

1                                   **OLENE WALKER HOUSING TRUST FUND**

2                                   **AMENDMENTS**

3                                   2000 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Wayne A. Harper**

6 AN ACT RELATING TO COMMUNITY AND ECONOMIC DEVELOPMENT AND TO  
7 REVENUE AND TAXATION; TEMPORARILY INCREASING THE TAX ON INSURANCE  
8 PREMIUMS AND ALLOCATING THAT INCREASE TO THE OLENE WALKER HOUSING  
9 TRUST FUND; AND MAKING TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12           **9-4-702**, as last amended by Chapter 276, Laws of Utah 1998

13           **59-9-101**, as last amended by Chapter 375, Laws of Utah 1997

14 *Be it enacted by the Legislature of the state of Utah:*

15           Section 1. Section **9-4-702** is amended to read:

16           **9-4-702. Creation and administration.**

17           (1) (a) There is created a restricted account in the General Fund known as the Olene  
18 Walker Housing Trust Fund, administered by the executive director or his designee.

19           (b) The department shall be the trustee of the fund.

20           (2) There shall be deposited into the fund:

21           (a) grants, paybacks, bonuses, entitlements, and other moneys received by the department  
22 from the federal government to preserve, rehabilitate, build, restore, or renew housing or other  
23 activities authorized by the fund;

24           (b) transfers, grants, gifts, bequests, or any money made available from any source to  
25 implement this part; [~~and~~]

26           (c) moneys allocated to the fund under Section 59-9-101; and

27           [~~(e)~~] (d) moneys appropriated to the fund by the Legislature.

28 (3) The moneys in the fund shall be invested by the state treasurer according to the  
 29 procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all  
 30 interest or other earnings derived from the fund moneys shall be deposited in the fund.

31 Section 2. Section **59-9-101** is amended to read:

32 **59-9-101. Tax basis -- Rates -- Exemptions.**

33 (1) (a) Except ~~h~~ **AS PROVIDED IN SUBSECTION (1)(d) AND EXCEPT h** for annuity  
 33a considerations, insurance premiums paid by institutions within  
 34 the state system of higher education as specified in Section 53B-1-102, and ocean marine  
 35 insurance, every admitted insurer shall pay to the commission on or before March 31 in each year,  
 36 a tax of 2-1/4% of the total premiums received by it during the preceding calendar year from  
 37 insurance covering property or risks located in this state.

38 (b) Subsection (1)(a) does not apply to workers' compensation insurance, assessed under  
 39 Subsection (2), and title insurance premiums, taxed under Subsection (3).

40 (c) The taxable premium under Subsection (1)(a) shall be reduced by:

41 ~~(a)~~ (i) all premiums returned or credited to policyholders on direct business subject to  
 42 tax in this state;

43 ~~(b)~~ (ii) all premiums received for reinsurance of property or risks located in this state;  
 44 and

45 ~~(c)~~ (iii) the dividends, including premium reduction benefits maturing within the year,  
 46 paid or credited to policyholders in this state or applied in abatement or reduction of premiums due  
 47 during the preceding calendar year.

48 (d) (i) Beginning on ~~h~~ **[July 1, 2000] JANUARY 1, 2001 h** , and ending on ~~h~~ **[June 30]**  
 48a **DECEMBER 31 h** , 2006, the tax rate for the  
 49 insurance premium tax imposed by Subsection (1)(a) shall be 2-3/4%.

50 (ii) The commission shall, on or before June 30 of each year specified in Subsection  
 51 (1)(d)(i), deposit in the Olene Walker Housing Trust Fund, created in Section 9-4-702, an amount  
 52 equal to the difference between:

53 (A) the tax collected under Subsection (1)(d)(i) for that year; and

54 (B) an amount equal to the premiums taxed under Subsection (1)

54a h (a) h multiplied by 2-1/4%.

55 (2) (a) Every admitted insurer writing workers' compensation insurance in this state,  
 56 including the Workers' Compensation Fund of Utah under Title 31A, Chapter 33, shall pay to the  
 57 tax commission, on or before March 31 in each year, a premium assessment of between 1% and  
 58 8% of the total workers' compensation premium income received by the insurer from workers'

59 compensation insurance in this state during the preceding calendar year.

60 (b) Total workers' compensation premium income means the net written premium as  
61 calculated before any premium reduction for any insured employer's deductible, retention, or  
62 reimbursement amounts and also those amounts equivalent to premiums as provided in Section  
63 34A-2-202.

