

House Bill 577

By: Representatives Heard of the 89th, Skipper of the 137th, Harbin of the 113th, Lord of the 121st and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 33 of the Official Code of Georgia Annotated, relating to fees
2 and taxes regarding insurance, so as to provide for phased-in reduction in the rate of the
3 insurance premium tax; to change certain provisions regarding abatement or reduction of
4 such tax; to change certain provisions regarding time of payment and filing of insurance
5 premium tax returns; to change certain provisions regarding county and municipal taxes on
6 life insurance companies; to provide for an alternative employment credit against the
7 insurance premium tax; to provide for definitions; to provide for procedures, conditions, and
8 limitations; to provide for other matters relative to the foregoing; to provide an effective date;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 8 of Title 33 of the Official Code of Georgia Annotated, relating to fees and taxes
13 regarding insurance, is amended by striking Code Section 33-8-4, relating to the amount and
14 method of computing the insurance premium tax, and inserting in its place a new Code
15 Section 33-8-4 to read as follows:

16 "33-8-4.

17 (a) All foreign, alien, and domestic insurance companies doing business in this state shall
18 pay a tax of ~~2 1/4 percent~~ upon the gross direct premiums received by them ~~on and after~~
19 ~~July 1, 1955~~ at the rate provided in subsection (b) of this Code section. The tax shall be
20 levied upon persons, property, or risks in Georgia, from January 1 to December 31, both
21 inclusive, of each year without regard to business ceded to or assumed from other
22 companies. The tax shall be imposed upon gross premiums received from direct writings
23 without any deductions allowed for premium abatements of any kind or character or for
24 reinsurance or for cash surrender values paid, or for losses or expenses of any kind;
25 provided, however, deductions shall be allowed for premiums returned on change of rate
26 or canceled policies; provided, further, that deductions may be permitted for return

1 premiums or assessments, including all policy dividends, refunds, or other similar returns
 2 paid or credited to policyholders and not reapplied as premium for additional or extended
 3 life insurance. The term 'gross direct premiums' shall not include annuity considerations.

4 (b) ~~For purposes of this chapter, annuity considerations received by nonprofit corporations~~
 5 ~~licensed to do business in this state issuing annuities to fund retirement benefits for~~
 6 ~~teachers and staff personnel of private secondary schools and colleges and universities shall~~
 7 ~~not be considered gross direct premium.~~ The rate of tax for each calendar year shall be as
 8 follows:

<u>Year</u>	<u>Rate of tax</u>
<u>2001 and before</u>	<u>2.25%</u>
<u>2002</u>	<u>2.15%</u>
<u>2003</u>	<u>2.05%</u>
<u>2004</u>	<u>1.95%</u>
<u>2005</u>	<u>1.85%</u>
<u>2006 and thereafter</u>	<u>1.75%''</u>

16 SECTION 2.

17 Said chapter is further amended by striking Code Section 33-8-5, relating to abatement or
 18 reduction of the insurance premium tax, and inserting in its place a new Code Section 33-8-5
 19 to read as follows:

20 "33-8-5.

21 (a) Whenever any insurance company doing business in this state shall make it appear to
 22 the Commissioner, by evidence satisfactory to him, that one-fourth of its total assets, as of
 23 December 31 of any taxable year, exclusive of direct obligations of the United States,
 24 consists of or is invested in any or all of the following classes of property:

- 25 (1) General obligation bonds of this state or of any political subdivision of the State of
 26 Georgia;
- 27 (2) Revenue bonds or revenue anticipation certificates of any county, municipality, or
 28 political subdivision of this state;
- 29 (3) Revenue bonds or revenue anticipation certificates of any authority or public
 30 corporation created by or pursuant to the laws of this state;
- 31 (4) Real estate situated in and subject to taxation by this state or its political subdivisions;
- 32 (5) Tangible personal property located in this state and subject to taxation by this state
 33 or its political subdivisions;
- 34 (6) Loans secured by liens on real estate situated in this state;

1 (7) Policy loans on insurance policies issued by the company on lives of persons resident
2 in this state;

3 (8) Intangible property having a taxable situs in this state; or

4 (9) Shares in Georgia corporations in which the insurance companies are authorized to
5 invest under the laws of this state,

6 then the gross premium tax levied by Code Section 33-8-4 shall be abated or reduced to
7 1 1/4 percent upon the gross premium of any company subject to taxation by said Code
8 section and, if the amount so invested by any company shall be as much as three-fourths
9 of its total assets, exclusive of direct obligations of the United States, then the said
10 premium tax shall be abated or reduced to one-half of 1 percent upon the gross premiums
11 of the company subject to taxation by said Code section.

