

# HB80 INTRODUCED



1 MSVXW1-1  
2 By Representative Clouse  
3 RFD: Ways and Means General Fund  
4 First Read: 07-Mar-23  
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SYNOPSIS:

Under existing law, the Alabama Real Property Investment Credit allows insurers a credit against the insurance premium tax based on the value of real property investments in the State of Alabama.

This bill would require real property investments to be occupied or otherwise in commercial use for a majority of the taxable year to qualify for the Alabama Real Property Investment Credit.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Insurance Premium Tax; to amend Section 27-4A-3, Code of Alabama 1975, to provide further for real property investments to qualify for the Alabama Real Property Investment Credit; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29 Section 1. Section 27-4A-3, Code of Alabama 1975, is  
30 amended to read as follows:

31 "§27-4A-3

32 (a) Subject to the exceptions and exemptions  
33 hereinafter set forth, for the year beginning on January 1,  
34 1995, and for each year thereafter, every insurer shall pay to  
35 the commissioner a premium tax equal to the percentage, as set  
36 out in this subsection, of the premiums received by the  
37 insurer for business done in this state, whether the same was  
38 actually received by the insurer in this state or elsewhere:

39 (1) PREMIUM TAX ON LIFE INSURANCE PREMIUMS.

40 a. Except as hereinafter provided, the rates of  
41 taxation on life insurance premiums shall be those amounts set  
42 out in the following schedule:

43	Year	Foreign Insurers	Domestic Insurers
44	1995	2.9	1.3
45	1996	2.8	1.6
46	1997	2.7	1.8
47	1998	2.5	2.1
48	Every Year Thereafter	2.3	2.3

49 b. Individual life insurance policies in a face amount  
50 of greater than five thousand dollars (\$5,000) and up to and  
51 including twenty-five thousand dollars (\$25,000), excluding  
52 group life insurance policies, shall be taxed at the rate of  
53 one percent per annum.

54 c. Individual life insurance policies in a face amount



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55 of five thousand dollars (\$5,000) or less, excluding group  
56 life insurance policies, shall be taxed at the rate of  
57 one-half percent per annum.

58 d. For the purposes of computing the face amount of  
59 life insurance policies, all life insurance policies issued  
60 within 60 days of another on the life of the same applicant or  
61 applicants shall be treated as one policy.

62 (2) PREMIUM TAX ON HEALTH INSURANCE PREMIUMS.

63 a. Except as hereinafter provided, the rates of  
64 taxation on premiums for health insurance, and accident and  
65 health insurance for which a separate premium is charged,  
66 shall be those amounts set out in the following schedule:

67	Year	Foreign Insurers	Domestic Insurers
68	1995	2.9	1.3
69	1996	2.8	1.6
70	1997	2.4	1.6
71	1998	2.0	1.6
72	Every Year Thereafter	1.6	1.6

73 b. Premiums for hospital, medical, surgical, or other  
74 health care benefits provided pursuant to any  
75 employer-sponsored plan for groups with less than 50 insured  
76 participants shall be taxed at the rate of one-half percent  
77 per annum.

78 c. Premiums for hospital, medical, surgical, or other  
79 health care benefits supplementary to Medicare and Medicaid,  
80 or provided pursuant to an employer-sponsored plan for



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81 governmental employees, shall be exempt from the premium tax  
82 levied pursuant to this chapter.

83 (3) PREMIUM TAX ON OTHER INSURANCE PREMIUMS.

84 a. Except as hereinafter provided, the rate of taxation  
85 on insurance other than life insurance, health insurance, and  
86 accident health insurance shall be 3.6 percent per annum.

87 b. Premiums for all of the following types of insurance  
88 shall be taxed at the rate of one percent per annum:

89 1. All property and multi-peril insurance written in  
90 fire protection Classes 9 and 10.

91 2. Mobile homes, mobile homeowners, homeowners, and low  
92 value dwelling policies in a face amount of forty thousand  
93 dollars (\$40,000) or less.

94 c. Premiums for medical liability insurance shall be  
95 taxed at the rate of 1.6 percent per annum.