64 (c) The percentage of premium assessment applicable for a calendar year shall be  
65 determined by the Labor Commission under Subsection (2)(d). The total premium income shall  
66 be reduced in the same manner as provided in Subsections (1)~~(a)~~(c)(i) and (1)~~(b)~~(c)(ii), but not  
67 as provided in Subsection (1)(c)(iii). The tax commission shall promptly remit from the premium  
68 assessment collected under Subsection (2):

69 (i) an amount of up to 7.25% of the premium income to the state treasurer for credit to the  
70 Employers' Reinsurance Fund created under Subsection 34A-2-702(1);

71 (ii) an amount equal to 0.25% of the premium income to the state treasurer for credit to  
72 the restricted account in the General Fund, created by Section 34A-2-701; and

73 (iii) an amount of up to 0.50% and any remaining assessed percentage of the premium  
74 income to the state treasurer for credit to the Uninsured Employers' Fund created under Section  
75 34A-2-704.

76 (d) (i) The Labor Commission shall determine the amount of the premium assessment for  
77 each year on or before each October 15 of the preceding year. The Labor Commission shall make  
78 this determination following a public hearing. The determination shall be based upon the  
79 recommendations of a qualified actuary.

80 (ii) The actuary shall recommend a premium assessment rate sufficient to provide  
81 payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded  
82 condition with assets greater than liabilities by no later than June 30, 2025.

83 (iii) The actuary shall recommend a premium assessment rate sufficient to provide  
84 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a  
85 funded condition with assets equal to or greater than liabilities.

86 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'  
87 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in 1990  
88 by multiplying by the ratio that the total workers' compensation premium income for the preceding  
89 calendar year bears to the total workers' compensation premium income for the calendar year 1988.

90 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements  
91 from the Employers' Reinsurance Fund are projected to be less than the calculations of the  
92 corresponding future minimum required assets. The Labor Commission shall, after a public  
93 hearing, determine if the future annual disbursements are less than the corresponding future  
94 minimum required assets from projections provided by the actuary.

95 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured  
96 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in 1990  
97 by multiplying by the ratio that the total workers' compensation premium income for the preceding  
98 calendar year bears to the total workers' compensation premium income for the calendar year 1988.

99 (e) A premium assessment that is to be transferred into the General Fund may be collected  
100 on premiums received from Utah public agencies.

101 (3) Every admitted insurer writing title insurance in this state shall pay to the commission,  
102 on or before March 31 in each year, a tax of .45% of the total premium received by either the  
103 insurer or by its agents during the preceding calendar year from title insurance concerning property  
104 located in this state. In calculating this tax, "premium" includes the charges made to an insured  
105 under or to an applicant for a policy or contract of title insurance for:

106 (a) the assumption by the title insurer of the risks assumed by the issuance of the policy  
107 or contract of title insurance; and

108 (b) abstracting title, title searching, examining title, or determining the insurability of title,  
109 and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated  
110 premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance agent,  
111 or any of them.

112 (4) Beginning July 1, 1986, former county mutuals and former mutual benefit associations  
113 shall pay the premium tax or assessment due under this chapter. All premiums received after July  
114 1, 1986, shall be considered in determining the tax or assessment.

115 (5) The following insurers are not subject to the premium tax on health care insurance that  
116 would otherwise be applicable under Subsection (1)(a):

117 (a) insurers licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance  
118 Corporations;

119 (b) insurers licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance  
120 Corporations;

121 (c) insurers licensed under Title 31A, Chapter 8, Health Maintenance Organizations and  
122 Limited Plans;

123 (d) insurers licensed under Title 31A, Chapter 9, Insurance Fraternal;

124 (e) insurers licensed under Title 31A, Chapter 11, Motor Clubs;

125 (f) insurers licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and

126 (g) insurers licensed under Title 31A, Chapter 14, Foreign Insurers.

127 (6) An insurer issuing multiple policies to an insured may not artificially allocate the  
128 premiums among the policies for purposes of reducing the aggregate premium tax or assessment  
129 applicable to the policies.

130 (7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and  
131 Taxes, apply to the tax or assessment imposed under this chapter.

132 (8) A premium tax paid to the General Fund may not be collected on premiums paid to  
133 public agency insurance mutuals.

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**Legislative Review Note**  
**as of 1-13-00 8:04 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**