12 (b) For purposes of calculating any tax due under Code Section 33-3-26 from a taxpayer
13 not organized under the laws of this state, the tax abatement allowed under subsection (a)
14 of this Code section shall be treated as a tax paid under Code Section 33-8-4."

15 SECTION 3.

16 Said chapter is further amended by striking Code Section 33-8-6, relating to time of payment
17 and filing of insurance premium tax returns, and inserting in its place a new Code Section
18 33-8-6 to read as follows:

19 "33-8-6.

20 (a) The annual premium taxes required in this chapter shall be paid to the Commissioner
21 annually on or before March 1 following the close of the preceding calendar year upon all
22 the premiums received during that calendar year. At the same time each such insurance
23 company shall file with the Commissioner an annual return on a form prescribed by the
24 Commissioner showing, by quarters, the gross direct premiums received during the
25 preceding calendar year and the installment payments made during that year. The
26 Commissioner may require insurance companies to demonstrate that a reduction in the tax
27 on premiums benefits policyholders.

28 (b) Installments of the annual premium taxes shall be due and payable for each calendar
29 quarter on the twentieth day of March, June, September, and December in each year based
30 upon the estimated amount of gross direct premiums received during that calendar quarter.
31 A final payment of tax due for the year shall be made at the time each such insurance
32 company files its annual return for such year.

33 (c) Any insurance company which fails to report and pay any installment of tax or which
34 estimates any installment of tax to be less than 80 percent of the amount finally shown to
35 be due in any quarter shall be subject to penalty and interest as provided in subsection (d)
36 of this Code section for any underpayment of taxes due and payable for that quarter. Any

1 insurance company paying, for each installment required in this chapter, 25 percent of the
 2 amount of the annual premium taxes reported on its annual return for the preceding year
 3 shall not be subject to any penalty or interest for such underpayment.

4 (d) A penalty of 10 percent of the amount owed, together with interest on the principal
 5 amount at the rate of 1 percent per month, or any part of a month, from the date due until
 6 the date paid shall be imposed for late payment, underpayment, or nonpayment of any taxes
 7 or amounts imposed under this chapter.

8 (e) When the date prescribed by or imposed pursuant to law for the making of any return,
 9 the filing of any paper or document, or the payment of any tax or license fee pursuant to
 10 this chapter falls on a Saturday, Sunday, or legal holiday, the making of the return, the
 11 filing of the paper or document, or the payment of the tax or license fee shall be postponed
 12 until the first day following which is not a Saturday, Sunday, or legal holiday.

13 (f) Subsections (b) and (c) of this Code section shall not apply to any such insurance
 14 company whose annual premium taxes for the immediately preceding calendar year was
 15 less than \$500.00."

16 SECTION 4.

17 Said chapter is further amended by striking Code Section 33-8-8.1, relating to county and
 18 municipal taxes on life insurance companies, and inserting in its place a new Code Section
 19 33-8-8.1 to read as follows:

20 "33-8-8.1.

21 (a) As used in this Code section, the term 'life insurance company' means a company
 22 which is authorized to transact only the class of insurance designated in Code Section
 23 33-3-5 as class (1).

24 (b) Life insurance companies are subject to county and municipal corporation taxes levied
 25 as follows:

26 (1) There is imposed a county tax for county purposes on each life insurance company
 27 doing business within the state, which tax shall be based solely upon gross direct
 28 premiums, as defined in Code Section 33-8-4, which are received during the preceding
 29 calendar year from policies insuring persons residing within the unincorporated area of
 30 the counties pursuant to the provisions of this Code section. The rate of such tax shall be
 31 1 percent of such premiums, except that such tax shall not apply to the gross direct
 32 premiums of an insurance company which qualifies, pursuant to Code Section 33-8-5 or
 33 Code Section 33-8-14, for the reduction to one-half of 1 percent of the state tax imposed
 34 by Code Section 33-8-4. The tax imposed by this Code section shall not apply to annuity
 35 considerations; ~~and~~

1 (2) Municipal corporations whose ordinances have been filed with the Commissioner are
 2 authorized to impose a tax on each life insurance company doing business within the
 3 state, which tax shall be based solely upon the gross direct premiums, as defined in Code
 4 Section 33-8-4, which are received during the preceding calendar year from policies
 5 insuring persons residing within the corporate limits of the municipal corporation
 6 pursuant to the provisions of this Code section; provided, however, that the rate of the tax
 7 may not exceed 1 percent of the premiums. The tax imposed shall not apply to annuity
 8 considerations.

