

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 994
Committee Substitute Favorable 5/2/95

Short Title: Appropriations Fee Provisions.

(Public)

Sponsors:

Referred to:

April 26, 1995

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE COMMITTEE ON
APPROPRIATIONS BY CHANGING VARIOUS REVENUE STATUTES.

The General Assembly of North Carolina enacts:

REVENUE DEPARTMENT COLLECT SOME PREMIUMS TAX

Section 1. (a) G.S. 105-228.9 reads as rewritten:

"§ 105-228.9. **Commissioner of Insurance to administer portions of Article.**

~~This Notwithstanding any other provision of this Article, the taxes levied in this Article on self-insurers and the additional tax levied in this Article at the rate of one and thirty-three hundredths percent (1.33%) on contracts of insurance applicable to fire and lightning coverage shall be administered solely by the Commissioner of Insurance, who has the same authority and responsibility in administering those portions of this Article as the Secretary of Revenue has in administering the other Articles of this Chapter. All provisions of this Chapter that are not inconsistent with this Article apply to this Article.~~
portions of this Article."

(b) G.S. 105-228.3 reads as rewritten:

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

The following definitions apply in this Article:

1 (1) Article 65 corporation. – A corporation subject to Article 65 of Chapter
2 58 of the General Statutes, regulating hospital, medical, and dental
3 service corporations.

4 (2) Insurer. – An insurer as defined in G.S. 58-1-5 or a group of employers
5 who have pooled their liabilities pursuant to G.S. 97-93 of the Workers'
6 Compensation Act.

7 (3) Self-insurer. – An employer that carries its own risk pursuant to G.S.
8 97-93 of the Workers' Compensation Act.

9 ~~provisions of this Article shall apply to every person, firm, corporation, association,~~
10 ~~society, or order operating in this State, hereinafter to be referred to as insurance~~
11 ~~company, which contracts or offers on his, their, or its account to issue any policy or~~
12 ~~contract for annuities or insurance as defined in G.S. 58-1-10, or to exchange or issue~~
13 ~~reciprocal or interinsurance contracts, or to function as a rate-making bureau or~~
14 ~~association, advisory organization, joint underwriting or joint reinsurance organization, or~~
15 ~~to serve as an underwriters agency. Said provisions shall likewise apply to any person,~~
16 ~~firm or corporation who or which shall be a broker, organizer, manager, or agent, whether~~
17 ~~local, special or general, of any insurance company, and to self-insurers under the~~
18 ~~provisions of the Workers' Compensation Act."~~

19 (c) G.S. 105-228.4 is recodified as G.S. 58-6-7.

20 (d) G.S. 105-228.5 reads as rewritten:

21 **"§ 105-228.5. Taxes measured by gross premiums.**

22 (a) ~~Tax Levied. – Every insurance company and every corporation subject to~~
23 ~~Article 65 of Chapter 58 of the General Statutes is subject to the tax imposed by this~~
24 ~~section. A tax is levied in this section on insurers, Article 65 corporations, and self-~~
25 ~~insurers. A person who An insurer or Article 65 corporation that is subject to the tax~~
26 ~~imposed levied by this section is not subject to franchise or income taxes imposed by~~
27 ~~Articles 3 and 4, respectively, of this Chapter.~~

28 (b) ~~Tax Base. – The tax imposed by this section on an insurance company insurer~~
29 ~~shall be measured by gross premiums from business done in this State during the~~
30 ~~preceding calendar year and the tax on a corporation subject to Article 65 of Chapter 58~~
31 ~~of the General Statutes year. The tax imposed by this section on an Article 65~~
32 ~~corporation shall be measured by gross collections from membership dues, exclusive of~~
33 ~~receipts from cost plus plans, received by the corporation during the preceding calendar~~
34 ~~year. The tax imposed by this section on a self-insurer shall be measured by the gross~~
35 ~~premiums that would be charged against the same or most similar industry or business,~~
36 ~~taken from the manual insurance rate then in force in this State, applied to the self-~~
37 ~~insurer's payroll for the previous calendar year as determined under Article 2 of Chapter~~
38 ~~97 of the General Statutes modified by the self-insurer's approved experience modifier.~~

39 In determining the amount of gross premiums from business in this State, all gross
40 premiums received in this State, credited to policies written or procured in this State, or
41 derived from business written in this State shall be deemed to be for contracts covering
42 persons, property, or risks resident or located in this State unless one of the following
43 applies:

1 (1) The premiums are properly reported and properly allocated as being
2 received from business done in some other nation, territory, state, or
3 states.