96 d. The tax imposed at the rate specified in paragraph  
97 a. of this subdivision shall be reduced by the following  
98 credits for certain economic development activities pursued in  
99 the State of Alabama.

100 1. Alabama Insurance Offices Facilities Credit. For  
101 each office owned or leased by an insurer in the State of  
102 Alabama and used for insurance operations, an insurer shall be  
103 entitled to a credit against the tax imposed by paragraph a.  
104 of this subdivision according to the following schedule:

105	Number of Full-Time	Credit as a % of Premiums Taxable
106	Employees in Office	Under Paragraph a.

107	1-3	0.0025%
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108	4-10	0.0050%
109	11-50	0.0075%
110	51 or more	0.0100%

111 The total credit allowable for Alabama insurance office  
112 facilities shall not exceed one percent of an insurer's  
113 Alabama premiums taxable at the rate specified in paragraph a.  
114 of this subdivision.

115 2. Alabama Real Property Investment Credit. For each  
116 one million dollars (\$1,000,000) in value of real property  
117 investments in the State of Alabama, an insurer shall be  
118 entitled to a credit of 0.10 percent of its Alabama premiums  
119 taxable at the rate specified in paragraph a. of this  
120 subdivision. The total credit allowable for Alabama real  
121 property investments shall not exceed one~~+~~ percent of an  
122 insurer's Alabama premiums taxable at the rate specified in  
123 paragraph a. of this subdivision.

124 (i) Alabama real property investments which qualify for  
125 the Alabama real property investment credit include any  
126 improved Alabama real property owned by the insurer or an  
127 affiliate of the insurer on January 1, 1993, and any improved  
128 or unimproved Alabama real property acquired or new  
129 construction placed in service on or after January 1, 1993, by  
130 the insurer or an affiliate of the insurer.

131 (ii) For purposes of determining the Alabama real  
132 property investment credit, Alabama real property investments  
133 shall be valued at cost and not at book value or fair market  
134 value. The cost of capital improvements to existing Alabama



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135 real property investments, such as the renovation of shopping  
136 centers, hotels, or other buildings, completed and placed in  
137 service by the insurer or an affiliate of the insurer on or  
138 after January 1, 1993, shall be considered an Alabama real  
139 estate investment.

140 (iii) For purposes of determining the value of Alabama  
141 real property investments, funds borrowed to finance Alabama  
142 real property investments shall be subtracted from cost so  
143 that only the net cost in the investment properties borne from  
144 assets belonging to the insurer or an affiliate of the insurer  
145 qualifies for the Alabama real property investment credit. The  
146 cost of debt-financed Alabama real property investments of an  
147 insurer shall be increased pro tanto as the underlying debt is  
148 paid off by the insurer or an affiliate of the insurer.

149 (iv) The Alabama real property investment credit shall  
150 not be allowed for properties in the State of Alabama used in  
151 an insurer's insurance operations and for which the Alabama  
152 insurance office facilities credit is allowed or allowable,  
153 without regard to the one percent limitation on the credit.  
154 However, the cost of real property owned in the State of  
155 Alabama and used in part as an Alabama real property  
156 investment and in part for the insurer's insurance operations  
157 shall be allocated on a square-foot basis so that the cost  
158 allocated to that portion of the property not used for  
159 insurance operations shall qualify for the Alabama real  
160 property investment credit.

161 (v) Mortgages held by an insurer that are secured by  
162 real property located in the State of Alabama shall not be



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163 considered Alabama real property investments for purposes of  
164 the Alabama real property investment credit.

165 (vi) Notwithstanding any other provision of this  
166 section, the Alabama real property investment credit shall  
167 only be allowed for improved Alabama real property that is  
168 occupied or otherwise in commercial use for a majority of the  
169 taxable year. The provisions of this item are effective for  
170 all taxable years beginning after December 31, 2023.

171 3. Special Rules. The following special rules apply to  
172 the Alabama insurance office facilities credit and the Alabama  
173 real property investment credit.