9 (c)(1) On March 1, 1984, and on that date in each subsequent year, each life insurance
 10 company shall file a certified return on a form prescribed by the Commissioner showing
 11 gross direct premiums received during the preceding calendar year that will appear in the
 12 company's certified annual statement.

13 (2) Reserved.

14 (3) On or before August 1, 1988, and on the same date in each subsequent year, the
 15 Commissioner shall collect taxes imposed pursuant to subsection (b) of this Code section
 16 on behalf of counties and municipal corporations whose ordinances have been filed with
 17 the Commissioner. The tax collected for each year shall be based upon gross direct
 18 premiums written during the preceding calendar year. Penalty and interest as prescribed
 19 in subsection (d) of Code Section 33-8-6 shall be imposed for late payment,
 20 underpayment, or nonpayment of such taxes.

21 (d) Taxes imposed by subsection (b) of this Code section shall be allocated and distributed
 22 to counties and municipal corporations as follows:

23 (1) A portion of the total amount of life insurance premiums taxable by the state,
 24 exclusive of premiums collected by companies which qualify pursuant to Code Section
 25 33-8-5 or Code Section 33-8-14, for the reduction to one-half of 1 percent of the state tax
 26 imposed by Code Section 33-8-4, shall be allocated to counties based upon the ratio that
 27 the total population of all unincorporated areas in the state bears to the total population
 28 in the state. The amount of the tax base so allocated to counties shall be taxed at the rate
 29 levied for county purposes. The tax shall be distributed to each county governing
 30 authority by the Commissioner based upon a fraction, the numerator of which is the
 31 population of the unincorporated area of that county and the denominator of which is the
 32 population of all unincorporated areas of the state; and

33 (2) A portion of the total amount of life insurance premiums taxable by the state shall be
 34 allocated to all municipal corporations based upon the ratio that the total population of
 35 all municipal corporations bears to the total state population. The amount of the tax base
 36 so allocated to municipalities shall be distributed to each municipal corporation based
 37 upon the fraction, the numerator of which is the population of that municipal corporation

1 and the denominator of which is the population of all municipal corporations in the state.

2 The amount of the tax base so distributed to each municipality shall be taxed at the rate
3 levied by that municipality; and taxes levied by each municipal corporation shall be
4 distributed based upon the tax rate levied by each such municipal corporation.

5 (e) On or before January 1 of the first year that the tax is levied, each municipal
6 corporation levying the tax shall file with the Commissioner a certified copy of the
7 pertinent parts of all ordinances and amendments thereto which impose the tax, and such
8 filing shall be a condition to the validity and enforceability of such an ordinance. On or
9 before February 1 of each year the Commissioner shall furnish a list of all municipal
10 corporations levying the tax for that year to each life insurance company in the state.

11 (f) Life insurance companies may deduct from premium taxes otherwise payable to this
12 state under Code Section 33-8-4, in addition to all credits and abatement allowed by law,
13 the taxes imposed pursuant to subsection (b) of this Code section and paid to the
14 Commissioner on behalf of any county and municipal corporation during the preceding
15 calendar year.

16 (g) On or before October 15, 1988, and on the same date in each subsequent year, the
17 Commissioner shall distribute the taxes imposed by counties and municipal corporations
18 which are actually remitted to and collected by the Commissioner. On or before October
19 15, 1988, and on the same date in each subsequent year, the Commissioner shall distribute
20 any delinquent taxes actually collected by the Commissioner for a previous year, exclusive
21 of any interest or penalty on such delinquent taxes, which delinquent taxes have not
22 previously been distributed.

23 (h) Amounts collected by the Commissioner under or due under former Code Section
24 33-8-8.1 shall be collected and disbursed as provided in former Code Section 33-8-8.1.

25 (i) For purposes of this Code section, population shall be measured by the United States
26 decennial census of 1990 or any future such census plus any corrections or revisions
27 contained in official statements by the United States Bureau of the Census made prior to
28 the first day of September immediately preceding the distribution of the proceeds of such
29 taxes by the Commissioner and any additional official census data received by the
30 Commissioner from the United States Bureau of the Census or its successor agency
31 pertaining to any newly incorporated municipality. Such corrections, revisions, or
32 additional data shall be certified to the Commissioner by the Office of Planning and Budget
33 on or before August 31 of each year."