4 (2) The premiums are from policies written in federal areas for persons in
5 military service who pay premiums by assignment of service pay.

6 Gross premiums from business done in this State in the case of life insurance
7 contracts, including supplemental contracts providing for disability benefits, accidental
8 death benefits, or other special benefits that are not annuities, ~~shall mean~~ means all
9 premiums collected in the calendar year, other than for contracts of reinsurance, for
10 policies the premiums on which are paid by or credited to persons, firms, or corporations
11 resident in this State, or in the case of group policies, for contracts of insurance covering
12 persons resident within this State. The only deductions allowed shall be for premiums
13 refunded on policies rescinded for fraud or other breach of contract and premiums that
14 were paid in advance on life insurance contracts and subsequently refunded to the
15 insured, premium payer, beneficiary or estate. Gross premiums shall be deemed to have
16 been collected for the amounts as provided in the policy contracts for the time in force
17 during the year, whether satisfied by cash payment, notes, loans, automatic premium
18 loans, applied dividend, or by any other means except waiver of premiums by companies
19 under a contract for waiver of premium in case of disability.

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

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

35 (1) All premiums received on or after July 1, 1973, from policies or
36 contracts issued in connection with the funding of a pension, annuity, or
37 profit-sharing plan qualified or exempt under ~~sections~~ section 401, 403,
38 404, 408, 457 or 501 of the Code as defined in G.S. 105-228.90.

39 (2) Premiums or considerations received from annuities, as defined in G.S.
40 58-7-15.

41 (3) Funds or considerations received in connection with funding
42 agreements, as defined in G.S. 58-7-16.

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

3 (d) Tax Rates. – The tax rate to be applied to gross ~~premiums~~ premiums, or the
4 equivalent thereof in the case of self-insurers, collected on contracts applicable to
5 liabilities under the Workers' Compensation Act shall be two and five-tenths percent
6 (2.5%). The tax rate to be applied to gross premiums collected on all other insurance
7 contracts issued by insurers shall be one and nine-tenths percent (1.9%). An additional
8 tax shall be applied to amounts collected on contracts of insurance applicable to fire and
9 lightning coverage, except in the case of marine and automobile policies, at the rate of
10 one and thirty-three hundredths percent ~~(1.33%)~~. ~~Twenty five (1.33%); twenty-five~~
11 ~~percent (25%) of the net proceeds of the one and thirty-three hundredths percent (1.33%)~~
12 ~~tax on amounts collected on contracts of insurance applicable to fire and lightning~~
13 ~~coverage~~ this additional tax shall be deposited in the Rural Volunteer Fire Department
14 Fund established in Articles 84 through 88 of Chapter 58 of the General Statutes. The tax
15 rate to be applied to gross premiums and/or gross collections from membership dues,
16 exclusive of receipts from cost plus plans, received by Article 65 corporations subject to
17 ~~Article 65 of Chapter 58 of the General Statutes~~ shall be one-half of one percent (1/2 of
18 1%).

19 (e) Report and Payment. – Each ~~insurance company and corporation subject to~~
20 ~~Article 65 of Chapter 58 of the General Statutes~~ insurer, Article 65 corporation, and self-
21 insurer doing business in this State shall, within the first 15 days of March, file with the
22 ~~Commissioner of Insurance~~ Secretary of Revenue a full and accurate report of the total
23 gross premiums as defined in this ~~section~~ section, the payroll and other information
24 required by the Secretary in the case of a self-insurer, or the total gross collections from
25 membership dues exclusive of receipts from cost plus plans collected in this State during
26 the preceding calendar year. ~~The Commissioner of Insurance shall specify the form of the~~
27 ~~report and the information to be contained in the report.~~ The report shall be verified by
28 the oath of the company official or other representative responsible for transmitting it or
29 by some principal officer at the home or head office of the company or association in this
30 country. ~~The~~ it; the taxes imposed by this section shall be remitted to the ~~Commissioner~~
31 ~~of Insurance~~ Secretary with the report. ~~This subsection applies to reports and taxes for~~
32 ~~firms, corporations, or associations exchanging reciprocal or interinsurance contracts, and~~
33 ~~those reports and taxes shall be transmitted by their attorneys in fact.~~

