

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 892

6 By: Mazzei

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance premium tax; amending 36
9 O.S. 2011, Sections 625.1 and 625.2, which relate to
10 tax credits for insurers; providing exceptions;
11 updating and clarifying references; placing
12 limitation on the number of years credits may be
13 claimed; placing total annual cap on credits which
14 may be claimed during certain time periods; providing
15 an effective date; and declaring an emergency.

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

17 SECTION 1. AMENDATORY 36 O.S. 2011, Section 625.1, is
18 amended to read as follows:

19 Section 625.1. A. Except as otherwise provided in Section
20 625.2 of this title, a foreign or alien insurer which is subject to
21 the tax imposed by Section 624 of this title shall be entitled to a
22 credit against said tax actually paid to and placed in the General
23 Revenue Fund of the state, not including any of said tax monies
24 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

1 office in this state in a building owned or leased by the insurer.
2 To receive a credit against the tax imposed for the year in which
3 the regional home office was established, said office must have been
4 maintained continuously from on or before August 1 of that year
5 through the last day of the calendar year. For succeeding years, an
6 insurer or its affiliate shall have maintained the regional home
7 office continuously from the first day of the calendar year for
8 which the tax is imposed through the last day of that calendar year.

9 The Home Office Credit shall be calculated as follows:

10 1. Until June 30, 2010, the credit shall be equal to the
11 following percentages of the amount due after the credits authorized
12 by Sections 624.1 and 625 of this title have been deducted:

13 a. fifteen percent (15%), if there are more than two
14 hundred full-time, year-round Oklahoma employees, but
15 less than three hundred full-time, year-round Oklahoma
16 employees,

17 b. twenty-five percent (25%), if there are more than
18 three hundred full-time, year-round Oklahoma
19 employees, but less than four hundred full-time, year-
20 round Oklahoma employees,

21 c. thirty-five percent (35%), if there are more than four
22 hundred full-time, year-round Oklahoma employees, but
23 less than five hundred full-time, year-round Oklahoma
24 employees, or

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

3 2. Beginning July 1, 2010, in the calculation of the credit,
4 the amount to be apportioned to the Oklahoma Firefighters Pension
5 and Retirement Fund, the Oklahoma Police Pension and Retirement
6 System, and the Law Enforcement Retirement Fund shall be applied
7 prior to the calculation of the credit. The amount of the credit
8 shall be derived from amounts remaining after the apportionment to
9 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
10 Police Pension, and Retirement System and the Law Enforcement
11 Retirement Fund. The credit shall be calculated by first applying a
12 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
13 the gross premium tax owed by the insurer and then determining the
14 allowable credit by applying the following percentages of the amount
15 due after the credits authorized by Sections 624.1 and 625 of this
16 title have been deducted:

17 a. fifteen percent (15%), if there are more than two
18 hundred full-time, year-round Oklahoma employees, but
19 less than three hundred full-time, year-round Oklahoma
20 employees,

21 b. twenty-five percent (25%), if there are more than
22 three hundred full-time, year-round Oklahoma
23 employees, but less than four hundred full-time, year-
24 round Oklahoma employees,

- 1 c. thirty-five percent (35%), if there are more than four
2 hundred full-time, year-round Oklahoma employees, but
3 less than five hundred full-time, year-round Oklahoma
4 employees, or
- 5 d. fifty percent (50%), if there are five hundred or more
6 full-time, year-round Oklahoma employees.

7 B. A Except as otherwise provided in Section 625.2 of this
8 title, a domestic insurer with four hundred or more full-time, year-
9 round Oklahoma employees which is subject to the tax imposed by
10 Section 624 of this title shall be entitled to a credit against said
11 tax actually paid to and placed in the General Revenue Fund of the
12 state, not including any of said tax monies placed in pension funds
13 and not including any of said tax monies placed in escrow, if,
14 during the year previous to the year for which the tax is being
15 assessed, the insurer or its affiliate maintained a regional home
16 office in this state in a building owned or leased by the insurer
17 and during the year for which the tax is being assessed, the insurer
18 establishes its home office in this state in a building owned or
19 leased by the insurer. To receive a credit against the tax imposed
20 for the year in which the home office was established, said office
21 must have been maintained continuously from on or before August 1 of
22 that year through the last day of the calendar year. For succeeding
23 years, an insurer shall have maintained the home office continuously
24 from the first day of the calendar year for which the tax is imposed

1 through the last day of that calendar year. Insurers who take
2 action before August 1, 2000, to establish their home office in this
3 state shall be entitled to a credit against the tax imposed on or
4 after January 1, 2001, which shall be in addition to the credit the
5 insurer is entitled to for that year. The Home Office Credit shall
6 be calculated as follows:

7 1. Until June 30, 2010, the credit shall be equal to the
8 following percentages of the amount due after the credits authorized
9 by Sections 624.1 and 625 of this title have been deducted:

10 a. thirty-five percent (35%), if there are more than four
11 hundred full-time, year-round Oklahoma employees, but
12 less than five hundred full-time, year-round Oklahoma
13 employees, or

14 b. fifty percent (50%), if there are five hundred or more
15 full-time, year-round Oklahoma employees; and

