

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2006-196  
HOUSE BILL 1891**

AN ACT TO CLARIFY AND SIMPLIFY THE APPLICATION OF THE ADDITIONAL GROSS PREMIUMS TAXES ON FIRE AND LIGHTNING COVERAGE AND TO MAKE TECHNICAL AND CLARIFYING TAX LAW CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-228.5(d)(3) reads as rewritten:

"(d) Tax Rates; Disposition. –

...

(3) ~~Additional Statewide Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage, except in the case of marine and automobile policies, at the rate of one and thirty-three hundredths percent (1.33%).~~ (1.33%) applies to gross premiums on insurance contracts applicable to fire and lightning coverage, except marine and automobile contracts. The tax is a percentage of the gross premiums from the contracts, determined in accordance with the table in this subdivision. Twenty-five percent (25%) of the net proceeds of this additional tax shall be deposited in the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. The remaining net proceeds shall be credited to the General Fund.

<u>Type of Insurance Contract</u>	<u>Taxable Percentage</u>
<u>Fire Loss</u>	<u>100%</u>
<u>Commercial Multiple Peril</u>	
<u>Nonliability portion</u>	<u>100%</u>
<u>Liability portion</u>	<u>0%</u>
<u>Homeowners</u>	<u>50%</u>
<u>Farm Owners</u>	<u>30%.</u> "

**SECTION 2.** G.S. 105-228.5(b)(2) and G.S. 105-228.5(d)(4) are repealed.

**SECTION 3.** G.S. 105-228.5(d)(3), as amended by Section 1 of this act, reads as rewritten:

"(d) Tax Rates; Disposition. –

...

(3) ~~Additional Statewide Fire and Lightning Rate. Rate on Property Coverage Contracts. – An additional tax at the rate of one and thirty-three hundredths percent (1.33%)~~ eighty-five hundredths percent

~~(.85%) applies to gross premiums on insurance contracts applicable to fire and lightning coverage, except marine and automobile contracts for property coverage. The tax is imposed on ten percent (10%) a percentage of the gross premiums from the insurance contracts for automobile physical damage coverage contracts, determined in accordance with the table in this subdivision, and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. Twenty five percent (25%) (20%) of the net proceeds of this additional tax shall be deposited in must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty-five percent (25%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. The remaining net proceeds shall must be credited to the General Fund.~~

<del>Type of Insurance Contract</del>	<del>Taxable Percentage</del>
<del>Fire Loss</del>	<del>100%</del>
<del>Commercial Multiple Peril</del>	
<del>Nonliability portion</del>	<del>100%</del>
<del>Liability portion</del>	<del>—0%</del>
<del>Homeowners</del>	<del>50%</del>
<del>Farm Owners</del>	<del>30%</del>

The following definitions apply in this subdivision:

- a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.
- b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery.
- c. NAIC. – National Association of Insurance Commissioners."

**SECTION 4.** G.S. 105-228.5(e) reads as rewritten:

"(e) Report and Payment. – Each taxpayer doing business in this State shall, within the first 15 days of March, file with the Secretary of Revenue a full and accurate report of the total gross premiums as defined in this section, the payroll and other information required by the Secretary in the case of a self-insurer, or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. The taxes imposed by this section shall be remitted to the Secretary with the report.

~~In the case of an insurer liable for the additional local fire and lightning tax, the report shall include the information required under G.S. 58-84-1."~~

**SECTION 5.** G.S. 105-228.5(f) reads as rewritten:

"(f) Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability, ~~not including the additional local fire and lightning tax,~~ liability of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

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

An underpayment of an installment payment required by this subsection shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest, shall be credited to the company and applied against the taxes imposed upon the company under this Article."

**SECTION 6.** G.S. 58-84-1 is repealed.

**SECTION 7.** G.S. 58-84-25 reads as rewritten:

**"§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to ~~G.S. 105-228.5(d)(4)~~ G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall pay the remaining tax proceeds to the treasurer of each fire district ~~in proportion to the amount of business done in the fire district.~~ on a per capita basis, using the most recent annual population estimates certified by the State Budget Officer. These funds shall be held by the treasurer as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, which board shall be composed of five members, residents of the fire district as hereinafter provided for, to be used by it for the purposes provided in G.S. 58-84-35."

