STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 892 By: Mazzei

AS INTRODUCED

An Act relating to insurance premium tax; amending 36 O.S. 2011, Sections 625.1 and 625.2, which relate to tax credits for insurers; providing exceptions; updating and clarifying references; establishing a moratorium on the ability to claim tax credits during certain time period for specific actions; providing an effective date; and declaring an emergency.

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

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

Section 625.1. A. ~~A~~ Except as otherwise provided in Section 625.2 of this title, 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 insurer or its affiliate shall have maintained the regional home office continuously from the first day of the calendar year for which the tax is imposed through the last day of that calendar year. The Home Office Credit shall be calculated as follows:

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

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

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

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

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

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

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

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

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

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

B. ~~A~~ Except as otherwise provided in Section 625.2 of this title, a domestic insurer with four hundred or more full-time, year-round Oklahoma employees 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 previous to 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 and during the year for which the tax is being assessed, the insurer establishes its 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 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 shall have maintained the home office continuously from the first day of the calendar year for which the tax is imposed

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

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

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

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

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

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

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

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

C. ~~A~~ Except as otherwise provided in Section 625.2 of this title, a domestic 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 maintained a regional home office in at least five or more counties in this state in buildings owned or leased by the insurer. To receive a credit against the tax imposed for the year in which the regional home offices were established, said offices 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 shall have maintained the regional home offices continuously from the first day of the calendar year for which the tax is imposed through the last day of that calendar year. The Home Office Credit shall be calculated as follows:

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

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

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

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

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

F. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

1. Establish new regional home offices; or

2. Expand existing regional home offices, and hire new employees.

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

C. No credit otherwise authorized by the provisions of Section 625.1 of this title may be claimed for actions described in subsection A of this section if such actions occur for the first time on or after July 1, 2016, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operable on July 1, 2018. Beginning July 1, 2018, the credit authorized by Section 625.1 of this title may be claimed for actions described in subsection A of this section occurring on or after July 1, 2018, according to the provisions of this section. For purposes of this section, an employee hired on or after July 1, 2016, and before July 1, 2018, as part of an expansion pursuant to paragraph 2

of subsection A of this section, shall not qualify for the credit during such time period, but may qualify for time periods on or after July 1, 2018.

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

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

55-2-1911 JCR 2/18/2016 7:14:21 PM