34 (f) Installment Payments Required. — ~~Insurance companies and corporations~~
35 ~~subject to Article 65 of Chapter 58 of the General Statutes~~ Insurers, Article 65
36 corporations, and self-insurers that are subject to the tax imposed by this section and have
37 a premium tax liability of ten thousand dollars (\$10,000) or more for business done in
38 North Carolina during the immediately preceding year shall remit three equal quarterly
39 installments with each installment equal to at least thirty-three and one-third percent (33
40 1/3%) of the premium tax liability incurred in the immediately preceding taxable year.
41 The quarterly installment payments shall be made on or before April 15, June 15, and
42 October 15 of each taxable year. The company shall remit the balance by the following
43 March 15 in the same manner provided in this section for annual returns.

1 The ~~Commissioner of Insurance~~ Secretary of Revenue may permit an insurance
2 company to pay less than the required estimated payment when the insurer reasonably
3 believes that the total estimated payments made for the current year will exceed the total
4 anticipated tax liability for the year.

5 ~~If a company does not meet the installment payment requirement of this subsection,~~
6 ~~the Commissioner of Insurance shall assess a penalty on underpayments that is equal to~~
7 ~~the interest rate adopted by the Secretary of Revenue.~~ An underpayment of an installment
8 payment required by this subsection shall bear interest, as a penalty, at the rate
9 established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in
10 G.S. 105-266(b) and, together with the interest, shall be credited to the company and
11 applied against the taxes imposed upon the company under this Article.

12 (g) Exemptions. – This section does not apply to farmers' mutual assessment fire
13 insurance companies or to fraternal orders or societies that do not operate for a profit and
14 do not issue policies on any person except members."

15 (e) G.S. 105-228.5A reads as rewritten:

16 "**§ 105-228.5A. Credit against gross premium tax for assessments paid to the**
17 **Insurance Guaranty Association and the Life and Health Insurance**
18 **Guaranty Association.**

19 (a) The following definitions apply in this section:

20 (1) Assessment. – An assessment as described in G.S. 58-48-35 or an
21 assessment as described in G.S. 58-62-41.

22 (2) Association. – The North Carolina Insurance Guaranty Association
23 created under G.S. 58-48-25 or the North Carolina Life and Health
24 Insurance Guaranty Association created under G.S. 58-62-26.

25 ~~(3) Commissioner. — Commissioner of Insurance.~~

26 (4) Member insurer. – A member insurer as defined in G.S. 58-48-20 or a
27 member insurer as defined in G.S. 58-62-16.

28 (b) A member insurer who pays an assessment is allowed as a credit against the
29 tax imposed under G.S. 105-228.5 an amount equal to twenty percent (20%) of the
30 amount of the assessment in each of the five taxable years following the year in which the
31 assessment was paid. In the event a member insurer ceases doing business, all
32 assessments for which it has not taken a credit under this section may be credited against
33 its premium tax liability for the year in which it ceases doing business. The amount of the
34 credit allowed by this section may not exceed the member insurer's premium tax liability
35 for the taxable year.

36 (c) Any sums that are acquired by refund, under either G.S. 58-48-35 or G.S. 58-
37 62-41, from the Association by member insurers, and that have previously been offset
38 against premium taxes as provided in subsection (b) of this section, shall be paid by the
39 member insurers to this State in the manner required by the ~~Commissioner~~ Secretary of
40 Revenue. The Association shall notify the ~~Commissioner~~ Secretary that the refunds have
41 been made."

42 (f) G.S. 105-228.8 reads as rewritten:

43 "**§ 105-228.8. Retaliatory premium taxes.**

1 (a) When the laws of any other state impose, or would impose, any premium taxes,
2 upon North Carolina ~~insurers-companies~~ doing business in the other state that are, on an
3 aggregate basis, in excess of the premium taxes directly imposed upon similar ~~insurers~~
4 ~~companies~~ by the statutes of this State, the ~~Commissioner of Insurance~~ Secretary of
5 Revenue shall impose the same premium taxes, on an aggregate basis, upon the ~~insurers~~
6 ~~companies~~ chartered in the other state doing business or seeking to do business in North
7 Carolina. Any ~~insurer-company~~ subject to the retaliatory tax imposed by this section
8 shall report and pay ~~such-the~~ tax with the annual premium tax return required by G.S.
9 105-228.5. The retaliatory tax imposed by this section shall be included in the quarterly
10 prepayment rules for premium taxes.

