

1 **WORKERS' COMPENSATION RELATED PREMIUM**

2 **ASSESSMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: James A. Dunnigan

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses workers' compensation related premium assessments.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ changes certain dates; and
- 14 ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **59-9-101**, as last amended by Laws of Utah 2016, Chapter 135

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

24 Section 1. Section **59-9-101** is amended to read:

25 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

26 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
27 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
28 premiums received by it during the preceding calendar year from insurance covering property or
29 risks located in this state.

- 30 (b) This Subsection (1) does not apply to:
- 31 (i) workers' compensation insurance, assessed under Subsection (2);
- 32 (ii) title insurance premiums taxed under Subsection (3);
- 33 (iii) annuity considerations;
- 34 (iv) insurance premiums paid by an institution within the state system of higher
- 35 education as specified in Section 53B-1-102; and
- 36 (v) ocean marine insurance.
- 37 (c) The taxable premium under this Subsection (1) shall be reduced by:
- 38 (i) the premiums returned or credited to policyholders on direct business subject to tax
- 39 in this state;
- 40 (ii) the premiums received for reinsurance of property or risks located in this state; and
- 41 (iii) the dividends, including premium reduction benefits maturing within the year:
- 42 (A) paid or credited to policyholders in this state; or
- 43 (B) applied in abatement or reduction of premiums due during the preceding calendar
- 44 year.
- 45 (d) (i) For purposes of this Subsection (1)(d):
- 46 (A) "Utah variable life insurance premium" means an insurance premium paid:
- 47 (I) by:
- 48 (Aa) a corporation; or
- 49 (Bb) a trust established or funded by a corporation; and
- 50 (II) for variable life insurance covering risks located within the state.
- 51 (B) "Variable life insurance" means an insurance policy that provides for life insurance,
- 52 the amount or duration of which varies according to the investment experience of one or more
- 53 separate accounts that are established and maintained by the insurer pursuant to Title 31A,
- 54 Insurance Code.
- 55 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
- 56 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life
- 57 insurance premium shall be calculated as follows:

58 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:
59 (I) paid for each variable life insurance policy; and
60 (II) received by the admitted insurer in the preceding calendar year; and
61 (B) [~~0.08%~~] .08% of the Utah variable life insurance premiums that exceed \$100,000:
62 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
63 (II) received by the admitted insurer in the preceding calendar year.
64 (2) (a) An admitted insurer writing workers' compensation insurance in this state,
65 including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers'
66 Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a
67 premium assessment on the basis of the total workers' compensation premium income received
68 by the insurer from workers' compensation insurance in this state during the preceding calendar
69 year as follows:
70 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
71 equal to or less than 5.75% of the total workers' compensation premium income described in
72 this Subsection (2);
73 (ii) on and after January 1, 2011, but on or before December 31, [~~2017~~] 2022, an
74 amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers'
75 compensation premium income described in this Subsection (2); and
76 (iii) on and after January 1, [~~2018~~] 2023, an amount equal to 1.25% of the total
77 workers' compensation premium income described in this Subsection (2).
78 (b) Total workers' compensation premium income means the net written premium as
79 calculated before any premium reduction for any insured employer's deductible, retention, or
80 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
81 [34A-2-202](#).
82 (c) The percentage of premium assessment applicable for a calendar year shall be
83 determined by the Labor Commission under Subsection (2)(d). The total premium income shall
84 be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as
85 provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium

86 assessment collected under this Subsection (2):

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

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

91 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of
92 up to 4.5% of the total workers' compensation premium income;

93 (C) on and after January 1, 2011, but on or before December 31, ~~2017~~ 2022, an
94 amount of up to 3% of the total workers' compensation premium income; and

95 (D) on and after January 1, ~~2018~~ 2023, 0% of the total workers' compensation
96 premium income;

97 (ii) an amount equal to ~~0.25%~~ .25% of the total workers' compensation premium
98 income to the state treasurer for credit to the Workplace Safety Account created by Section
99 34A-2-701;

100 (iii) an amount of up to ~~0.5%~~ .5% and any remaining assessed percentage of the total
101 workers' compensation premium income to the state treasurer for credit to the Uninsured
102 Employers' Fund created under Section 34A-2-704; and

103 (iv) beginning on January 1, 2010, ~~0.5%~~ .5% of the total workers' compensation
104 premium income to the state treasurer for credit to the Industrial Accident Restricted Account
105 created in Section 34A-2-705.

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

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

113 (iii) The actuary shall recommend a premium assessment rate sufficient to provide

114 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a
115 funded condition with assets equal to or greater than liabilities.

116 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
117 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
118 1990 by multiplying by the ratio that the total workers' compensation premium income for the
119 preceding calendar year bears to the total workers' compensation premium income for the
120 calendar year 1988.

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

126 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
127 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
128 1990 by multiplying by the ratio that the total workers' compensation premium income for the
129 preceding calendar year bears to the total workers' compensation premium income for the
130 calendar year 1988.

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

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

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

140 (b) abstracting title, title searching, examining title, or determining the insurability of
141 title, and every other activity, exclusive of escrow, settlement, or closing charges, whether

142 denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title
143 insurance producer, or any of them.

144 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit
145 association shall pay the premium tax or assessment due under this chapter. Premiums received
146 after July 1, 1986, shall be considered in determining the tax or assessment.

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

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

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

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

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

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

157 [~~f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and~~
158 ~~Plans; and~~]

159 [~~g)~~ (f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

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

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