

1 **SENATE FLOOR VERSION**

2 February 10, 2015

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 83

6 By: Mazzei of the Senate

7 and

8 Sears of the House

9 [insurance premium tax - tax credits - specified
10 date - providing a contingent effective date]

11
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. Except as otherwise provided in subsection
16 I of this section, a foreign or alien insurer which is subject to
17 the tax imposed by Section 624 of this title shall be entitled to a
18 credit against said tax actually paid to and placed in the General
19 Revenue Fund of the state, not including any of said tax monies
20 placed in pension funds and not including any of said tax monies
21 placed in escrow, if, during the year for which the tax is being
22 assessed, the insurer or its affiliate maintained a regional home
23 office in this state in a building owned or leased by the insurer.
24 To receive a credit against the tax imposed for the year in which

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

7 The Home 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 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 of the amount
13 due after the credits authorized by Sections 624.1 and 625 of this
14 title have been deducted:

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

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 in subsection I of this
6 section, 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
24 action before August 1, 2000, to establish their home office in this

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

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

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

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

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

1 allowable credit by applying the following percentages 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 in subsection I of this
11 section, a domestic insurer which is subject to the tax imposed by
12 Section 624 of this title shall be entitled to a credit against said
13 tax actually paid to and placed in the General Revenue Fund of the
14 state, not including any of said tax monies placed in pension funds
15 and not including any of said tax monies placed in escrow, if,
16 during the year for which the tax is being assessed, the insurer
17 maintained a regional home office in at least five or more counties
18 in this state in buildings owned or leased by the insurer. To
19 receive a credit against the tax imposed for the year in which the
20 regional home offices were established, said offices must have been
21 maintained continuously from on or before August 1 of that year
22 through the last day of the calendar year. For succeeding years, an
23 insurer shall have maintained the regional home offices 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. The Home Office Credit
2 shall be calculated as 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 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 of the amount due after
19 the credits authorized by Sections 624.1 and 625 of this title have
20 been deducted as established in subsection A of this section.

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

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.

23 I. Any insurer or insurance group which is granted a credit
24 pursuant to subsections A, B or C of this section for the first time

1 on or after the effective date of this act shall be allowed the
2 credit for a period of time no greater than ten (10) years.

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

5 Section 625.2. A. The tax credits set forth in Section ~~1 of~~
6 ~~this act~~ 625.1 of this title shall ~~apply to insurers who take be~~
7 allowed as provided in subsection C of this section, for an insurer:

8 1. Who takes action after November 1, 1987, to:

9 ~~1. Establish~~

10 a. establish new regional home offices~~, or~~

11 ~~2. Expand~~

12 b. expand existing regional home offices, and hire new
13 employees~~.~~

14 ~~B. An insurer in either category of the requirements of~~
15 ~~paragraph A of this section must also meet; and~~

16 B. Who meets the hiring minimum requirements for the applicable
17 tax credit bracket in Section ~~1 of this act~~ 625.1 of this title.

18 C. The credit provided pursuant to Section 625.1 of this title
19 shall be granted to an insurer or insurance group as follows:

20 1. If first granted prior to the effective date of this act,
21 such credit shall be subject to the law in effect at the time the
22 credit was first granted;

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1 2. If first granted on or after the effective date of this act,
2 such credit shall be subject to the time limit provided in
3 subsection I of Section 1 of this act; and

4 3. No credit shall be granted for the first time on or after
5 January 1, 2020, unless the Oklahoma Legislature reauthorizes the
6 provisions of Section 625.1 after review of the report required
7 pursuant to paragraph 14 of Section 5017 of Title 74 of the Oklahoma
8 Statutes.

9 SECTION 3. This act shall not become effective unless Senate
10 Bill No. 72 of the 1st Session of the 55th Oklahoma Legislature
11 becomes effective as law.

12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
13 February 10, 2015 - DO PASS AS AMENDED
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