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

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

15 (2) ~~'Insurers'-~~'Companies' includes all entities subject to tax under G.S. 105-
16 228.5.

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

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

26 (e) This section shall not apply to special purpose obligations or assessments
27 based on premiums imposed in connection with particular kinds of insurance, to the
28 special purpose regulatory charge imposed under G.S. 58-6-25, or to dedicated special
29 purpose taxes based on premiums. For purposes of this section, seventy-five percent
30 (75%) of the one and thirty-three hundredths percent (1.33%) tax on amounts collected
31 on contracts of insurance applicable to fire and lightning coverage shall not be a special
32 purpose obligation or assessment or a dedicated special purpose tax within the meaning
33 of this subsection.

34 (f) If the laws of another state retaliate against North Carolina ~~insurers-companies~~
35 on other than an aggregate basis, the ~~Commissioner of Insurance~~ Secretary of Revenue
36 shall retaliate against ~~insurers-companies~~ chartered in ~~such-that~~ state on the same basis."

37 (g) G.S. 105-212(b) reads as rewritten:

38 "(b) ~~Insurance companies reporting premiums to the Commissioner of Insurance of~~
39 ~~this State and paying a tax thereon under the provisions of Insurers that pay the premiums~~
40 ~~tax levied in Article 8B, Schedule I-B 8B of this Chapter are not shall not be 8B of this~~
41 ~~Chapter are not~~ subject to the provisions of G.S. 105-201, ~~105-202-105-202,~~ and 105-
42 203, building and loan associations and savings and loan associations paying a tax under
43 the provisions of Article 8D of ~~Chapter 105 of the General Statutes shall not be this~~

1 Chapter are not subject to the provisions of G.S. 105-201, ~~105-202~~ 105-202, and 105-
2 203; State credit unions organized pursuant to the provisions of Subchapter III, Chapter
3 54, paying the supervisory fees required by law, shall not be subject to any of the taxes
4 levied in this ~~Article or schedule;~~ Article; banks, banking associations ~~associations,~~ and
5 trust companies shall not be subject to the tax levied in this Article ~~or schedule~~ on
6 evidences of debt held by them when ~~said these~~ evidences of debt represent investment of
7 funds on deposit with ~~such the~~ banks, banking associations ~~associations,~~ and trust
8 companies: ~~Provided, that each such institution must, upon request by the Secretary of~~
9 ~~Revenue, establish in writing its claim for exemption as herein provided.~~ companies. In
10 order to be eligible for an exemption provided in this subsection an entity must, upon
11 request by the Secretary, provide written evidence establishing that it qualifies for the
12 exemption. The exemption in this subsection shall apply only to those institutions, and
13 only to the extent, specifically mentioned, and no other."

14 (h) G.S. 105-266(b) reads as rewritten:

15 "(b) Interest. – An overpayment of tax bears interest at the rate established in G.S.
16 105-241.1(i) from the date that interest begins to accrue until a refund is paid. A refund is
17 considered paid on a date determined by the Secretary that is no sooner than five days
18 after a refund check is mailed.

19 Interest on an overpayment of a tax, other than a tax levied under Article 4 or Article
20 8B of this Chapter, accrues from a date 90 days after the date the tax was originally paid
21 by the taxpayer until the refund is paid. Interest on an overpayment of a tax levied under
22 Article 4 or Article 8B of this Chapter accrues from a date 45 days after the latest of the
23 following dates until the refund is paid:

- 24 (1) The date the final return was filed.
- 25 (2) The date the final return was due to be filed.
- 26 (3) The date of the overpayment.

27 The date of an overpayment of a tax levied under Article 4 or Article 8B of this Chapter
28 is determined in accordance with section 6611(d), (f), (g), and (h) of the Code."

29 (i) G.S. 97-100 reads as rewritten:

30 "**§ 97-100. Rates for insurance; carrier to make reports for determination of**
31 **solvency; tax upon premium; ~~returned or canceled premiums; reports of~~**
32 **~~premiums collected; wrongful or fraudulent representation of carrier~~**
33 **~~punishable as misdemeanor; notices to carrier; employer who carries own~~**
34 **~~risk shall make report on payroll. notices.~~**

35 (a) The rates charged by all carriers of insurance, including the parties to any
36 mutual insurance association writing insurance against the liability for compensation
37 under this Article, shall be fair, reasonable, and adequate.

