

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 1891  
Committee Substitute Favorable 7/10/06

Short Title: Simplify Fire & Lightning Tax Rate.

(Public)

Sponsors:

Referred to:

May 11, 2006

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY AND SIMPLIFY THE APPLICATION OF THE  
3 ADDITIONAL GROSS PREMIUMS TAXES ON FIRE AND LIGHTNING  
4 COVERAGE.

5 The General Assembly of North Carolina enacts:

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

7 "(d) Tax Rates; Disposition. –

8 ...

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

21 **Type of Insurance Contract**

**Taxable Percentage**

22 Fire Loss

100%

23 Commercial Multiple Peril

24 Nonliability portion

100%

25 Liability portion

0%

26 Homeowners

50%

27 Farm Owners

30%."

28 **SECTION 2.** G.S. 105-228.5(b)(2) and G.S. 105-228.5(d)(4) are repealed.

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

3           "(d) Tax Rates; Disposition. –

4           ...

5           (3) ~~Additional Statewide Fire and Lightning Rate. Rate on Property~~  
 6 ~~Coverage Contracts. – An additional tax at the rate of one and~~  
 7 ~~thirty three hundredths percent (1.33%) eighty-five hundredths percent~~  
 8 ~~(.85%) applies to gross premiums on insurance contracts applicable to~~  
 9 ~~fire and lightning coverage, except marine and automobile~~  
 10 ~~contracts for property coverage. The tax is imposed on ten percent~~  
 11 ~~(10%) a percentage of the gross premiums from the insurance~~  
 12 ~~contracts for automobile physical damage coverage contracts,~~  
 13 ~~determined in accordance with the table in this subdivision, and on one~~  
 14 ~~hundred percent (100%) of the gross premiums from all other contracts~~  
 15 ~~for property coverage. Twenty five percent (25%) (20%) of the net~~  
 16 ~~proceeds of this additional tax shall be deposited in must be credited to~~  
 17 ~~the Volunteer Fire Department Fund established in Article 87 of~~  
 18 ~~Chapter 58 of the General Statutes. Twenty-five percent (25%) of the~~  
 19 ~~net proceeds must be credited to the Department of Insurance for~~  
 20 ~~disbursement pursuant to G.S. 58-84-25. The remaining net proceeds~~  
 21 ~~shall must be credited to the General Fund.~~

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

22           The following definitions apply in this subdivision:

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

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

34           "(e) Report and Payment. – Each taxpayer doing business in this State shall,  
 35 within the first 15 days of March, file with the Secretary of Revenue a full and accurate  
 36 report of the total gross premiums as defined in this section, the payroll and other  
 37 information required by the Secretary in the case of a self-insurer, or the total gross  
 38 information required by the Secretary in the case of a self-insurer, or the total gross  
 39 information required by the Secretary in the case of a self-insurer, or the total gross  
 40 information required by the Secretary in the case of a self-insurer, or the total gross  
 41 information required by the Secretary in the case of a self-insurer, or the total gross  
 42 information required by the Secretary in the case of a self-insurer, or the total gross  
 43 information required by the Secretary in the case of a self-insurer, or the total gross  
 44 information required by the Secretary in the case of a self-insurer, or the total gross

1 collections from membership dues exclusive of receipts from cost plus plans collected  
2 in this State during the preceding calendar year. The taxes imposed by this section shall  
3 be remitted to the Secretary with the report.

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

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

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

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

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

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

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

28 "**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

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

1 composed of five members, residents of the fire district as hereinafter provided for, to  
2 be used by it for the purposes provided in G.S. 58-84-35."

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

4 **"§ 58-87-1. Volunteer Fire Department Fund.**

5 (a) Fund. – ~~There is created the~~ The Volunteer Fire Department Fund is created  
6 as an interest-bearing, nonreverting fund in the Department to provide matching grants  
7 to volunteer fire departments to purchase equipment and make capital improvements.  
8 The Commissioner shall administer the Fund shall be distributed under the direction of  
9 the Commissioner of Insurance. Fund. Up to two percent (2%) of the Fund may be used  
10 for additional staff and resources to administer the Fund in each fiscal year.

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

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

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

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

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

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

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

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

4 **SECTION 9.** The Revenue Laws Study Committee shall study the  
5 simplification of the additional tax imposed on insurance contracts on property  
6 coverage, as enacted in Section 3 of this act, and the distribution of the revenue  
7 generated by the tax. The study of this issue may include a recommendation on the  
8 percentage of revenue to be distributed to the firemen's local relief funds and the  
9 formula for making this distribution. The study may also consider the increasing  
10 difference between the amount of revenue available in the Volunteer Fire Department  
11 Fund for matching grants to purchase equipment and make capital improvements and  
12 the amount of grant requests received. The Committee must include its  
13 recommendations on this issue in its report to the 2007 Regular Session of the 2007  
14 General Assembly.

15 **SECTION 10.** Section 1 of this act is effective for taxable years beginning  
16 on or after January 1, 2006. Sections 2, 4, and 5 of this act are effective for taxable years  
17 beginning on or after January 1, 2008. Sections 3, 6, 7, and 8 of this act become  
18 effective January 1, 2008. The remainder of this act is effective when it becomes law.