

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1205

By: Quinn

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5
6 AS INTRODUCED

7 An Act relating to insurance premium tax; amending 36
8 O.S. 2011, Section 625.1, which relates to premium
9 tax credit; providing exceptions; deleting obsolete
10 language; modifying amount of tax credit due, subject
11 to certain schedule; and providing an effective date.

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

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

15 Section 625.1. A. A Except as otherwise provided, a foreign or
16 alien insurer which is subject to the tax imposed by Section 624 of
17 this title shall be entitled to a credit against said tax actually
18 paid to and placed in the General Revenue Fund of the state, not
19 including any of said tax monies placed in pension funds and not
20 including any of said tax monies placed in escrow, if, during the
21 year for which the tax is being assessed, the insurer or its
22 affiliate maintained a regional home office in this state in a
23 building owned or leased by the insurer. To receive a credit
24 against the tax imposed for the year in which the regional home

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

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

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

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

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

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

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

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

- 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, a domestic insurer with four
8 hundred or more full-time, year-round Oklahoma employees which is
9 subject to the tax imposed by Section 624 of this title shall be
10 entitled to a credit against said tax actually paid to and placed in
11 the General Revenue Fund of the state, not including any of said tax
12 monies placed in pension funds and not including any of said tax
13 monies placed in escrow, if, during the year previous to the year
14 for which the tax is being assessed, the insurer or its affiliate
15 maintained a regional home office in this state in a building owned
16 or leased by the insurer and during the year for which the tax is
17 being assessed, the insurer establishes its home office in this
18 state in a building owned or leased by the insurer. To receive a
19 credit against the tax imposed for the year in which the home office
20 was established, said office must have been maintained continuously
21 from on or before August 1 of that year through the last day of the
22 calendar year. For succeeding years, an insurer shall have
23 maintained the home office 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. Insurers who take action before August 1, 2000,
2 to establish their home office in this state shall be entitled to a
3 credit against the tax imposed on or after January 1, 2001, which
4 shall be in addition to the credit the insurer is entitled to for
5 that year. ~~The Home 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. thirty five percent (35%), if there are more than four~~
10 ~~hundred full-time, year-round Oklahoma employees, but~~
11 ~~less than five hundred full-time, year-round Oklahoma~~
12 ~~employees, or~~

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

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

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

1 regional home offices continuously from the first day of the
2 calendar year for which the tax is imposed through the last day of
3 that calendar year. ~~The Home Office Credit shall be calculated as~~
4 ~~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~~ 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, except as otherwise
21 provided pursuant to subsection I of this section, of the amount due
22 after the credits authorized by Sections 624.1 and 625 of this title
23 have been deducted as established in subsection A of this section.

1 D. Proof that an insurer qualifies for the credit authorized by
2 this section shall be on forms prescribed by the Insurance
3 Commissioner and shall be submitted to the Commissioner annually
4 with the report which is filed pursuant to Section 624 of the
5 Insurance Code.

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

15 F. As used in this section:

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

1 information, policyholder services, premium collection, claims,
2 advertising and publications, public relations, human resources,
3 marketing, sales office staff, training of sales and service
4 personnel, and clerical, managerial, and other support for any such
5 functions or services;

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

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

22 4. "Insurance company" means any entity subject to a premium
23 tax on domestic and foreign insurance companies, or domestic or
24 foreign health care insurance corporations, including the attorney-

1 in-fact authorized by and acting for the subscribers of a reciprocal
2 insurer or inter-insurance exchange under powers of attorney. A
3 reciprocal and its attorney-in-fact shall be a single entity; and

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

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

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

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

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

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

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

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

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

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

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