38 (b) Each ~~such~~ insurance carrier shall report to the Commissioner of Insurance, in
39 accordance with ~~such reasonable rules as rules adopted by the~~ Commissioner of
40 Insurance ~~may at any time prescribe,~~ Insurance, for the purpose of determining the
41 solvency of the carrier and the adequacy of its rates; for ~~such this~~ purpose the
42 Commissioner of Insurance may inspect the books and records of ~~such any~~ insurance
43 carrier, and examine its agents, officers, and directors under oath.

1 (c) Every insurer under this Article, every employer carrying its own risk under
2 G.S. 97-93, and every group of employers that has pooled the employers' liabilities under
3 G.S. 97-93 is subject to the premiums tax levied in Article 8B of Chapter 105 of the
4 General Statutes. person, partnership, association, corporation, whether organized under
5 the laws of this or any other state or country, every mutual company or association and
6 every other insurance carrier insuring employers in this State against liability for personal
7 injuries to their employees, or death caused thereby, under the provisions of this Article,
8 shall, as hereinafter provided, pay a tax upon the premium received, whether in cash or
9 notes, in this State, or on account of business done in this State, for such insurance in this
10 State, at the rate provided in the Revenue Act then in force, which tax shall be in lieu of
11 all other taxes on such premiums, which tax shall be assessed and collected as hereinafter
12 provided; provided, however, that such insurance carriers shall be credited with all
13 canceled or returned premiums actually refunded during the year on such insurance.

14 (d) Every ~~such insurance carrier shall, for the six months ending December 31,~~
15 ~~1929, and annually thereafter, make a return, verified by the affidavit of its president and~~
16 ~~secretary, or other chief officers or agents, to the Commissioner of Insurance, stating the~~
17 ~~amount of all such premiums and credits during the period covered by such return. Every~~
18 ~~insurance carrier required to make such return shall file the same with the Commissioner~~
19 ~~of Insurance on or before the first day of April after the close of the period covered~~
20 ~~thereby, and shall at the same time pay to the State Insurance Commissioner the tax~~
21 ~~provided in the Revenue Act then in force on such premium ascertained, as provided in~~
22 ~~subsection (c) hereof, less returned premium on canceled policies.~~

23 (e) If any ~~such insurance carrier shall fail or refuse to make the return required by~~
24 ~~this Article, the said Commissioner of Insurance shall assess the tax against such~~
25 ~~insurance carrier at the rate herein provided for, on such amount of premium as he may~~
26 ~~deem just, and the proceedings thereon shall be the same as if the return had been made.~~

27 (f) If any ~~such insurance carrier shall withdraw from business in this State before~~
28 ~~the tax shall fall due, as herein provided, or shall fail or neglect to pay such tax, the~~
29 ~~Commissioner of Insurance shall at once proceed to collect the same; and he is hereby~~
30 ~~empowered and authorized to employ such legal process as may be necessary for that~~
31 ~~purpose, and when so collected he shall pay the same into the State treasury. The suit~~
32 ~~may be brought by the Commissioner of Insurance, in his official capacity, in any court~~
33 ~~of this State having jurisdiction. Reasonable attorney's fees may be taxed as costs~~
34 ~~therein, and process may issue to any county of the State, and may be served as in civil~~
35 ~~actions, or in case of unincorporated associations, partnerships, interindemnity contracts,~~
36 ~~upon any agent of the parties thereto upon whom process may be served under the laws~~
37 ~~of this State.~~

38 (g) Any person ~~or persons who shall in this State act or assume who acts or~~
39 ~~assumes to act as agent for any such insurance carrier whose authority to do business in~~
40 ~~this State has been suspended, while such the suspension remains in force, or shall~~
41 ~~neglect or refuse who neglects or refuses to comply with any of the provisions of this~~
42 ~~section obligatory upon such person or party section, or who shall willfully make~~
43 ~~willfully makes a false or fraudulent statement of the business or condition of any such~~

1 insurance carrier, ~~or false or fraudulent return as herein provided, shall be deemed is~~
2 guilty of a Class 2 misdemeanor.

