, Robinson, Russell, Sexton, Shubert, Tallent, Thompson, Weatherly, Wilkins, G. Wilson, Wood, and Yongue.

Referred to: Finance.

February 21, 1995

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE TWO PERCENT HEALTH INSURANCE PREMIUMS
2 TAX.
3

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-228.3 reads as rewritten:

6 "**§ 105-228.3. To whom this Article shall apply. Scope.**

7 ~~The provisions of this~~ This Article shall apply ~~applies~~ to every person, firm,
8 corporation, association, society, or order insurance company operating in this State,
9 hereinafter to be referred to as insurance company, which contracts or offers on his, their,
10 or its account to issue any policy or contract for annuities or insurance as defined in G.S.
11 58-1-10, or to exchange or issue reciprocal or interinsurance contracts, or to function as a
12 rate-making bureau or association, advisory organization, joint underwriting or joint
13 reinsurance organization, or to serve as an underwriters agency. Said provisions shall

1 ~~likewise apply to any person, firm or corporation who or which shall be to any person~~
2 ~~who is a broker, organizer, manager, or agent, whether local, special-special, or general,~~
3 ~~of any an insurance company, and to self-insurers under the provisions of the Workers'~~
4 ~~Compensation Act. As used in this Article, the term 'insurance company' means any~~
5 ~~person that contracts or offers on its account to issue any policy or contract for annuities~~
6 ~~or insurance as defined in G.S. 58-1-10, to exchange or issue reciprocal or interinsurance~~
7 ~~contracts, to function as a rate-making bureau or association, advisory organization, joint~~
8 ~~underwriting, or joint reinsurance organization, or to serve as an underwriters agency."~~

9 Sec. 2. G.S. 105-228.5 reads as rewritten:

10 **"§ 105-228.5. Taxes measured by gross premiums.**

11 (a) Tax Levied. – Every insurance company ~~and every corporation subject to Article~~
12 ~~65 of Chapter 58 of the General Statutes~~ is subject to the tax imposed by this section. A
13 person who is subject to the tax imposed by this section is not subject to franchise or
14 income taxes imposed by Articles 3 and 4, respectively, of this Chapter.

15 (b) Tax Base. – The tax imposed by this section on an insurance company shall be
16 measured by gross premiums from business done in this State during the preceding
17 calendar year ~~and the tax on a corporation subject to Article 65 of Chapter 58 of the General~~
18 ~~Statutes shall be measured by gross collections from membership dues, exclusive of receipts~~
19 ~~from cost plus plans, received by the corporation during the preceding calendar year.~~ In
20 determining the amount of gross premiums from business in this State, all gross
21 premiums received in this State, credited to policies written or procured in this State, or
22 derived from business written in this State shall be deemed to be for contracts covering
23 persons, property, or risks resident or located in this State unless one of the following
24 applies:

- 25 (1) The premiums are properly reported and properly allocated as being
26 received from business done in some other nation, territory, state, or
27 states.
- 28 (2) The premiums are from policies written in federal areas for persons in
29 military service who pay premiums by assignment of service pay.

30 Gross premiums from business done in this State in the case of life insurance
31 contracts, including supplemental contracts providing for disability benefits, accidental
32 death benefits, or other special benefits that are not annuities, shall mean all premiums
33 collected in the calendar year, other than for contracts of reinsurance, for policies the
34 premiums on which are paid by or credited to persons, firms, or corporations resident in
35 this State, or in the case of group policies, for contracts of insurance covering persons
36 resident within this State. The only deductions allowed shall be for premiums refunded
37 on policies rescinded for fraud or other breach of contract and premiums that were paid in
38 advance on life insurance contracts and subsequently refunded to the insured, premium
39 payer, beneficiary or estate. Gross premiums shall be deemed to have been collected for
40 the amounts as provided in the policy contracts for the time in force during the year,
41 whether satisfied by cash payment, notes, loans, automatic premium loans, applied
42 dividend, or by any other means except waiver of premiums by companies under a
43 contract for waiver of premium in case of disability.

1 Gross premiums from business done in this State for all other contracts of insurance,
2 including contracts of insurance required to be carried by the Workers' Compensation
3 Act, shall mean all premiums written during the calendar year, or the equivalent thereof
4 in the case of self-insurers under the Workers' Compensation Act, for contracts covering
5 property or risks in this State, other than for contracts of reinsurance, whether the
6 premiums are designated as premiums, deposits, premium deposits, policy fees,
7 membership fees, or assessments. Gross premiums shall be deemed to have been written
8 for the amounts as provided in the policy contracts, new and renewal, becoming effective
9 during the year irrespective of the time or method of making payment or settlement for
10 the premiums, and with no deduction for dividends whether returned in cash or allowed
11 in payment or reduction of premiums or for additional insurance, and without any other
12 deduction except for return of premiums, deposits, fees, or assessments for adjustment of
13 policy rates or for cancellation or surrender of policies.

