

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 83

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; providing exception; limiting time
11 period during which certain credit is allowed;
12 updating references; clarifying language; limiting
13 time period during which certain credits are allowed;
14 providing condition under which credits are allowed
15 after specified date; and providing a contingent
16 effective date.

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

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

20 Section 625.1. A. A Except as otherwise provided in subsection
21 I of this section, a foreign or alien insurer which is subject to
22 the tax imposed by Section 624 of this title shall be entitled to a
23 credit against said tax actually paid to and placed in the General
24 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

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

11 1. Until June 30, 2010, the credit shall be equal to the
12 following percentages of the amount due after the credits authorized
13 by Sections 624.1 and 625 of this 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
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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; and

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

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

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

1 employees, but less than four hundred full-time, year-
2 round Oklahoma employees,

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

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

9 B. A Except as otherwise provided in subsection I of this
10 section, a domestic insurer with four hundred or more full-time,
11 year-round Oklahoma employees 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 previous to the year for which the tax is being
17 assessed, the insurer or its affiliate maintained a regional home
18 office in this state in a building owned or leased by the insurer
19 and during the year for which the tax is being assessed, the insurer
20 establishes its home office in this state in a building owned or
21 leased by the insurer. To receive a credit against the tax imposed
22 for the year in which the home office was established, said office
23 must have been maintained continuously from on or before August 1 of
24 that year through the last day of the calendar year. For succeeding

1 years, an insurer shall have maintained the home office 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. Insurers who take
4 action before August 1, 2000, to establish their home office in this
5 state shall be entitled to a credit against the tax imposed on or
6 after January 1, 2001, which shall be in addition to the credit the
7 insurer is entitled to for that year. The Home Office Credit shall
8 be calculated as follows:

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

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

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

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

1 Police Pension and Retirement System and the Law Enforcement
2 Retirement Fund. The credit shall be calculated by first applying a
3 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
4 the gross premium tax owed by the insurer and then determining the
5 allowable credit by applying the following percentages of the amount
6 due after the credits authorized by Sections 624.1 and 625 of this
7 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.

14 C. A Except as otherwise provided in subsection I of this
15 section, a domestic insurer which is subject to the tax imposed by
16 Section 624 of this title shall be entitled to a credit against said
17 tax actually paid to and placed in the General Revenue Fund of the
18 state, not including any of said tax monies placed in pension funds
19 and not including any of said tax monies placed in escrow, if,
20 during the year for which the tax is being assessed, the insurer
21 maintained a regional home office in at least five or more counties
22 in this state in buildings owned or leased by the insurer. To
23 receive a credit against the tax imposed for the year in which the
24 regional home offices were established, said offices must have been

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

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

11 2. Beginning July 1, 2010, in the calculation of the credit,
12 the amount to be apportioned to the Oklahoma Firefighters Pension
13 and Retirement Fund, the Oklahoma Police Pension and Retirement
14 System and the Law Enforcement Retirement Fund shall be applied
15 prior to the calculation of the credit. The amount of the credit
16 shall be derived from amounts remaining after the apportionment to
17 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
18 Police Pension and Retirement System and the Law Enforcement
19 Retirement Fund. The credit shall be calculated by first applying a
20 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
21 the gross premium tax owed by the insurer and then determining the
22 allowable credit by applying the percentage of the amount due after
23 the credits authorized by Sections 624.1 and 625 of this title have
24 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. Any insurer or insurance group which is granted a credit
4 pursuant to subsections A, B or C of this section for the first time
5 on or after the effective date of this act shall be allowed the
6 credit for a period of time no greater than ten (10) years.

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

9 Section 625.2. A. The tax credits set forth in Section ~~1 of~~
10 ~~this act~~ 625.1 of this title shall ~~apply to insurers who take~~ be
11 allowed for taxable years before January 1, 2020, unless
12 reauthorized by the Oklahoma Legislature pursuant to the provisions
13 of subsection C of this section, for an insurer:

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

15 ~~1. Establish~~

16 a. establish new regional home offices~~;~~ or

17 ~~2. Expand~~

18 b. expand existing regional home offices, and hire new
19 employees~~.~~

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

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

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1 C. The credit provided pursuant to Section 625.1 of this title
2 shall only be allowed for maintenance of a regional home office on
3 or after January 1, 2020, if the Oklahoma Legislature reauthorizes
4 this section after review of the report required pursuant to
5 paragraph 14 of Section 5017 of Title 74 of the Oklahoma Statutes.

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

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