3 (h) Whenever by this Article, or the terms of any policy contract, any officer is
4 required to give any notice to an insurance carrier, the ~~same notice~~ may be given by
5 delivery, or by mailing by registered letter properly addressed and stamped, to the
6 principal office or general agent of ~~such the~~ insurance carrier within this State, or to its
7 home office, or to the secretary, general agent, or chief officer ~~thereof of the carrier~~ in the
8 United States, or ~~to the State Insurance Commissioner. Commissioner of Insurance.~~

9 (i) ~~Any insurance carrier liable to pay a tax upon premiums under this Article~~
10 ~~shall not be liable to pay any other or further tax upon such premiums, under any other~~
11 ~~law of this State.~~

12 (j) ~~Every employer carrying his own risk under the provisions of G.S. 97-93 shall,~~
13 ~~under oath, report to the Commissioner of Insurance his payroll, subject to the provisions~~
14 ~~of this Article. Such report shall be made in form prescribed by the Commissioner of~~
15 ~~Insurance, and at the times herein provided for premium reports by insurer. The~~
16 ~~Commissioner of Insurance shall assess against such payroll a maintenance fund tax~~
17 ~~computed by taking such percent of the basic premiums charged against the same or most~~
18 ~~similar industry or business taken from the manual insurance rate then in force in this~~
19 ~~State as is assessed in the Revenue Act against the insurance carriers for premiums~~
20 ~~collected on compensation insurance policies. The Commissioner shall use the approved~~
21 ~~experience modifier of an employer in calculating the employer's maintenance fund tax~~
22 ~~liability under this subsection. Receipts collected under this subsection shall be deposited~~
23 ~~to the credit of the State Treasurer as general fund revenue.~~

24 (k) ~~Every group of two or more employers who have pooled their liabilities~~
25 ~~pursuant to G.S. 97-93 shall pay a tax upon premiums received in this State in the same~~
26 ~~manner as the tax is calculated and paid by insurance carriers insuring employers in this~~
27 ~~State and set forth in subsections (c), (d), (e), and (f) above."~~

28 (j) G.S. 58-6-25(c) reads as rewritten:

29 "(c) Returns; When Payable. The charge levied on each insurance company is
30 payable at the time the insurance company remits its premium tax. If the insurance
31 company is required to remit installment payments of premiums tax under G.S. 105-
32 228.5 for a taxable year, it shall also remit installment payments of the charge levied in
33 this section for that taxable year at the same time and on the same basis as the premium
34 tax installment payments. Each installment payment shall be equal to at least thirty-three
35 and one-third percent (33.3%) of the insurance company's regulatory charge liability
36 incurred in the immediately preceding taxable year.

37 Every insurance company shall, on or before the date the charge levied in this section
38 is due, file a return on a form prescribed by the ~~Commissioner. Secretary of Revenue.~~
39 The ~~report return~~ shall state the company's total North Carolina premiums for the taxable
40 year and shall be accompanied by any supporting documentation that the ~~Commissioner~~
41 ~~Secretary of Revenue~~ may by rule require."

42 (k) This section becomes effective January 1, 1996.
43

DISCONTINUE INSURANCE AUDIT AND EXAMINATION FEE CHARGES

Sec. 2. (a) G.S. 58-30-22(c) is repealed.

(b) G.S. 58-40-90 reads as rewritten:

"§ 58-40-90. Examination of rating, joint underwriting, and joint reinsurance organizations.

The Commissioner shall, at least once every three years, make or cause to be made an examination of each rating organization licensed pursuant to G.S. 58-40-50 and each advisory organization licensed pursuant to G.S. 58-40-55. ~~He~~The Commissioner may, as often as ~~he may deem it deemed~~ expedient, make or cause to be made, an examination of each group, association, or other organization referred to in G.S. 58-40-60. ~~Such~~This examination shall relate only to the activities conducted pursuant to this Article and to the organizations licensed under this Article. ~~The reasonable cost of any such examination shall be paid by the organization examined upon presentation to it of a detailed account of such cost.~~The officers, manager, agents and employees of any such organization may be examined at any time under oath and shall exhibit all books, records, account, documents or agreements governing its method of operation. In lieu of any such examination, the Commissioner may accept the report of an examination made by the insurance advisory official of another state, pursuant to the laws of ~~such~~that state."

(c) This section becomes effective July 1, 1995.