14 (c) Exclusions. – Every insurer, in computing the premium tax, shall exclude all of
15 the following from the gross amount of premiums:

- 16 (1) All premiums received on or after July 1, 1973, from policies or
17 contracts issued in connection with the funding of a pension, annuity, or
18 profit-sharing plan qualified or exempt under sections 401, 403, 404,
19 408, 457 or 501 of the Code as defined in G.S. 105-228.90.
- 20 (2) Premiums or considerations received from annuities, as defined in G.S.
21 58-7-15.
- 22 (3) Funds or considerations received in connection with funding
23 agreements, as defined in G.S. 58-7-16.

24 The gross amount of the excluded premiums, funds, and considerations shall be
25 exempt from the tax imposed by this section.

26 (d) Tax Rates. – The tax rate to be applied to gross premiums collected on
27 contracts applicable to liabilities under the Workers' Compensation Act shall be two and
28 five-tenths percent (2.5%). The tax rate to be applied to gross premiums collected on all
29 insurance contracts issued by insurers shall be one and nine-tenths percent (1.9%). An
30 additional tax shall be applied to amounts collected on contracts of insurance applicable
31 to fire and lightning coverage, except in the case of marine and automobile policies, at
32 the rate of one and thirty-three hundredths percent (1.33%). Twenty-five percent (25%)
33 of the net proceeds of the one and thirty-three hundredths percent (1.33%) tax on
34 amounts collected on contracts of insurance applicable to fire and lightning coverage
35 shall be deposited in the Rural Volunteer Fire Department Fund established in Articles 84
36 through 88 of Chapter 58 of the General Statutes. ~~The tax rate to be applied to gross~~
37 ~~premiums and/or gross collections from membership dues, exclusive of receipts from cost plus~~
38 ~~plans, received by corporations subject to Article 65 of Chapter 58 of the General Statutes shall~~
39 ~~be one half of one percent (1/2 of 1%).~~

40 (e) Report and Payment. – Each insurance company ~~and corporation subject to~~
41 ~~Article 65 of Chapter 58 of the General Statutes~~ doing business in this State shall, within the
42 first 15 days of March, file with the Commissioner of Insurance a full and accurate report
43 of the total gross premiums as defined in this section ~~or the total gross collections from~~

1 membership dues exclusive of receipts from cost plus plans collected in this State during the
2 preceding calendar year. The Commissioner of Insurance shall specify the form of the
3 report and the information to be contained in the report. The report shall be verified by
4 the oath of the company official transmitting it or by some principal officer at the home
5 or head office of the company or association in this country. The taxes imposed by this
6 section shall be remitted to the Commissioner of Insurance with the report. This
7 subsection applies to reports and taxes for firms, corporations, or associations exchanging
8 reciprocal or interinsurance contracts, and those reports and taxes shall be transmitted by
9 their attorneys-in-fact.

10 (f) ~~Installment Payments Required. – Insurance companies and corporations subject~~
11 ~~to Article 65 of Chapter 58 of the General Statutes~~ that are subject to the tax imposed by this
12 section and have a premium tax liability of ten thousand dollars (\$10,000) or more for
13 business done in North Carolina during the immediately preceding year shall remit three
14 equal quarterly installments with each installment equal to at least thirty-three and one-
15 third percent (33 1/3%) of the premium tax liability incurred in the immediately
16 preceding taxable year. The quarterly installment payments shall be made on or before
17 April 15, June 15, and October 15 of each taxable year. The company shall remit the
18 balance by the following March 15 in the same manner provided in this section for
19 annual returns.

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

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

29 (g) ~~Exemptions. – This section does not apply to farmers' mutual assessment fire~~
30 ~~insurance companies or to fraternal orders or societies that do not operate for a profit and~~
31 ~~do not issue policies on any person except members. to the following companies:~~

32 (1) Farmers' mutual assessment fire insurance companies and fraternal
33 orders and societies that do not operate for a profit and do not issue
34 policies on any person except members.

35 (2) A hospital, medical, or dental service corporation regulated under
36 Article 65 of Chapter 58 of the General Statutes.

37 (3) A company regulated under Article 67 of Chapter 58 of the General
38 Statutes."

39 Sec. 3. G.S. 58-6-25(a) reads as rewritten:

40 "(a) Charge Levied. – There is levied on each insurance company an annual charge
41 to defray the cost to the Department of regulating the insurance industry and other
42 industries and the general administrative expenses of the State incident ~~thereto~~ to this
43 regulation. As used in this section, the term 'insurance company' means a company that

1 pays the gross premiums tax levied in G.S. 105-228.5 and G.S. ~~105-228.8~~, ~~except that the~~
2 ~~term does not include a hospital, medical, or dental service corporation regulated under Articles~~
3 ~~65 and 66 of this Chapter. The term "insurance company" does not include a company regulated~~
4 ~~under Article 67 of this Chapter.~~ 105-228.8. The charge levied in this section is in addition
5 to all other fees and taxes. The charge shall be at a percentage rate of the company's
6 premium tax liability for the taxable year. In determining an insurance company's
7 premium tax liability for a taxable year, additional taxes imposed by G.S. 105-228.8 shall
8 be disregarded."
9 Sec. 4. This act is effective for taxable years beginning on or after January 1,
10 1995.