ENROLLED HOUSE
BILL NO. 2191

By: Kinnamon, Seikel, Lindley, Pettigrew, Paulk and Cox of the House

and

Brown and Crutchfield of the Senate

An Act relating to insurance; amending 36 O.S. 1991, Section 625.1, which relates to premium tax credit for maintenance of regional home office in the state; expanding credit to certain affiliate companies; modifying the term employee; allowing credit to domestic insurers which establish regional home offices in five or more counties; allowing credit to domestic insurers which establish a home office in this state in certain circumstances; requiring certain conditions for credit; providing for application of the credit; establishing amount of the credit; modifying authorization to allocate the credit; modifying definition; adding certain definitions; providing for application of amendments; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 625.1, is amended to read as follows:

Section 625.1 A. A foreign or alien insurer which is subject to the tax imposed by Section 624 of ~~the Insurance Code~~ this title shall be entitled to a credit against said tax actually paid to and placed in the General Revenue Fund of the state, not including any of said tax monies placed in pension funds and not including any of said tax monies placed in escrow, if, during the year for which the tax is being assessed, the insurer or its affiliate maintained a regional home office in this state in a building owned or leased by the insurer. To receive a credit against the tax imposed for the year in which the regional home office was established, said office must have been maintained continuously from on or before August 1 of that year through the last day of the calendar year. For succeeding years, an insurer or its affiliate shall have maintained the regional home office continuously from the first day of the calendar year for which the tax is imposed through the last day of that calendar year. The credit shall be equal to the following percentages of the amount due after the credits authorized by Sections 624.1 and 625 of ~~the Insurance Code~~ this title have been deducted:

1. Fifteen percent (15%), if there are more than two hundred full-time, year-round Oklahoma employees, but less than three hundred full-time, year-round Oklahoma employees;

2. Twenty-five percent (25%), if there are more than three hundred full-time, year-round Oklahoma employees, but less than four hundred full-time, year-round Oklahoma employees;

3. Thirty-five percent (35%), if there are more than four hundred full-time, year-round Oklahoma employees, but less than five hundred full-time, year-round Oklahoma employees; or

4. Fifty percent (50%), if there are five hundred or more full-time, year-round Oklahoma employees.

B. A domestic insurer with four hundred or more full-time, year-round Oklahoma employees which is subject to the tax imposed by Section 624 of this title shall be entitled to a credit against said tax actually paid to and placed in the General Revenue Fund of the state, not including any of said tax monies placed in pension funds and not including any of said tax monies placed in escrow, if, during the year previous to the year for which the tax is being assessed, the insurer or its affiliate maintained a regional home office in this state in a building owned or leased by the insurer and during the year for which the tax is being assessed, the insurer establishes its home office in this state in a building owned or leased by the insurer. To receive a credit against the tax imposed for the year in which the home office was established, said office must have been maintained continuously from on or before August 1 of that year through the last day of the calendar year. For succeeding years, an insurer shall have maintained the home office continuously from the first day of the calendar year for which the tax is imposed through the last day of that calendar year. Insurers who take action before August 1, 2000, to establish their home office in this state shall be entitled to a credit against the tax imposed on or after January 1, 2001, which shall be in addition to the credit the insurer is entitled to for that year. The credit shall be equal to the following percentages of the amount due after the credits authorized by Sections 624.1 and 625 of this title have been deducted:

1. Thirty-five percent (35%), if there are more than four hundred full-time, year-round Oklahoma employees, but less than five hundred full-time, year-round Oklahoma employees; or

2. Fifty percent (50%), if there are five hundred or more full-time, year-round Oklahoma employees.

C. A domestic insurer which is subject to the tax imposed by Section 624 of this title shall be entitled to a credit against said tax actually paid to and placed in the General Revenue Fund of the state, not including any of said tax monies placed in pension funds and not including any of said tax monies placed in escrow, if, during the year for which the tax is being assessed, the insurer maintained a regional home office in at least five (5) or more counties in this state in buildings owned or leased by the insurer. To receive a credit against the tax imposed for the year in which the regional home offices were established, said offices must have been maintained continuously from on or before August 1 of that year

through the last day of the calendar year. For succeeding years, an insurer shall have maintained the regional home offices continuously from the first day of the calendar year for which the tax is imposed through the last day of that calendar year. The credit shall be equal to the percentage of the amount due after the credits authorized by Sections 624.1 and 625 of this title have been deducted as established in subsection A of this section.

