

EHB 1667

THE STATE SENATE
Wednesday, April 13, 2005

ENGROSSED

House Bill No. 1667

As Amended

ENGROSSED HOUSE BILL NO. 1667 - By: CALVEY, COODY and WESSELHOFT of the House and BARRINGTON and PRUITT of the Senate.

[insurance - amending 36 O.S., Section 625.1 - premium tax credit - effective date]

SECTION 1. AMENDATORY 36 O.S. 2001, 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 this title shall be entitled to a credit against said tax ~~actually paid to and placed in the General Revenue Fund of the state~~ required under the Oklahoma Insurance Code, 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

1 its affiliate shall have maintained the regional home office
2 continuously from the first day of the calendar year for which the
3 tax is imposed through the last day of that calendar year. The
4 credit shall be equal to the following percentages of the amount due
5 after the credits authorized by Sections 624.1 and 625 of this title
6 have been deducted:

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

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

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

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

18 B. A domestic insurer with four hundred or more full-time,
19 year-round Oklahoma employees which is subject to the tax imposed by
20 Section 624 of this title shall be entitled to a credit against said
21 ~~tax actually paid to and placed in the General Revenue Fund of the~~
22 ~~state~~ required under the Oklahoma Insurance Code, not including any
23 of said tax monies placed in pension funds and not including any of

1 said tax monies placed in escrow, if, during the year previous to
2 the year for which the tax is being assessed, the insurer or its
3 affiliate maintained a regional home office in this state in a
4 building owned or leased by the insurer and during the year for
5 which the tax is being assessed, the insurer establishes its home
6 office in this state in a building owned or leased by the insurer.
7 To receive a credit against the tax imposed for the year in which
8 the home office was established, said office must have been
9 maintained continuously from on or before August 1 of that year
10 through the last day of the calendar year. For succeeding years, an
11 insurer shall have maintained the home office continuously from the
12 first day of the calendar year for which the tax is imposed through
13 the last day of that calendar year. Insurers who take action before
14 August 1, 2000, to establish their home office in this state shall
15 be entitled to a credit against the tax imposed on or after January
16 1, 2001, which shall be in addition to the credit the insurer is
17 entitled to for that year. The credit shall be equal to the
18 following percentages of the amount due after the credits authorized
19 by Sections 624.1 and 625 of this title have been deducted:

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

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

3 C. A domestic insurer which is subject to the tax imposed by
4 Section 624 of this title shall be entitled to a credit against said
5 tax ~~actually paid to and placed in the General Revenue Fund of the~~
6 ~~state~~ required under the Oklahoma Insurance Code, not including any
7 of said tax monies placed in pension funds and not including any of
8 said tax monies placed in escrow, if, during the year for which the
9 tax is being assessed, the insurer maintained a regional home office
10 in at least five (5) or more counties in this state in buildings
11 owned or leased by the insurer. To receive a credit against the tax
12 imposed for the year in which the regional home offices were
13 established, said offices must have been maintained continuously
14 from on or before August 1 of that year through the last day of the
15 calendar year. For succeeding years, an insurer shall have
16 maintained the regional home offices continuously from the first day
17 of the calendar year for which the tax is imposed through the last
18 day of that calendar year. The credit shall be equal to the
19 percentage of the amount due after the credits authorized by
20 Sections 624.1 and 625 of this title have been deducted as
21 established in subsection A of this section.

22 D. Proof that an insurer qualifies for the credit authorized by
23 this section shall be on forms prescribed by the Insurance

1 Commissioner and shall be submitted to the Commissioner annually
2 with the report which is filed pursuant to Section 624 of the
3 Insurance Code.

4 E. The credit provided for in subsections A, B and C of this
5 section shall be based on the total number of Oklahoma employees in
6 the regional or home office when a group of insurers which are under
7 common management and control maintain a regional home office or
8 home office in this state in a building owned or leased by the group
9 of insurers. The credit provided for in subsections A, B and C of
10 this section may be allocated among the insurance company and the
11 insurance company affiliates at the discretion of the insurance
12 company on a per-insurance-company basis.

13 F. As used in this section:

14 1. "Regional home office" means an office transacting
15 insurance, as defined in Section 105 of this title, and performing
16 insurance company operations, which is defined as one or more or any
17 combination of the following functions and services performed in
18 connection with the development, sale, and administration of
19 products giving rise to receipts subject to a premium tax on
20 domestic and foreign insurance companies, or domestic or foreign
21 health care insurance corporations: actuarial, medical, legal,
22 investments, accounting, auditing, underwriting, policy issuance,
23 information, policyholder services, premium collection, claims,

1 advertising and publications, public relations, human resources,
2 marketing, sales office staff, training of sales and service
3 personnel, and clerical, managerial, and other support for any such
4 functions or services;

5 2. "Common management and control" means the possession, direct
6 or indirect, of the power to direct or cause the direction of the
7 management and policies of an insurer, whether through the ownership
8 of voting securities, by contract, or otherwise, unless the power is
9 executed by a person acting in an official capacity, performing
10 duties imposed and exercising authority granted because of the
11 person's position as an officer or employee of the insurer. Control
12 shall be presumed to exist if any person, directly or indirectly,
13 owns, controls, holds with the power to vote, or holds proxies
14 representing twenty-five percent (25%) or more of the voting
15 securities of the insurer;

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

21 4. "Insurance company" means any entity subject to a premium
22 tax on domestic and foreign insurance companies, or domestic or
23 foreign health care insurance corporations, including the attorney-

1 in-fact authorized by and acting for the subscribers of a reciprocal
2 insurer or inter-insurance exchange under powers of attorney. A
3 reciprocal and its attorney-in-fact shall be a single entity; and

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

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

17 SECTION 2. This act shall become effective November 1, 2005.

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-5-05 - DO PASS,
19 As Amended.