**SECTION 8.** G.S. 58-87-1 reads as rewritten:

**"§ 58-87-1. Volunteer Fire Department Fund.**

(a) Fund. – ~~There is created the~~ The Volunteer Fire Department Fund is created as an interest-bearing, nonreverting fund in the Department to provide matching grants

to volunteer fire departments to purchase equipment and make capital improvements. ~~The Commissioner shall administer the Fund shall be distributed under the direction of the Commissioner of Insurance. Fund. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.~~

~~(a1) Grant Program. – Beginning January 1, 1988, an~~ An eligible fire department may apply to the Commissioner of Insurance for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. Beginning May 1, 1988, and on each May 15, thereafter, the ~~The Commissioner must award the grants on May 15 of each year shall make grants to eligible fire departments~~ subject to the following limitations:

- (1) The size of a grant may not exceed twenty thousand dollars (\$20,000);
- (2) The applicant shall match the grant on a dollar-for-dollar basis;
- (3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, or capital expenditures necessary to provide fire protection services; and
- (4) An applicant may receive no more than one grant per fiscal year.

~~In awarding grants under this section, the Commissioner shall to the extent possible select applicants from all parts of the State based upon need. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year.~~

~~No fire department may be declared ineligible for a grant under this section solely because it is classified as a municipal fire department.~~

~~(b) Eligible Fire Department. – A fire department is eligible for a grant under this section if it meets all of the following conditions: conditions of this subsection. No fire department may be declared ineligible for a grant solely because it is classified as a municipal fire department.~~

- (1) It serves a response area of 6,000 or less in population. In making the population determination, the Department must use the most recent annual population estimates certified by the State Budget Officer.
- (2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of three full-time paid positions.
- (3) It has been certified by the Department of Insurance.

~~In making the population determination under subdivision (1) of this subsection, the Department shall use the most recent annual population estimates certified by the State Budget Officer.~~

~~(c) Report. – The Commissioner of Insurance shall~~ must submit a written report to the General Assembly within 60 days after the grants have been made. This report ~~shall~~ must contain the amount of the grant and the name of the recipient."

**SECTION 9.** G.S. 105-120.2(c) reads as rewritten:

"(c) For purposes of this section, a "holding company" is ~~any~~ any corporation ~~which~~ that receives during its taxable year more than eighty percent (80%) of its gross

income from corporations in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting ~~stock~~stock or voting capital interests."

**SECTION 10.** G.S. 105-130.7A(c) reads as rewritten:

"(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments that meets ~~either~~any of the following conditions:

- (1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).
- (2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.
- (3) The taxpayer can establish that the related member to whom the amount was paid is organized under the laws of a country other than the United States, the country has a comprehensive income tax treaty with the United States, and the country imposes a tax on the royalty income of the related member at a rate that equals or exceeds the rate set in G.S. 105-130.3."

**SECTION 11.** G.S. 105-259(b)(5d) reads as rewritten:

"(5d) To provide the following information to a county or city on an annual basis, when the county or city needs the information for the administration of its local ~~tax on~~prepared food and ~~beverages~~beverages tax or room occupancy tax:

- a. The name, address, and identification number of retailers who collect the sales and use taxes imposed under Article 5 of this Chapter and may be engaged in ~~the a business of selling~~subject to a local prepared food and ~~beverages~~beverages tax or room occupancy tax.
- b. The name, address, and identification number of a retailer audited by the Department of Revenue regarding the sales and use taxes imposed under Article 5 of this Chapter, when the Department determines that the audit results may be of interest to the county or city in the administration of its local ~~tax on~~prepared food and ~~beverages~~beverages tax or room occupancy tax."

**SECTION 12.** Section 24.9(b) of S.L. 2006-66 reads as rewritten:

"**SECTION 24.9.(b)** This section becomes effective ~~January~~July 1, 2007."

**SECTION 13.** The Revenue Laws Study Committee shall study the following issues:

- (1) The simplification of the additional tax imposed on insurance contracts on property coverage, as enacted in Section 3 of this act, and the distribution of the revenue generated by the tax. The study of this issue

may include a recommendation on the percentage of revenue to be distributed to the firemen's local relief funds and the formula for making this distribution. The study may also consider the increasing difference between the amount of revenue available in the Volunteer Fire Department Fund for matching grants to purchase equipment and make capital improvements and the amount of grant requests received.

- (2) The authority of the Secretary of Revenue to require taxpayers to file consolidated returns. The study of this issue may include consideration of whether the State should require some corporations or all corporations to file a consolidated return.
- (3) The feasibility of replacing the State's current corporate income and franchise tax laws with a commercial activity tax based upon business gross receipts.
- (4) The administrative process for the review of disputed tax matters.

**SECTION 14.** Sections 1 and 10 of this act are effective for taxable years beginning on or after January 1, 2006. Sections 2, 3, 4, and 5 of this act are effective for taxable years beginning on or after January 1, 2008. Sections 6, 7, and 8 of this act become effective January 1, 2008, and apply to proceeds credited to the Department of Insurance on or after that date. Section 9 of this act is effective for taxable years beginning on or after January 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20<sup>th</sup> day of July, 2006.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 2:01 p.m. this 3<sup>rd</sup> day of August, 2006