16 2. Beginning July 1, 2010, in the calculation of the credit,
17 the amount to be apportioned to the Oklahoma Firefighters Pension
18 and Retirement Fund, the Oklahoma Police Pension and Retirement
19 System and the Law Enforcement Retirement Fund shall be applied
20 prior to the calculation of the credit. The amount of the credit
21 shall be derived from amounts remaining after the apportionment to
22 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
23 Police Pension and Retirement System and the Law Enforcement
24 Retirement Fund. The credit shall be calculated by first applying a

1 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
2 the gross premium tax owed by the insurer and then determining the
3 allowable credit by applying the following percentages of the amount
4 due after the credits authorized by Sections 624.1 and 625 of this
5 title have been deducted:

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

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

12 C. A Except as otherwise provided in Section 625.2 of this
13 title, a domestic insurer 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 for which the tax is being assessed, the insurer
19 maintained a regional home office in at least five or more counties
20 in this state in buildings owned or leased by the insurer. To
21 receive a credit against the tax imposed for the year in which the
22 regional home offices were established, said offices must have been
23 maintained continuously from on or before August 1 of that year
24 through the last day of the calendar year. For succeeding years, an

1 insurer shall have maintained the regional home offices continuously
2 from the first day of the calendar year for which the tax is imposed
3 through the last day of that calendar year. The Home Office Credit
4 shall be calculated as follows:

5 1. Until June 30, 2010, the credit shall be equal to the
6 percentage of the amount due after the credits authorized by
7 Sections 624.1 and 625 of this title have been deducted as
8 established in subsection A of this section; and

9 2. Beginning July 1, 2010, in the calculation of the credit,
10 the amount to be apportioned to the Oklahoma Firefighters Pension
11 and Retirement Fund, the Oklahoma Police Pension and Retirement
12 System, and the Law Enforcement Retirement Fund shall be applied
13 prior to the calculation of the credit. The amount of the credit
14 shall be derived from amounts remaining after the apportionment to
15 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
16 Police Pension and Retirement System, and the Law Enforcement
17 Retirement Fund. The credit shall be calculated by first applying a
18 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
19 the gross premium tax owed by the insurer and then determining the
20 allowable credit by applying the percentage of the amount due after
21 the credits authorized by Sections 624.1 and 625 of this title have
22 been deducted as established in subsection A of this section.

23 D. Proof that an insurer qualifies for the credit authorized by
24 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,
24 advertising and publications, public relations, human resources,

1 marketing, sales office staff, training of sales and service
2 personnel, and clerical, managerial, and other support for any such
3 functions or services;

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

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

20 4. "Insurance company" means any entity subject to a premium
21 tax on domestic and foreign insurance companies, or domestic or
22 foreign health care insurance corporations, including the attorney-
23 in-fact authorized by and acting for the subscribers of a reciprocal
24

1 insurer or inter-insurance exchange under powers of attorney. A
2 reciprocal and its attorney-in-fact shall be a single entity; and

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

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

16 H. For the fiscal year beginning July 1, 2006, and for each
17 fiscal year thereafter, and notwithstanding any other provisions of
18 Title 36 of the Oklahoma Statutes or any other provision of law
19 governing the order in which the credit authorized by this section
20 is to be deducted from the liability of the company claiming such
21 credit to the contrary, the credit authorized by this section shall
22 be deducted from the insurance premium tax liability of the company
23 claiming such credit prior to the deduction of any other credits
24 that may be claimed against such liability.

1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 625.2, is
2 amended to read as follows:

3 Section 625.2. A. The Except as otherwise provided in
4 subsection C of this section, the tax credits set forth in Section 1
5 of this act Section 625.1 of this title shall apply to insurers who
6 take action after November 1, 1987, to:

- 7 1. Establish new regional home offices; or
- 8 2. Expand existing regional home offices, and hire new
9 employees.

10 B. An insurer in either category of the requirements of
11 ~~paragraph~~ subsection A of this section must also meet the hiring
12 minimum requirements for the applicable tax credit bracket in
13 ~~Section 1 of this act~~ Section 625.1 of this title.

14 C. For credits claimed for calendar year 2016 and all
15 subsequent years, the credit otherwise authorized by the provisions
16 of Section 625.1 of this title shall be limited as follows:

17 1. Credits may be claimed by a taxpayer for a period of time
18 not to exceed five (5) years; provided, for taxpayers claiming the
19 credit prior to the effective date of this act, no prior year claims
20 shall count against the five (5) year limit; and

21 2. Total credits allowed for all taxpayers shall not exceed:
22 a. Fifteen Million Dollars (\$15,000,000.00) for claims
23 against calendar year 2016 tax liability,

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- 1 b. Seventeen Million Dollars (\$17,000,000.00) for claims
2 against calendar year 2017 tax liability,
3 c. Nineteen Million Dollars (\$19,000,000.00) for claims
4 against calendar year 2018 tax liability,
5 d. Twenty-one Million Dollars (\$21,000,000.00) for claims
6 against calendar year 2019 tax liability,
7 e. Twenty-three Million Dollars (\$23,000,000.00) for
8 claims against calendar year 2020 tax liability, and
9 f. Twenty-five Million Dollars (\$25,000,000.00) for
10 claims against calendar year 2021 tax liability and
11 for all future calendar years.

12 For each year, the percentage of credit for each taxpayer shall be
13 adjusted so that the total estimate of the credits authorized does
14 not exceed the annual limitation. The formula to be used for the
15 adjustment shall be the total annual dollar limit for the calendar
16 year divided by the total amount of credits claimed for that year.

17 SECTION 3. This act shall become effective July 1, 2016.

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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