INSURANCE REGULATORY CHARGE ADMINISTRATIVE CHANGE

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

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

(a) Charge Levied. – There is levied on each insurance company an annual charge to defray the cost ~~to the Department~~ of regulating the insurance ~~industry and other industries and the general administrative expenses of the State incident thereto.~~industry. As used in this section, the term 'insurance company' means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except that the term does not include a hospital, medical, or dental service corporation regulated under Articles 65 and 66 of this Chapter. The term 'insurance company' does not include a company regulated under Article 67 of this Chapter. The charge levied in this section is in addition to all other fees and taxes. The charge shall be at a percentage rate of the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, additional taxes imposed by G.S. 105-228.8 shall be disregarded.

(b) Rates. – The rate of the charge for the 1991 taxable year shall be six and five-tenths percent (6.5%). For subsequent taxable years, the rate shall be the percentage rate established by the General Assembly. When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. The General Assembly shall set by law the percentage rate of the charge levied in this section. The percentage rate may not exceed the rate necessary to generate funds sufficient to defray the estimated cost of the operations of the Department

1 for each upcoming fiscal year, including a reasonable margin for a reserve fund. The
2 amount of the reserve may not exceed one-third of the estimated cost of operating the
3 Department for each upcoming fiscal year. In calculating the amount of the reserve, the
4 General Assembly shall consider all relevant factors that may affect the cost of operating
5 the Department or a possible unanticipated increase or decrease in North Carolina
6 premiums or other charge revenue.

7 (c) Returns; When Payable. – The charge levied on each insurance company is
8 payable at the time the insurance company remits its premium tax. If the insurance
9 company is required to remit installment payments of premiums tax under G.S. 105-
10 228.5 for a taxable year, it shall also remit installment payments of the charge levied in
11 this section for that taxable year at the same time and on the same basis as the premium
12 tax installment payments. Each installment payment shall be equal to at least thirty-three
13 and one-third percent (33.3%) of the insurance company's regulatory charge liability
14 incurred in the immediately preceding taxable year.

15 Every insurance company shall, on or before the date the charge levied in this section
16 is due, file a return on a form prescribed by the Commissioner. The report shall state the
17 company's total North Carolina premiums for the taxable year and shall be accompanied
18 by any supporting documentation that the Commissioner may by rule require.

19 (d) Use of Proceeds. – ~~The Department of Insurance Regulatory Fund is created in~~
20 ~~the State treasury—treasury, under the control of the Office of State Budget and~~
21 ~~Management.~~ The proceeds of the charge levied in this section and all fees collected
22 under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143
23 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an
24 interest-bearing account and any interest or other income derived from the Fund shall be
25 credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by
26 the General Assembly and in accordance with the line item budget enacted by the
27 General Assembly. The Fund is subject to the provisions of the Executive Budget Act,
28 except that no unexpended surplus of the Fund shall revert to the General Fund. All
29 money credited to the Fund shall be used only to pay to reimburse the General Fund for
30 money appropriated to State agencies to pay the expenses of the Commissioner and the
31 Department that are incurred in regulating the insurance industry and other industries in
32 this State and the general administrative expenses of the State incident thereto. industry."

33 (b) This section becomes effective July 1, 1995.
34

35 CHILD SUPPORT FOR CHILDREN

36 Sec. 4. (a) G.S. 105A-13 reads as rewritten:

37 "§ 105A-13. Disposition of proceeds collected; collection assistance fees.

38 (a) Upon effecting final setoffs, the Department shall periodically write checks to
39 the respective claimant agencies for the net proceeds collected on their behalf.

40 (b) Each year the Department shall ~~calculate—determine~~ its actual cost of collection
41 ~~as a percentage of the immediately preceding year's collections under the Setoff Debt~~
42 ~~Collection Act and under the Setoff Debt Collection Act for the immediately preceding~~
43 year and shall calculate the percentage that cost represents of the preceding year's

1 collections, excluding collections of child support arrearages under G.S. 105A-2(1)d.
2 The Department shall retain that percentage from the gross proceeds collected by the
3 Department through setoff for the current fiscal ~~year.~~ year, other than the gross proceeds
4 collected of child support arrearages under G.S. 105A-2(1)d."

5 (b) This section becomes effective January 1, 1996.

6 Sec. 5. This act becomes effective as provided therein.