D. Proof that an insurer qualifies for the credit authorized by this section shall be on forms prescribed by the Insurance Commissioner and shall be submitted to the Commissioner annually with the report which is filed pursuant to Section 624 of the Insurance Code.

~~C.~~ E. The credit provided for in ~~subsection~~ subsections A, B and C of this section shall be based on the total number of Oklahoma employees in the regional or home office when a group of insurers which are under common management and control maintain a regional home office or home office in this state in a building owned or leased by the group of insurers. ~~Each insurer in the group shall be permitted to have a proportionate percentage of the total credit provided for in subsection A of this section. Such percentage shall be allocated by the number of employees of such insurer in relation to the total number of employees of the group in Oklahoma operating out of a regional home office. Such percentages shall be established annually after examination as required in subsection E of this section~~ The credit provided for in subsections A, B and C of this section may be allocated among the insurance company and the insurance company affiliates at the discretion of the insurance company on a per-insurance-company basis.

~~D.~~ F. As used in this section:

1. "Regional home office" means an office transacting insurance, as defined in Section 105 of ~~the Insurance Code~~ this title, and ~~providing at least the following functions: policy administration, policy billing, policy claims, policy underwriting, policy issuance, and other policy related functions, for an area covering two or more states or covering two or more states and one or more countries other than the United States.~~ performing insurance company operations, which is defined as one or more or any combination of the following functions and services performed in connection with the development, sale, and administration of products giving rise to receipts subject to a premium tax on domestic and foreign insurance companies, or domestic or foreign health care insurance corporations: actuarial, medical, legal, investments, accounting, auditing, underwriting, policy issuance, information, policyholder services, premium collection, claims, advertising and publications, public relations, human resources, marketing, sales office staff, training of sales and service personnel, and clerical, managerial, and other support for any such functions or services;

2. "Common management and control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an insurer, whether through the ownership of voting securities, by contract, or otherwise, unless the power is executed by a person acting in an official capacity, performing duties imposed and exercising authority granted because of the person's position as an officer or employee of the insurer. Control

shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing twenty-five percent (25%) or more of the voting securities of the insurer;

3. "Oklahoma employees" means persons who are employed in Oklahoma after January 1, 2000, and who are common law employees of an insurance company or its affiliate. Oklahoma employees do not include independent contractors or any persons to the extent that the compensation of that person is based on commissions;

4. "Insurance company" means any entity subject to a premium tax on domestic and foreign insurance companies, or domestic or foreign health care insurance corporations, including the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney. A reciprocal and its attorney-in-fact shall be a single entity; and

5. "Home office" means the executive offices of an insurance company which is domiciled in this state.

~~E.~~ G. Each insurer or insurance group requesting a credit under this section shall certify by affidavit, approved as to form by the Commissioner, that the insurer has met all of the qualifications required by this section and is authorized to a credit against the premium tax which actually shall be paid to, and placed in the General Revenue Fund of the state, exclusive of any amounts of the tax which shall be credited to pension funds pursuant to law and exclusive of any amounts which shall be placed into escrow. The Commissioner may do an examination for the sole purpose of certifying that all requirements of this section are being met by the insurer requesting to obtain any credits against premium tax.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The amendments contained in this act shall be applicable for tax years beginning on or after January 1, 2001.

SECTION 3. This act shall become effective January 1, 2001.

Passed the House of Representatives the 26th day of May, 2000.

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Speaker of the House of Representatives

Passed the Senate the 26th day of May, 2000.

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President of the Senate