34 **SECTION 5.**

35 Said chapter is further amended by adding a new Code section at the end thereof, to be
36 designated Code Section 33-8-14, to read as follows:

1 "33-8-14.

2 (a) As used in this Code section, the term:

3 (1) 'Affiliate' means an insurance company which, directly or indirectly, through one or
4 more intermediaries or otherwise, controls, is controlled by, or is under common control
5 with another insurance company. Affiliate also includes any company or business entity
6 other than an insurance company which, directly or indirectly, through one or more
7 intermediaries, controls, is controlled by, or is under common control with an insurance
8 company and which performs insurance company operations for an insurance company.
9 For purposes of this definition, control exists if any company or business entity, directly
10 or indirectly, owns, holds with the power to vote, or holds proxies representing at least
11 80 percent of the voting stock or other voting securities of any other company or business
12 entity. Control is deemed to exist between mutual insurance companies, and such
13 companies are deemed to be under common control, if at least 80 percent of the directors
14 of such companies are the same individuals.

15 (2) 'Georgia employees' means persons who reside in Georgia and who are common law
16 employees of an insurance company or its affiliate. Georgia employees does not include
17 independent contractors or any person to the extent such person's compensation is based
18 on commissions.

19 (3) 'Insurance company' or 'company' means any entity subject to a tax on premiums
20 under Code Section 33-8-4.

21 (4) 'Insurance company operations' means one or more or any combination of the
22 following functions or services performed in connection with the development, sale, and
23 administration of products giving rise to receipts subject to a tax on premiums under
24 Code Section 33-8-4: actuarial; medical; legal; investments; accounting; auditing;
25 underwriting; policy issuance information; policyholder services; premium collection;
26 claims; advertising and publications; public relations; human resources; marketing; sales
27 office staff; training of sales and service personnel; and clerical, managerial, and other
28 support for any such functions or services.

29 (5) 'Salaries' means gross compensation paid to Georgia employees as reported to the
30 State of Georgia for income tax purposes during the calendar year for which a tax on
31 premiums is imposed under Code Section 33-8-4, but only to the extent compensation is
32 paid for insurance company operations performed in Georgia for an insurance company
33 or its insurance company affiliates subject to the tax on premiums under Code Section
34 33-8-4. Salaries does not include compensation based on commissions.

35 (b) For calendar years 2002 and thereafter, each insurance company required to pay the
36 tax on premiums under Code Section 33-8-4 and not claiming a tax abatement for

1 investments under Code Section 33-8-5 shall be allowed as a credit against such tax the
2 following percent of the salaries paid to Georgia employees:

3	Year	Percent of salaries
4	2002	2%
5	2003	4%
6	2004	6%
7	2005	8%
8	2006 and thereafter	10%

9 Before taking into account any other credit against the tax on premiums, the credit
10 allowed under this Code section may not reduce the tax on premiums under Code
11 Section 33-8-4 below one-half of 1 percent of the amount of premiums taxable
12 thereunder.

13 (c) For an insurance company having affiliates:

14 (1) Salaries paid by a noninsurance company affiliate shall be allocated among
15 insurance company affiliates pursuant to the agreement between or among the
16 insurance company and its affiliates;

17 (2) The total premiums of an insurance company subject to tax under Code Section
18 33-8-4 and those of its insurance company affiliates subject to such tax may be
19 aggregated. In addition, all salaries paid to Georgia employees may be aggregated.
20 Subject to the limitation on the salary credit set forth in subsection (b) of this Code
21 section, the total allowable salary credit may be determined as if all the aggregated
22 premiums were received and all the aggregated or allocated aggregate salaries were
23 paid by one insurance company. Once the total allowable salary credit is determined
24 for all insurance company affiliates, the total credit may be allocated among the
25 insurance company and its insurance company affiliates at the discretion of the
26 insurance company on a per insurance company basis, subject to the limitation on the
27 salary credit as set forth in subsection (b) of this Code section.

28 (d) The computation of salaries, the allowable salary credit, and the allocation of the
29 credit among insurance company affiliates shall be made on forms supplied by the
30 Commissioner of Insurance.

31 (e) For purposes of calculating any tax due under Code Section 33-3-26 from a
32 taxpayer not organized under the laws of this state, the credit allowed by this Code
33 section shall be treated as a tax paid under Code Section 33-8-4."

34 SECTION 5.

35 This Act shall become effective on January 1, 2002.

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SECTION 6.

2 All laws and parts of laws in conflict with this Act are repealed.