

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1895

By: Aldridge of the Senate

and

Peterson (Ron) of the House

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9 COMMITTEE SUBSTITUTE

10 (Insurance - apportionment of revenues and
11 calculation of certain credit - effective date -
12 emergency)

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

16 SECTION 1. AMENDATORY 36 O.S. 2001, Section 625.1, as
17 amended by Section 2, Chapter 381, O.S.L. 2005 (36 O.S. Supp. 2007,
18 Section 625.1), is amended to read as follows:

19 Section 625.1 A. A foreign or alien insurer which is subject
20 to the tax imposed by Section 624 of this title shall be entitled to
21 a credit against said tax actually paid to and placed in the General
22 Revenue Fund of the state, not including any of said tax monies
23 placed in pension funds and not including any of said tax monies
24 placed in escrow, if, during the year for which the tax is being

1 assessed, the insurer or its affiliate maintained a regional home
2 office in this state in a building owned or leased by the insurer.
3 To receive a credit against the tax imposed for the year in which
4 the regional home office was established, said office must have been
5 maintained continuously from on or before August 1 of that year
6 through the last day of the calendar year. For succeeding years, an
7 insurer or its affiliate shall have maintained the regional home
8 office continuously from the first day of the calendar year for
9 which the tax is imposed through the last day of that calendar year.
10 ~~The credit shall be equal to~~ In the calculation of the Home Office
11 Credit, the amount to be apportioned to the Oklahoma Firefighters
12 Pension and Retirement Fund, the Oklahoma Police Pension and
13 Retirement System and the Law Enforcement Retirement Fund shall be
14 applied prior to the calculation of the Home Office Credit. The
15 amount of the Home Office Credit shall be derived from amounts
16 remaining after the apportionment to the Oklahoma Firefighters
17 Pension and Retirement Fund, the Oklahoma Police Pension and
18 Retirement System and the Law Enforcement Retirement Fund. The Home
19 Office Credit shall be calculated by first applying a "Home Office
20 Credit Allotment Rate" of forty-seven percent (47%) to the gross
21 premium tax owed by the insurer and then determining the allowable
22 credit by applying the following percentages of the amount due after
23 the credits authorized by Sections 624.1 and 625 of this title have
24 been deducted:

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

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

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

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

12 B. A domestic insurer with four hundred or more full-time,
13 year-round Oklahoma employees which is subject to the tax imposed by
14 Section 624 of this title shall be entitled to a credit against said
15 tax actually paid to and placed in the General Revenue Fund of the
16 state, not including any of said tax monies placed in pension funds
17 and not including any of said tax monies placed in escrow, if,
18 during the year previous to the year for which the tax is being
19 assessed, the insurer or its affiliate maintained a regional home
20 office in this state in a building owned or leased by the insurer
21 and during the year for which the tax is being assessed, the insurer
22 establishes its home office in this state in a building owned or
23 leased by the insurer. To receive a credit against the tax imposed
24 for the year in which the home office was established, said office

1 must have been maintained continuously from on or before August 1 of
2 that year through the last day of the calendar year. For succeeding
3 years, an insurer shall have maintained the home office continuously
4 from the first day of the calendar year for which the tax is imposed
5 through the last day of that calendar year. Insurers who take
6 action before August 1, 2000, to establish their home office in this
7 state shall be entitled to a credit against the tax imposed on or
8 after January 1, 2001, which shall be in addition to the credit the
9 insurer is entitled to for that year. ~~The credit shall be equal to~~
10 In the calculation of the Home Office Credit, the amount to be
11 apportioned to the Oklahoma Firefighters Pension and Retirement
12 Fund, the Oklahoma Police Pension and Retirement System and the Law
13 Enforcement Retirement Fund shall be applied prior to the
14 calculation of the Home Office Credit. The amount of the Home
15 Office Credit shall be derived from amounts remaining after the
16 apportionment to the Oklahoma Firefighters Pension and Retirement
17 Fund, the Oklahoma Police Pension and Retirement System and the Law
18 Enforcement Retirement Fund. The Home Office Credit shall be
19 calculated by first applying a "Home Office Credit Allotment Rate"
20 of forty-seven percent (47%) to the gross premium tax owed by the
21 insurer and then determining the allowable credit by applying the
22 following percentages of the amount due after the credits authorized
23 by Sections 624.1 and 625 of this title have been deducted:
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1 1. Thirty-five percent (35%), if there are more than four
2 hundred full-time, year-round Oklahoma employees, but less than five
3 hundred full-time, year-round Oklahoma employees; or

