

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 1895

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1895 - By:
ALDRIDGE of the Senate and PETERSON (RON) of the House.

(Insurance – apportionment of revenues and calculation of certain credit –
effective date –
emergency)

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

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

4 Section 625.1 A. A foreign or alien insurer which is subject to the tax imposed by
5 Section 624 of this title shall be entitled to a credit against said tax actually paid to and
6 placed in the General Revenue Fund of the state, not including any of said tax monies
7 placed in pension funds and not including any of said tax monies placed in escrow, if,
8 during the year for which the tax is being assessed, the insurer or its affiliate maintained
9 a regional home office in this state in a building owned or leased by the insurer. To
10 receive a credit against the tax imposed for the year in which the regional home office
11 was established, said office must have been maintained continuously from on or before

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

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

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

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

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

6 B. A domestic insurer with four hundred or more full-time, year-round Oklahoma
7 employees which is subject to the tax imposed by Section 624 of this title shall be entitled
8 to a credit against said tax actually paid to and placed in the General Revenue Fund of
9 the state, not including any of said tax monies placed in pension funds and not including
10 any of said tax monies placed in escrow, if, during the year previous to the year for which
11 the tax is being assessed, the insurer or its affiliate maintained a regional home office in
12 this state in a building owned or leased by the insurer and during the year for which the
13 tax is being assessed, the insurer establishes its home office in this state in a building
14 owned or leased by the insurer. To receive a credit against the tax imposed for the year
15 in which the home office was established, said office must have been maintained
16 continuously from on or before August 1 of that year through the last day of the calendar
17 year. For succeeding years, an insurer shall have maintained the home office
18 continuously from the first day of the calendar year for which the tax is imposed through
19 the last day of that calendar year. Insurers who take action before August 1, 2000, to
20 establish their home office in this state shall be entitled to a credit against the tax
21 imposed on or after January 1, 2001, which shall be in addition to the credit the insurer
22 is entitled to for that year. ~~The credit shall be equal to~~ In the calculation of the Home

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

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

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

17 C. A domestic insurer which is subject to the tax imposed by Section 624 of this
18 title shall be entitled to a credit against said tax actually paid to and placed in the
19 General Revenue Fund of the state, not including any of said tax monies placed in
20 pension funds and not including any of said tax monies placed in escrow, if, during the
21 year for which the tax is being assessed, the insurer maintained a regional home office in
22 at least five (5) or more counties in this state in buildings owned or leased by the insurer.

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

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

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

8 F. As used in this section:

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

19 2. "Common management and control" means the possession, direct or indirect, of
20 the power to direct or cause the direction of the management and policies of an insurer,
21 whether through the ownership of voting securities, by contract, or otherwise, unless the
22 power is executed by a person acting in an official capacity, performing duties imposed

1 and exercising authority granted because of the person's position as an officer or
2 employee of the insurer. Control shall be presumed to exist if any person, directly or
3 indirectly, owns, controls, holds with the power to vote, or holds proxies representing
4 twenty-five percent (25%) or more of the voting securities of the insurer;

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

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

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

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

1 requirements of this section are being met by the insurer requesting to obtain any credits
2 against premium tax.

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
15 FINANCIAL SERVICES, dated 04-07-08 - DO PASS, As Amended.