

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2101

6
7 H.P. 1490

House of Representatives, February 28, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Taxation suggested and ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Higgins of Portland.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT Concerning the Insurance Premium Tax.
18

19 Be it enacted by the People of the State of Maine as
20 follows:

21 Sec. 1. 36 MRSA §2511, as amended by PL 1983, c.
22 479, §1, is further amended to read:

23 §2511. Companies taxable; rate

24 Every life insurance company or association, or-
25 ganized under the laws of this State or doing busi-
26 ness in this State, in lieu of all other taxation,
27 shall be taxed as follows: First, its real estate and
28 personal property shall be taxed by the municipality
29 in which such the real estate or personal property is
30 situated, in the same manner as other real estate is
31 taxed therein; 2nd, it shall pay a tax of ~~1%~~ 2% upon
32 all gross direct premiums written, including annuity
33 considerations, whether in cash or notes absolutely
34 payable, received from residents of this State, first
35 deducting therefrom all return premiums and all divi-

1 dends paid to policyholders in this State on account
2 of these premiums or considerations. Every other in-
3 surance company or association organized under the
4 laws of this State or doing business in this State,
5 except those mentioned in section 2517, including
6 surety companies and companies engaged in the busi-
7 ness of credit insurance or title insurance shall pay
8 a tax of ~~1%~~ 2% upon all gross direct premiums written
9 whether in cash or in notes absolutely payable on
10 contracts made in the State for fire, casualty and
11 other risks, except workers' compensation, as pro-
12 vided in section 2523, less return premiums thereon
13 and less all dividends paid to policyholders and less
14 all premiums and assessments on policies of insurance
15 issued on farm property.

16 **Sec. 2.** 36 MRSA §2512, as repealed and replaced
17 by PL 1973, c. 727, §3, is amended to read:

18 §2512. Annual returns to Superintendent of Insurance

19 Every ~~domestic~~ life insurance company shall in-
20 clude in its annual return to the Superintendent of
21 Insurance a statement of the amount of premiums and
22 annuity considerations liable to taxation as provided
23 in section 2511, and of the real estate held by it on
24 the 31st day of the previous December, showing in de-
25 tail the amount of all premiums including annuity
26 considerations whether in cash or notes absolutely
27 payable, received by said company from residents of
28 this State during the preceding calendar year and all
29 dividends paid to policyholders in this State on ac-
30 count of said premiums or annuity considerations as
31 required by blanks furnished by the superintendent.
32 The taxes provided by section 2511 shall be paid as
33 provided in section 2521-A, and ~~said that~~ section and
34 section 2518 shall be applicable thereto.

35 **Sec. 3.** 36 MRSA §2513, as amended by PL 1973, c.
36 727, §4, is repealed.

37 **Sec. 4.** 36 MRSA §2514, as amended by PL 1975, c.
38 641, is further amended to read:

39 §2514. Applicability of provisions

1 Sections 2511, and 2512 ~~and 2513~~ shall not apply
2 to the taxation of any annuity consideration on any
3 annuity contract issued prior to August 1, 1943.
4 Sections 2511, and 2512 ~~and 2513~~ shall not apply to
5 any premium from an insurance contract, which premium
6 is received prior to October 1, 1969, or any consid-
7 eration, regardless of when received, from any re-
8 tirement annuity contracts issued by an insurance or
9 annuity company organized and operated without profit
10 to any private shareholder or individual exclusively
11 for the purpose of aiding nonproprietary educational
12 and scientific institutions pursuant to a retirement
13 program established under section 403 (b) of the
14 United States Internal Revenue Code. Premiums or
15 considerations received from life insurance policies
16 or annuity contracts issued in connection with the
17 funding of a pension, annuity or profit-sharing plan
18 or individual retirement account or annuity qualified
19 or exempt under sections 401, 403, 404, 408 or 501 of
20 the United States Internal Revenue Code as now or
21 hereafter amended or renumbered from time to time,
22 shall be exempt from tax.

23 Sec. 5. 36 MRSA §2515 is amended to read:

24 §2515. Amount of tax

25 In determining the amount of tax due under
26 ~~sections~~ section 2511 ~~and 2513~~, there shall be de-
27 ducted by each company from the full amount of gross
28 direct premiums, the amount of all direct return pre-
29 miums thereon, and all dividends paid to policyhold-
30 ers on direct premiums and the tax shall be computed
31 by said companies or their agents.

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STATEMENT OF FACT

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The opinion of the United States Supreme Court in Metropolitan Life Insurance Co. v. Ward in March 1985, puts in doubt the provision of the State's excise tax on insurance companies which permits in-state companies to be taxed at the rate of 1% while out-of-state companies are taxed at the rate of 2%. Many companies have paid the 2% tax under protest. If the State's law was found unconstitutional, the State could be ordered to repay as much as \$20,000,000. This bill establishes a uniform rate of taxation for all insurance companies in order to avoid the problems for the State if the tax were found unconstitutional.

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