

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1569

Short Title: Expand Insurance Regulatory Charge.

(Public)

Sponsors: Representatives Ives, Sherrill, and McCombs.

Referred to: Insurance, if favorable, Finance.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO IMPOSE THE INSURANCE REGULATORY CHARGE ON SERVICE CORPORATIONS AND HEALTH MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. 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 for the purposes stated in subsection (d) of this section. ~~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 a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section.~~ The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. For each insurance company that is not an Article 65 corporation or a health maintenance organization, the rate is applied to charge shall be at a percentage rate of the company's premium tax liability for the taxable year. For Article 65 corporations and health maintenance organizations, the rate is applied to a presumed premium tax liability for the taxable year calculated as if the corporation or organization were an insurer providing health insurance. In determining an insurance company's premium tax liability for a taxable year, additional taxes imposed by

1 G.S. 105-228.8, the additional local fire and lightning tax imposed by G.S. 105-
2 228.5(d)(4), and any tax credits for guaranty or solvency fund assessments under G.S.
3 105-228.5A or G.S. 97-133(a) shall be disregarded.

4 (a1) Definitions. – The following definitions apply in this section:

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

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

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

10 (b) Rates. – The rate of the charge for the 1991 taxable year shall be six and five-
11 tenths percent (6.5%). For subsequent taxable years, the rate each taxable year shall be the
12 percentage rate established by the General Assembly. When the Department prepares its
13 budget request for each upcoming fiscal year, the Department shall propose a percentage
14 rate of the charge levied in this section. The Governor shall submit that proposed rate to
15 the General Assembly each fiscal year. The General Assembly shall set by law the
16 percentage rate of the charge levied in this section. The percentage rate may not exceed
17 the rate necessary to generate funds sufficient to defray the estimated cost of the
18 operations of the Department for each upcoming fiscal year, including a reasonable
19 margin for a reserve fund. The amount of the reserve may not exceed one-third of the
20 estimated cost of operating the Department for each upcoming fiscal year. In calculating
21 the amount of the reserve, the General Assembly shall consider all relevant factors that
22 may affect the cost of operating the Department or a possible unanticipated increase or
23 decrease in North Carolina premiums or other charge revenue.

24 (c) Returns; When Payable. – The charge levied on each health maintenance
25 organization is payable March 15 following the end of each taxable year. The charge
26 levied on each insurance company other than a health maintenance organization is
27 payable at the time the insurance company remits its premium tax. If the insurance
28 company is required to remit installment payments of premiums tax under G.S. 105-
29 228.5 for a taxable year, it shall also remit installment payments of the charge levied in
30 this section for that taxable year at the same time and on the same basis as the premium
31 tax installment payments. Each installment payment shall be equal to at least thirty-three
32 and one-third percent (33.3%) of the insurance company's regulatory charge liability
33 incurred in the immediately preceding taxable year.

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

39 (d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State
40 treasury, under the control of the Office of State Budget and Management. The proceeds
41 of the charge levied in this section and all fees collected under Articles 69 through 71 of
42 this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be
43 credited to the Fund. The Fund shall be placed in an interest-bearing account and any

1 interest or other income derived from the Fund shall be credited to the Fund. Moneys in
2 the Fund may be spent only pursuant to appropriation by the General Assembly and in
3 accordance with the line item budget enacted by the General Assembly. The Fund is
4 subject to the provisions of the Executive Budget Act, except that no unexpended surplus
5 of the Fund shall revert to the General Fund. All money credited to the Fund shall be used
6 to reimburse the General Fund for the following:

- 7 (1) Money appropriated to the Department of Insurance to pay its expenses
8 incurred in regulating the insurance industry and other industries in this
9 State.
- 10 (2) Money appropriated to State agencies to pay the expenses incurred in
11 regulating the insurance industry, in certifying statewide data processors
12 under Article 11A of Chapter 131E of the General Statutes, and in
13 purchasing reports of patient data from statewide data processors
14 certified under that Article.
- 15 (3) Money appropriated to the Department of Revenue to pay the expenses
16 incurred in collecting and administering the taxes on insurance
17 companies levied in Article 8B of Chapter 105 of the General Statutes."

18 Section 2. This act is effective when it becomes law and applies to service
19 corporation and health maintenance organization premiums collected in calendar year
20 1998 and subsequent calendar years.