174 (i) For purposes of determining the economic  
175 development credits allowed under this section, the term  
176 affiliate means any business entity, other than a life or  
177 health insurance company, which is wholly owned by the insurer  
178 subject to tax under paragraph a. of this subdivision or any  
179 other insurer and its wholly owned subsidiaries, other than a  
180 life or health insurance company, which is part of a group of  
181 companies, including the insurer, which are under common  
182 control and management. For an insurer having affiliates, all  
183 premiums of the insurer and its insurance company affiliates  
184 subject to tax at the rate specified in paragraph a. of this  
185 subdivision may be aggregated; all Alabama insurance office  
186 facilities and all Alabama real property investments may be  
187 aggregated; and, subject to the specific credit limitations,  
188 the total allowable tax credits may be determined as if all  
189 the aggregated premiums, office facilities, and Alabama real  
190 property investments were owned by one insurer. Once the total





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191 allowable credits have been determined, the credits may be  
192 allocated to the insurer and its insurance company affiliates  
193 at the sole discretion of the insurer subject to the specific  
194 credit limitations on a per insurance company basis. The  
195 computation of allowable credits and their allocation to  
196 affiliates shall be made on forms to be supplied by the  
197 Alabama Department of Insurance, which forms shall be filed  
198 with the insurer's annual statement.

199 (b) Notwithstanding any provision of law to the  
200 contrary, all premium tax payments made subsequent to passage  
201 of this chapter shall be remitted in accordance with this  
202 subsection. Beginning January 1, 1993, and all years  
203 thereafter, each insurer shall pay its premium taxes on a  
204 quarterly basis, as follows: on or before May 15, a payment  
205 estimated on the basis of twenty-five~~25~~ percent of its  
206 business done in this state during the preceding calendar year  
207 or, at the option of the insurer, on the basis of its actual  
208 business done in the state from January 1 through March 31 of  
209 the same calendar year; on or before August 15, a payment  
210 estimated on the basis of forty-five~~45~~ percent of its business  
211 done in this state during the preceding calendar year or, at  
212 the option of the insurer, on the basis of one hundred and  
213 eighty~~180~~ percent of its actual business done in this state  
214 from April 1 through June 30 of the same calendar year; on or  
215 before November 15, a payment estimated on the basis of  
216 twenty-five~~25~~ percent of its business done in this state  
217 during the preceding calendar year or, at the option of the  
218 insurer, on the basis of its actual business done in this



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219 state from July 1 through September 30 of the same calendar  
220 year; on or before March 1, a payment in the amount of the  
221 remainder of the actual premium taxes due on its business done  
222 in the state during the preceding calendar year. Every  
223 authorized insurer shall file with the commissioner a  
224 statement, on a form as furnished or approved by the  
225 commissioner, setting forth the total amount of premiums  
226 received by it for business done in this state during the  
227 period covered by the tax payment. The statement shall be  
228 verified by an affidavit of an officer of the insurer having  
229 knowledge of the facts. It is the intent and meaning of this  
230 subsection that any taxes paid on an estimated quarterly basis  
231 during the calendar year shall be reconciled to actual  
232 premiums received on risks in this state for such calendar  
233 year on the March 1 payment date in the succeeding calendar  
234 year.

235 (c) The tax imposed by this section shall be subject to  
236 credit and deduction of the full amount, with twenty-five~~25~~  
237 percent of the full amount paid, or estimated to be paid,  
238 being credited or deducted on each quarterly payment date, for  
239 all of the following:

240 (1) Ad valorem property taxes paid by an insurer on any  
241 building and real estate in this state which is owned and  
242 occupied, in whole or in part, by the insurer for the full  
243 period of the tax year as its principal office in the State of  
244 Alabama.

245 (2) All ad valorem taxes paid by an insurer during the  
246 calendar year on any other real estate and improvements



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247 thereon in this state which is owned and at least fifty~~50~~  
248 percent occupied by the insurer for the full period of the tax  
249 year.

