

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 83

By: Mazzei of the Senate

and

Sears of the House

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance premium tax; amending 36  
11 O.S. 2011, Sections 625.1 and 625.2, which relate to  
12 tax credits; providing exception; limiting time  
13 period during which certain credits are allowed;  
14 updating references; clarifying language; providing  
15 conditions making certain credits subject to law in  
16 effect at certain time; making certain credits  
17 subject to certain time limit; prohibiting grant of  
18 certain credits unless certain condition met; and  
19 providing a contingent effective date.

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

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

23 Section 625.1 A. A Except as otherwise provided in subsection  
24 I of this section, 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

1 placed in pension funds and not including any of said tax monies  
2 placed in escrow, if, during the year for which the tax is being  
3 assessed, the insurer or its affiliate maintained a regional home  
4 office in this state in a building owned or leased by the insurer.  
5 To receive a credit against the tax imposed for the year in which  
6 the regional home office was established, said office must have been  
7 maintained continuously from on or before August 1 of that year  
8 through the last day of the calendar year. For succeeding years, an  
9 insurer or its affiliate shall have maintained the regional home  
10 office continuously from the first day of the calendar year for  
11 which the tax is imposed through the last day of that calendar year.  
12 The Home Office Credit shall be calculated as follows:

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

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

- 1           b.   twenty-five percent (25%), if there are more than  
2                   three hundred full-time, year-round Oklahoma  
3                   employees, but less than four hundred full-time, year-  
4                   round Oklahoma employees,  
5           c.   thirty-five percent (35%), if there are more than four  
6                   hundred full-time, year-round Oklahoma employees, but  
7                   less than five hundred full-time, year-round Oklahoma  
8                   employees, or  
9           d.   fifty percent (50%), if there are five hundred or more  
10                   full-time, year-round Oklahoma employees.

11           B.   A Except as otherwise provided in subsection I of this  
12 section, a domestic insurer with four hundred or more full-time,  
13 year-round Oklahoma employees which is subject to the tax imposed by  
14 Section 624 of this title shall be entitled to a credit against said  
15 tax actually paid to and placed in the General Revenue Fund of the  
16 state, not including any of said tax monies placed in pension funds  
17 and not including any of said tax monies placed in escrow, if,  
18 during the year previous to the year for which the tax is being  
19 assessed, the insurer or its affiliate maintained a regional home  
20 office in this state in a building owned or leased by the insurer  
21 and during the year for which the tax is being assessed, the insurer  
22 establishes its home office in this state in a building owned or  
23 leased by the insurer. To receive a credit against the tax imposed  
24 for the year in which the home office was established, said office

1 must have been maintained continuously from on or before August 1 of  
2 that year through the last day of the calendar year. For succeeding  
3 years, an insurer shall have maintained the home office 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. Insurers who take  
6 action before August 1, 2000, to establish their home office in this  
7 state shall be entitled to a credit against the tax imposed on or  
8 after January 1, 2001, which shall be in addition to the credit the  
9 insurer is entitled to for that year. The Home Office Credit shall  
10 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. thirty-five percent (35%), if there are more than four  
15 hundred full-time, year-round Oklahoma employees, but  
16 less than five hundred full-time, year-round Oklahoma  
17 employees, or

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

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

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

- 10 a. thirty-five percent (35%), if there are more than four  
11 hundred full-time, year-round Oklahoma employees, but  
12 less than five hundred full-time, year-round Oklahoma  
13 employees, or
- 14 b. fifty percent (50%), if there are five hundred or more  
15 full-time, year-round Oklahoma employees.

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

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

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

13 2. Beginning July 1, 2010, 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 percentage of the amount due after

1 the credits authorized by Sections 624.1 and 625 of this title have  
2 been deducted as established in subsection A of this section.

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

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

17 F. As used in this section:

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

1 health care insurance corporations: actuarial, medical, legal,  
2 investments, accounting, auditing, underwriting, policy issuance,  
3 information, policyholder services, premium collection, claims,  
4 advertising and publications, public relations, human resources,  
5 marketing, sales office staff, training of sales and service  
6 personnel, and clerical, managerial, and other support for any such  
7 functions or services;

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

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

24

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

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

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

20 H. For the fiscal year beginning July 1, 2006, and for each  
21 fiscal year thereafter, and notwithstanding any other provisions of  
22 Title 36 of the Oklahoma Statutes or any other provision of law  
23 governing the order in which the credit authorized by this section  
24 is to be deducted from the liability of the company claiming such

1 credit to the contrary, the credit authorized by this section shall  
2 be deducted from the insurance premium tax liability of the company  
3 claiming such credit prior to the deduction of any other credits  
4 that may be claimed against such liability.

5 I. Any insurer or insurance group which is granted a credit  
6 pursuant to subsections A, B or C of this section for the first time  
7 on or after the effective date of this act shall be allowed the  
8 credit for a period of time no greater than ten (10) years.

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

11 Section 625.2 A. The tax credits set forth in Section ~~1 of~~  
12 ~~this act~~ 625.1 of this title shall ~~apply to insurers who take be~~  
13 allowed as provided in subsection B 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 2. Who meets the hiring minimum requirements for the applicable  
23 tax credit bracket in Section ~~1 of this act~~ 625.1 of this title.

24

1        B. The credit provided pursuant to Section 625.1 of this title  
2 shall be granted to an insurer or insurance group as follows:

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

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

9        3. No credit shall be granted for the first time on or after  
10 January 1, 2020, unless the Oklahoma Legislature reauthorizes the  
11 provisions of Section 625.1 after review of the report required  
12 pursuant to paragraph 14 of Section 5017 of Title 74 of the Oklahoma  
13 Statutes.

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

17  
18        55-1-7280            JM            04/01/15  
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