

§ 58-6-25. Insurance regulatory charge.

(a) Charge Levied. – There is levied on each insurance company, other than a captive insurance company, an annual charge for the purposes stated in subsection (d) of 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 and is applied to the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

- (1) Additional taxes imposed by G.S. 105-228.8.
- (2) Repealed by Session Laws 2008-134, s. 67(a), as amended by Session Laws 2009-445, s. 44, effective for taxable years beginning on or after January 1, 2008.
- (3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
- (4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer.

(b) Rates. – The rate of the charge for each taxable year 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 for each upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-third of the estimated cost of operating the Department for each upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

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

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

(d) Use of Proceeds. – The Insurance Regulatory Fund is created in the State treasury, under the control of the Office of State Budget and Management. The proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The Fund is subject to the provisions of the State Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund. All money credited to the Fund shall be used to reimburse the General Fund for the following:

- (1) Money appropriated to the Department of Insurance to pay its expenses incurred in regulating the insurance industry, including the captive insurance industry, and other industries in this State.
 - (2) Money appropriated to State agencies to pay the expenses incurred in regulating the insurance industry, in certifying statewide data processors under Article 11A of Chapter 131E of the General Statutes, and in purchasing reports of patient data from statewide data processors certified under that Article.
 - (3) Money appropriated to the Department of Revenue to pay the expenses incurred in collecting and administering the taxes on insurance companies levied in Article 8B of Chapter 105 of the General Statutes.
 - (4) Money appropriated for the office of Health Insurance Smart NC under G.S. 143-730 to pay the actual costs of administering the program.
 - (5) Money appropriated to the Department of Insurance for the implementation and administration of independent external review procedures required by Part 4 of Article 50 of this Chapter.
 - (6) Money appropriated to the Department of Justice to pay its expenses incurred in representing the Department of Insurance in its regulation of the insurance industry and other related programs and industries in this State that fall under the jurisdiction of the Department of Insurance.
 - (7) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with providing staff support for State boards and commissions, including the North Carolina Manufactured Housing Board, State Fire and Rescue Commission, North Carolina Building Code Council, North Carolina Code Officials Qualification Board, Public Officers and Employees Liability Insurance Commission, North Carolina Home Inspector Licensure Board, and the Volunteer Safety Workers' Compensation Board.
 - (8) Money appropriated to the Department of Insurance to pay its expenses incurred in connection with continuing education programs under Article 33 of this Chapter and in connection with the purchase and sale of copies of the North Carolina State Building Code.
 - (9) Money appropriated to the Department of Insurance for the regulation of the professional employer organization industry pursuant to Article 89A of Chapter 58 of the General Statutes.
 - (10) Money appropriated to the Department of Insurance to pay its expenses incurred in promoting North Carolina's captive insurance industry.
 - (11) Money appropriated to the North Carolina Industrial Commission for support of the Commission's duties excepted from its statutory fee authority as set forth in G.S. 97-73(e).
- (e) Definitions. – The following definitions apply in this section:
- (1) Repealed by Session Laws 2003-284, s. 43.2, effective for taxable years beginning on or after January 1, 2004.
 - (1a) Captive insurance company. – Defined in G.S. 105-228.3.
 - (2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8.
 - (3) Insurer. – Defined in G.S. 105-228.3. (1991, c. 689, s. 289; 1991 (Reg. Sess., 1992), c. 812, s. 6(e); 1995, c. 360, ss. 1(i), 3(a); c. 517, s. 39(f), (g); 1995 (Reg. Sess., 1996), c. 646, s. 19; c. 747, s. 3; 1997-443, s. 26.1; 1997-475, s. 2.2; 1998-212, s. 29A.7(b); 1999-413, s. 4; 2000-140, s.

93.1(a); 2001-424, ss. 12.2(b), 14E.1(a), 34.22(b), 34.22(c); 2001-489, s. 2(d); 2002-72, s. 9(a); 2002-126, s. 15.5; 2002-144, s. 1; 2002-159, s. 66.5; 2003-284, ss. 22.2, 43.2; 2004-124, s. 21.1; 2005-124, s. 7; 2005-276, s. 38.4(b); 2008-134, s. 67(a); 2009-445, s. 44; 2013-116, s. 7; 2013-199, s. 12; 2014-100, s. 20.2(b).)