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February 28, 2018

**AS AMENDED**

SENATE BILL NO. 1205

By: Quinn

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[ insurance premium tax - exceptions - tax credit -
effective date ]
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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. Except as otherwise provided, 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

1 last day of the calendar year. For succeeding years, an insurer or  
2 its affiliate shall have maintained the regional home office  
3 continuously from the first day of the calendar year for which the  
4 tax is imposed through the last day of that calendar year. ~~The Home~~  
5 ~~Office Credit shall be calculated as follows:~~

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

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

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

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

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

23 ~~2. Beginning July 1, 2010, in~~ In the calculation of the credit,  
24 the amount to be apportioned to the Oklahoma Firefighters Pension

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

- 14           a.   fifteen percent (15%), if there are more than two  
15                   hundred full-time, year-round Oklahoma employees, but  
16                   less than three hundred full-time, year-round Oklahoma  
17                   employees,
- 18           b.   twenty-five percent (25%), if there are more than  
19                   three hundred full-time, year-round Oklahoma  
20                   employees, but less than four hundred full-time, year-  
21                   round Oklahoma employees,
- 22           c.   thirty-five percent (35%), if there are more than four  
23                   hundred full-time, year-round Oklahoma employees, but  
24

1           less than five hundred full-time, year-round Oklahoma  
2           employees, or

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

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

1 credit against the tax imposed on or after January 1, 2001, which  
2 shall be in addition to the credit the insurer is entitled to for  
3 that year. ~~The Home Office Credit shall be calculated as follows:~~

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

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

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

13 ~~2. Beginning July 1, 2010, in~~ In the calculation of the credit,  
14 the amount to be apportioned to the Oklahoma Firefighters Pension  
15 and Retirement Fund, the Oklahoma Police Pension and Retirement  
16 System and the Law Enforcement Retirement Fund shall be applied  
17 prior to the calculation of the credit. The amount of the credit  
18 shall be derived from amounts remaining after the apportionment to  
19 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma  
20 Police Pension and Retirement System and the Law Enforcement  
21 Retirement Fund. The credit shall be calculated by first applying a  
22 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to  
23 the gross premium tax owed by the insurer and then determining the  
24 allowable credit by applying the following percentages, except as

1 otherwise provided in subsection I of this section, of the amount  
2 due after the credits authorized by Sections 624.1 and 625 of this  
3 title have been deducted:

- 4       a.   thirty-five percent (35%), if there are more than four  
5            hundred full-time, year-round Oklahoma employees, but  
6            less than five hundred full-time, year-round Oklahoma  
7            employees, or
- 8       b.   fifty percent (50%), if there are five hundred or more  
9            full-time, year-round Oklahoma employees.

10       C.   A Except as otherwise provided, a domestic insurer which is  
11 subject to the tax imposed by Section 624 of this title shall be  
12 entitled to a credit against said tax actually paid to and placed in  
13 the General Revenue Fund of the state, not including any of said tax  
14 monies placed in pension funds and not including any of said tax  
15 monies placed in escrow, if, during the year for which the tax is  
16 being assessed, the insurer maintained a regional home office in at  
17 least five or more counties in this state in buildings owned or  
18 leased by the insurer. To receive a credit against the tax imposed  
19 for the year in which the regional home offices were established,  
20 said offices must have been maintained continuously from on or  
21 before August 1 of that year through the last day of the calendar  
22 year. For succeeding years, an insurer shall have maintained the  
23 regional home offices continuously from the first day of the  
24 calendar year for which the tax is imposed through the last day of

1 that calendar year. ~~The Home Office Credit shall be calculated as~~  
2 ~~follows:~~

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

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

22 D. Proof that an insurer qualifies for the credit authorized by  
23 this section shall be on forms prescribed by the Insurance  
24 Commissioner and shall be submitted to the Commissioner annually

1 with the report which is filed pursuant to Section 624 of the  
2 Insurance Code.

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

12 F. As used in this section:

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

1 personnel, and clerical, managerial, and other support for any such  
2 functions or services;

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

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

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

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

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

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

1       I. The final dollar amount of the credit otherwise due an  
2 insurer pursuant to the provisions of subsection A, B or C of this  
3 section shall be subject to the following modifications:

4       1. From July 1, 2019, through June 30, 2020, the amount shall  
5 be reduced by seventy-five percent (75%);

6       2. From July 1, 2020, through June 30, 2021, the amount shall  
7 be reduced by eighty-one percent (81%);

8       3. From July 1, 2021, through June 30, 2022, the amount shall  
9 be reduced by eighty-seven percent (87%);

10       4. From July 1, 2022, through June 30, 2023, the amount shall  
11 be reduced by ninety-three percent (93%); and

12       5. On or after July 1, 2023, no credit shall be allowed  
13 pursuant to the provisions of this section.

14       SECTION 2. This act shall become effective November 1, 2018.

15       COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
16       February 28, 2018 - DO PASS AS AMENDED