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

6 C. A domestic insurer which is subject to the tax imposed by
7 Section 624 of this title shall be entitled to a credit against said
8 tax actually paid to and placed in the General Revenue Fund of the
9 state, not including any of said tax monies placed in pension funds
10 and not including any of said tax monies placed in escrow, if,
11 during the year for which the tax is being assessed, the insurer
12 maintained a regional home office in at least five ~~(5)~~ or more
13 counties in this state in buildings owned or leased by the insurer.
14 To receive a credit against the tax imposed for the year in which
15 the regional home offices were established, said offices must have
16 been maintained continuously from on or before August 1 of that year
17 through the last day of the calendar year. For succeeding years, an
18 insurer shall have maintained the regional home offices continuously
19 from the first day of the calendar year for which the tax is imposed
20 through the last day of that calendar year. ~~The credit shall be~~
21 ~~equal to~~ In the calculation of the Home Office Credit, the amount to
22 be apportioned to the Oklahoma Firefighters Pension and Retirement
23 Fund, the Oklahoma Police Pension and Retirement System and the Law
24 Enforcement Retirement Fund shall be applied prior to the

1 calculation of the Home Office Credit. The amount of the Home
2 Office Credit shall be derived from amounts remaining after the
3 apportionment to the Oklahoma Firefighters Pension and Retirement
4 Fund, the Oklahoma Police Pension and Retirement System and the Law
5 Enforcement Retirement Fund. The Home Office Credit shall be
6 calculated by first applying a "Home Office Credit Allotment Rate"
7 of forty-seven percent (47%) to the gross premium tax owed by the
8 insurer and then determining the allowable credit by applying the
9 percentage of the amount due after the credits authorized by
10 Sections 624.1 and 625 of this title have been deducted as
11 established in subsection A of this section.

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

17 E. The credit provided for in subsections A, B and C of this
18 section shall be based on the total number of Oklahoma employees in
19 the regional or home office when a group of insurers which are under
20 common management and control maintain a regional home office or
21 home office in this state in a building owned or leased by the group
22 of insurers. The credit provided for in subsections A, B and C of
23 this section may be allocated among the insurance company and the
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1 insurance company affiliates at the discretion of the insurance
2 company on a per-insurance-company basis.

3 F. As used in this section:

4 1. "Regional home office" means an office transacting
5 insurance, as defined in Section 105 of this title, and performing
6 insurance company operations, which is defined as one or more or any
7 combination of the following functions and services performed in
8 connection with the development, sale, and administration of
9 products giving rise to receipts subject to a premium tax on
10 domestic and foreign insurance companies, or domestic or foreign
11 health care insurance corporations: actuarial, medical, legal,
12 investments, accounting, auditing, underwriting, policy issuance,
13 information, policyholder services, premium collection, claims,
14 advertising and publications, public relations, human resources,
15 marketing, sales office staff, training of sales and service
16 personnel, and clerical, managerial, and other support for any such
17 functions or services;

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

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

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

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

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

18 G. Each insurer or insurance group requesting a credit under
19 this section shall certify by affidavit, approved as to form by the
20 Commissioner, that the insurer has met all of the qualifications
21 required by this section and is authorized to a credit against the
22 premium tax which actually shall be paid to, and placed in the
23 General Revenue Fund of the state, exclusive of any amounts of the
24 tax which shall be credited to pension funds pursuant to law and

1 exclusive of any amounts which shall be placed into escrow. The
2 Commissioner may do an examination for the sole purpose of
3 certifying that all requirements of this section are being met by
4 the insurer requesting to obtain any credits against premium tax.

5 H. For the fiscal year beginning July 1, 2006, and for each
6 fiscal year thereafter, and notwithstanding any other provisions of
7 Title 36 of the Oklahoma Statutes or any other provision of law
8 governing the order in which the credit authorized by this section
9 is to be deducted from the liability of the company claiming such
10 credit to the contrary, the credit authorized by this section shall
11 be deducted from the insurance premium tax liability of the company
12 claiming such credit prior to the deduction of any other credits
13 that may be claimed against such liability.

14 SECTION 2. This act shall become effective July 1, 2008.

15 SECTION 3. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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20 51-2-10903 MMP 04/04/08
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