250 (3) Ad valorem property taxes paid by an insurer on the  
251 insurer's offices in this state during the calendar year, but  
252 with respect to the office apportioned to the square foot area  
253 occupied by the insured, whether the ad valorem taxes are paid  
254 directly by the insurer or in the form of rent to a  
255 third-party landlord.

256 (4) All license fees and taxes paid to any county in  
257 this state during the calendar year for the privilege of  
258 engaging in the business of insurance within the county.

259 (5) All expenses of examination of the insurer by the  
260 commissioner paid during the calendar year.

261 (6) Sixty percent of the franchise or privilege taxes  
262 paid by the insurer to the State of Alabama for the calendar  
263 year.

264 (7) All credits for assessments as provided under  
265 Sections 27-42-16 and 27-44-13, or assessments for any  
266 insurance guaranty fund or pool now or hereafter created by  
267 statute paid during the calendar year.

268 (8) It is the intent of this subsection that any  
269 estimated allowable credits or deductions claimed on quarterly  
270 returns be reconciled to actual expenditures made during the  
271 calendar year on the return due for March 1 in the succeeding  
272 calendar year.

273 (d) The premium taxes collected under this section  
274 shall be deposited in the State Treasury and credited as



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275 follows:

276 (1) To the credit of the State General Fund:

277 a. One hundred percent of the premium tax paid by all  
278 health maintenance organizations, domestic and foreign.

279 b. Fifty percent of the premium tax paid by domestic  
280 life insurers.

281 c. No part of the premium tax paid by nonprofit  
282 corporations organized pursuant to Sections 10-4-100 to  
283 10-4-115, inclusive.

284 d. Twenty-five percent of the premium tax paid by all  
285 other domestic insurers.

286 e. One hundred percent of the premium tax paid by  
287 foreign life insurers.

288 f. Sixty-two and one-half percent of the premium tax  
289 paid by all foreign property insurers.

290 g. Seventy-five percent of the premium tax paid by all  
291 other foreign insurers.

292 (2) To the credit of the Education Trust Fund:

293 a. Fifty percent of the premium tax paid by domestic  
294 life insurers.

295 b. No part of the premium tax paid by nonprofit  
296 corporations organized pursuant to the provisions of Sections  
297 10-4-100 to 10-4-115, inclusive.

298 c. Seventy-five percent of the premium tax paid by all  
299 other domestic insurers.

300 d. Thirty-seven and one-half percent of the premium tax  
301 paid by foreign property insurers.

302 e. Twenty-five percent of the premium tax paid by all



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303 other foreign insurers.

304 (3) To the credit of the Alabama Special Mental Health  
305 Trust Fund, one hundred~~100~~ percent of the premium taxes paid  
306 by nonprofit corporations organized pursuant to Sections  
307 10-4-100 to 10-4-115, inclusive.

308 (4) Any provision of this subsection to the contrary  
309 notwithstanding, the amount credited to the Education Trust  
310 Fund and the Alabama Special Mental Health Trust Fund for any  
311 fiscal year after the fiscal year ending September 30, 1992,  
312 under this subsection shall be limited to no more than the  
313 amount so credited in the fiscal year ending September 30,  
314 1992. Any premium tax that would have been credited to the  
315 Education Trust Fund or the Alabama Special Mental Health  
316 Trust Fund but for this limitation, shall be credited to the  
317 State General Fund.

318 (5) Effective for the fiscal year beginning on October  
319 1, 2020, and for each fiscal year thereafter, the amount  
320 credited to the Education Trust Fund under subdivision (4)  
321 shall be deposited into the S~~te~~ate General Fund.

322 (e) For the purposes of this section, the term insurer  
323 shall not include counties, municipalities, municipal  
324 corporations, political subdivisions of the state,  
325 instrumentalities of counties, municipalities, municipal  
326 corporations, or the State of Alabama, or corporations or  
327 associations owned solely by counties, municipalities, or the  
328 State of Alabama."

329 Section 2. The Department of Insurance may adopt rules  
330 to implement and administer the provisions of this act.



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331           Section 3. This act shall become effective on the first  
332 day of the third month following its passage and approval by  
333 the Governor, or its otherwise becoming law.

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