

SB 1895

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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1895
As Amended

SENATE BILL NO. 1895 - By: ALDRIDGE of the Senate and PETERSON (Ron) of the House.

[insurance - Home Office Credit Allotment Rate - effective date - emergency]

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 625.1, as amended by Section 2, Chapter 381, O.S.L. 2005 (36 O.S. Supp. 2007, 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, 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

1 insurer or its affiliate shall have maintained the regional home
2 office continuously from the first day of the calendar year for
3 which the tax is imposed through the last day of that calendar year.
4 ~~The credit shall be equal to~~ The amount to be apportioned to the
5 Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
6 Police Pension and Retirement System and the Law Enforcement
7 Retirement Fund shall be applied prior to the calculation of the
8 Home Office Credit. The amount of the Home Office Credit shall be
9 derived from amounts remaining after the apportionment to the
10 Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
11 Police Pension and Retirement System and the Law Enforcement
12 Retirement Fund. The Home Office Credit shall be calculated by
13 first applying a "Home Office Credit Allotment Rate" of forty-seven
14 percent (47%) to the gross premium tax owed by the insurer and then
15 determining the allowable credit by applying the following
16 percentages of the amount due after the credits authorized by
17 Sections 624.1 and 625 of this title have been deducted:
18 1. Fifteen percent (15%), if there are more than two hundred
19 full-time, year-round Oklahoma employees, but less than three
20 hundred full-time, year-round Oklahoma employees;
21 2. Twenty-five percent (25%), if there are more than three
22 hundred full-time, year-round Oklahoma employees, but less than four
23 hundred full-time, year-round Oklahoma employees;

1 3. 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 4. Fifty percent (50%), if there are five hundred or more full-
5 time, year-round Oklahoma employees.

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

1 action before August 1, 2000, to establish their home office in this
2 state shall be entitled to a credit against the tax imposed on or
3 after January 1, 2001, which shall be in addition to the credit the
4 insurer is entitled to for that year. ~~The credit shall be equal to~~
5 The amount to be apportioned to the Oklahoma Firefighters Pension
6 and Retirement Fund, the Oklahoma Police Pension and Retirement
7 System and the Law Enforcement Retirement Fund shall be applied
8 prior to the calculation of the Home Office Credit. The amount of
9 the Home Office Credit shall be derived from amounts remaining after
10 the apportionment to the Oklahoma Firefighters Pension and
11 Retirement Fund, the Oklahoma Police Pension and Retirement System
12 and the Law Enforcement Retirement Fund. The Home Office Credit
13 shall be calculated by first applying a "Home Office Credit
14 Allotment Rate" of forty-seven percent (47%) to the gross premium
15 tax owed by the insurer and then determining the allowable credit by
16 applying the following percentages of the amount due after the
17 credits authorized by Sections 624.1 and 625 of this title have been
18 deducted:

- 19 1. Thirty-five percent (35%), if there are more than four
20 hundred full-time, year-round Oklahoma employees, but less than five
21 hundred full-time, year-round Oklahoma employees; or
- 22 2. Fifty percent (50%), if there are five hundred or more full-
23 time, year-round Oklahoma employees.

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

1 Office Credit shall be calculated by first applying a "Home Office
2 Credit Allotment Rate" of forty-seven percent (47%) to the gross
3 premium tax owed by the insurer and then determining the allowable
4 credit by applying the percentage of the amount due after the
5 credits authorized by Sections 624.1 and 625 of this title have been
6 deducted as established in subsection A of this section.

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

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

21 F. As used in this section:

22 1. "Regional home office" means an office transacting
23 insurance, as defined in Section 105 of this title, and performing

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

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

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

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

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

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

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
18 2-21-08 - DO PASS, As Amended and Coauthored.