

WORKERS' COMPENSATION PREMIUM ASSESSMENT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill modifies provisions related to revenue and taxation to amend requirements related to the workers' compensation premium assessment.

Highlighted Provisions:

This bill:

- ▶ modifies the limits on the amount of the assessment; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/13), as last amended by Laws of Utah 2009, Chapter 85

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

Section 1. Section **59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/13)** is amended to read:

59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/13). Tax basis -- Rates -- Exemptions -- Rate reductions.

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall

30 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
31 premiums received by it during the preceding calendar year from insurance covering property
32 or risks located in this state.

33 (b) This Subsection (1) does not apply to:

34 (i) workers' compensation insurance, assessed under Subsection (2);

35 (ii) title insurance premiums taxed under Subsection (3);

36 (iii) annuity considerations;

37 (iv) insurance premiums paid by an institution within the state system of higher
38 education as specified in Section 53B-1-102; and

39 (v) ocean marine insurance.

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

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

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

45 (iii) the dividends, including premium reduction benefits maturing within the year:

46 (A) paid or credited to policyholders in this state; or

47 (B) applied in abatement or reduction of premiums due during the preceding calendar
48 year.

49 (d) (i) For purposes of this Subsection (1)(d):

50 (A) "Utah variable life insurance premium" means an insurance premium paid:

51 (I) by:

52 (Aa) a corporation; or

53 (Bb) a trust established or funded by a corporation; and

54 (II) for variable life insurance covering risks located within the state.

55 (B) "Variable life insurance" means an insurance policy that provides for life

56 insurance, the amount or duration of which varies according to the investment experience of
57 one or more separate accounts that are established and maintained by the insurer pursuant to

58 Title 31A, Insurance Code.

59 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
60 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
61 life insurance premium shall be calculated as follows:

62 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

63 (I) paid for each variable life insurance policy; and

64 (II) received by the admitted insurer in the preceding calendar year; and

65 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:

66 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and

67 (II) received by the admitted insurer in the preceding calendar year.

68 (iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the
69 Revenue and Taxation Interim Committee shall study the rate reduction contained in this
70 Subsection (1)(d).

71 (B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and
72 Taxation Interim Committee shall:

73 (I) hear testimony from the commission and industry representatives;

74 (II) make recommendations concerning whether the rate reduction should be continued,
75 modified, or repealed; and

76 (III) make findings regarding:

77 (Aa) the cost of the rate reduction;

78 (Bb) the purpose and effectiveness of the rate reduction; and

79 (Cc) any benefits of the rate reduction to the state.

80 (2) (a) An admitted insurer writing workers' compensation insurance in this state,
81 including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers'
82 Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a
83 premium assessment on the basis of the total workers' compensation premium income received
84 by the insurer from workers' compensation insurance in this state during the preceding calendar
85 year as follows:

86 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
87 equal to or less than 5.75% of the total workers' compensation premium income described in
88 this Subsection (2)(~~a~~);

89 (ii) on and after January 1, 2011, but on or before December 31, [~~2011~~] 2017, an
90 amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers'
91 compensation premium income described in this Subsection (2)(~~a~~); and

92 [~~(iii) on and after January 1, 2012, but on or before December 31, 2012, an amount of~~
93 ~~equal to or greater than 1%, but equal to or less than 2.25% of the total workers' compensation~~
94 ~~premium income described in this Subsection (2)(a); and]~~

95 [~~(iv) on and after January 1, 2013, an amount of equal to or greater than 1%, but equal~~
96 ~~to or less than 1.25% of the total workers' compensation premium income described in this~~
97 ~~Subsection (2)(a).]~~

98 (iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers'
99 compensation premium income described in this Subsection (2).

100 (b) Total workers' compensation premium income means the net written premium as
101 calculated before any premium reduction for any insured employer's deductible, retention, or
102 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
103 34A-2-202.

104 (c) The percentage of premium assessment applicable for a calendar year shall be
105 determined by the Labor Commission under Subsection (2)(d). The total premium income
106 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
107 as provided in Subsection (1)(c)(iii). The [~~tax~~] commission shall promptly remit from the
108 premium assessment collected under this Subsection (2):

109 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
110 under Subsection 34A-2-702(1) as follows:

111 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
112 compensation premium income;

113 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up

114 to 4.5% of the total workers' compensation premium income;
115 (C) on and after January 1, 2011, but on or before December 31, ~~[2011]~~ 2017, an
116 amount of up to 3% of the total workers' compensation premium income; and
117 ~~[(D) on and after January 1, 2012, but on or before December 31, 2012, an amount of~~
118 ~~up to 1% of the premium income; and]~~

119 ~~[(E) on and after January 1, 2013, and a subsequent fiscal year, no portion of the~~
120 ~~premium income;]~~

121 (D) on and after January 1, 2018, 0% of the total workers' compensation premium
122 income;

123 (ii) an amount equal to 0.25% of the total workers' compensation premium income to
124 the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

125 (iii) an amount of up to 0.5% and any remaining assessed percentage of the total
126 workers' compensation premium income to the state treasurer for credit to the Uninsured
127 Employers' Fund created under Section 34A-2-704; and

128 (iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium
129 income to the state treasurer for credit to the Industrial Accident Restricted Account created in
130 Section 34A-2-705.

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

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

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

141 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'

142 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
143 1990 by multiplying by the ratio that the total workers' compensation premium income for the
144 preceding calendar year bears to the total workers' compensation premium income for the
145 calendar year 1988.

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

151 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
152 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
153 1990 by multiplying by the ratio that the total workers' compensation premium income for the
154 preceding calendar year bears to the total workers' compensation premium income for the
155 calendar year 1988.

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

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

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

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

169 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit

170 association shall pay the premium tax or assessment due under this chapter. Premiums
171 received after July 1, 1986, shall be considered in determining the tax or assessment.

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

174 (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual
175 Insurance Corporations;

176 (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
177 Corporations;

178 (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations
179 and Limited Health Plans;

180 (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

181 (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

182 (f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and
183 Plans; and

184 (g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

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

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