

1 HB85
2 208578-1
3 By Representatives Wheeler, Carns, England and Greer
4 RFD: Ways and Means General Fund
5 First Read: 02-FEB-21
6 PFD: 11/30/2020

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8 SYNOPSIS: Under existing law, insurers licensed in
9 Alabama are required to pay a tax based on the
10 percentage of premiums received by the insurer for
11 business transacted in Alabama. The insurance
12 premium tax rate is reduced by credits for certain
13 economic development activities pursued in this
14 state.

15 This bill would expand the Alabama Insurance
16 Offices Facilities Credit for certain activities
17 and expand the definition of "affiliate" to include
18 licensed producers appointed by an insurer.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 To amend Section 27-4A-3, Code of Alabama 1975,
25 relating to the insurance premium tax credits.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§27-4A-3.

4 "(a) Subject to the exceptions and exemptions
5 hereinafter set forth, for the year beginning on January 1,
6 1995, and for each year thereafter, every insurer shall pay to
7 the commissioner a premium tax equal to the percentage, as set
8 out in this subsection, of the premiums received by the
9 insurer for business done in this state, whether the same was
10 actually received by the insurer in this state or elsewhere:

11 "(1) PREMIUM TAX ON LIFE INSURANCE PREMIUMS.

12 "a. Except as hereinafter provided, the rates of
13 taxation on life insurance premiums shall be those amounts set
14 out in the following schedule:

15	Year	Foreign Insurers	Domestic Insurers
16	1995	2.9	1.3
17	1996	2.8	1.6
18	1997	2.7	1.8
19	1998	2.5	2.1
20	Every Year There-	2.3	2.3
21	after		

22 "b. Individual life insurance policies in a face
23 amount of greater than \$5,000 and up to and including \$25,000,

1 excluding group life insurance policies, shall be taxed at the
2 rate of one percent per annum.

3 "c. Individual life insurance policies in a face
4 amount of \$5,000 or less, excluding group life insurance
5 policies, shall be taxed at the rate of one-half percent per
6 annum.

7 "d. For the purposes of computing the face amount of
8 life insurance policies, all life insurance policies issued
9 within 60 days of another on the life of the same applicant or
10 applicants shall be treated as one policy.

11 "(2) PREMIUM TAX ON HEALTH INSURANCE PREMIUMS.

12 "a. Except as hereinafter provided, the rates of
13 taxation on premiums for health insurance, and accident and
14 health insurance for which a separate premium is charged,
15 shall be those amounts set out in the following schedule:

16	Year	Foreign Insurers	Domestic Insurers
17	1995	2.9	1.3
18	1996	2.8	1.6
19	1997	2.4	1.6
20	1998	2.0	1.6
21	Every Year	1.6	1.6
22	Thereafter		

1 "b. Premiums for hospital, medical, surgical, or
2 other health care benefits provided pursuant to any
3 employer-sponsored plan for groups with less than 50 insured
4 participants shall be taxed at the rate of one-half percent
5 per annum.

6 "c. Premiums for hospital, medical, surgical, or
7 other health care benefits supplementary to Medicare and
8 Medicaid, or provided pursuant to an employer-sponsored plan
9 for governmental employees, shall be exempt from the premium
10 tax levied pursuant to this chapter.

11 "(3) PREMIUM TAX ON OTHER INSURANCE PREMIUMS.

12 "a. Except as hereinafter provided, the rate of
13 taxation on insurance other than life insurance, health
14 insurance, and accident health insurance shall be 3.6 percent
15 per annum.

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

18 "1. All property and multi-peril insurance written
19 in fire protection Classes 9 and 10.

20 "2. Mobile homes, mobile homeowners, homeowners, and
21 low value dwelling policies in a face amount of \$40,000 or
22 less.

23 "c. Premiums for medical liability insurance shall
24 be taxed at the rate of 1.6 percent per annum.

25 "d. The tax imposed at the rate specified in
26 paragraph a. of this subdivision shall be reduced by the

1 following credits for certain economic development activities
2 pursued in the State of Alabama.

3 "1. Alabama Insurance Offices Facilities Credit. For
4 each office used by a licensed producer for insurance opera-
5 tions, or owned or leased by an insurer in the State of Ala-
6 bama and used for insurance operations, an insurer shall be
7 entitled to a credit against the tax imposed by paragraph a.
8 of this subdivision according to the following schedule:

9	Number of Full-Time Employees	
10	<u>or Licensed Producers and Their</u>	Credit as a % of Premiums Tax-
11	<u>Employees</u> in Office	able Under Paragraph a.
12	1-3	0.0025%
13	4-10	0.0050%
14	11-50	0.0075%
15	51 or more	0.0100%

16 "The total credit allowable for Alabama insurance
17 office facilities shall not exceed one percent of an insurer's
18 Alabama premiums taxable at the rate specified in paragraph a.
19 of this subdivision.

20 "2. Alabama Real Property Investment Credit. For
21 each \$1,000,000 in value of real property investments in the
22 State of Alabama, an insurer shall be entitled to a credit of
23 0.10 percent of its Alabama premiums taxable at the rate

1 specified in paragraph a. of this subdivision. The total
2 credit allowable for Alabama real property investments shall
3 not exceed 1 percent of an insurer's Alabama premiums taxable
4 at the rate specified in paragraph a. of this subdivision.

5 "(i) Alabama real property investments which qualify
6 for the Alabama real property investment credit include any
7 improved Alabama real property owned by the insurer or an
8 affiliate of the insurer on January 1, 1993, and any improved
9 or unimproved Alabama real property acquired or new
10 construction placed in service on or after January 1, 1993, by
11 the insurer or an affiliate of the insurer.

12 "(ii) For purposes of determining the Alabama real
13 property investment credit, Alabama real property investments
14 shall be valued at cost and not at book value or fair market
15 value. The cost of capital improvements to existing Alabama
16 real property investments, such as the renovation of shopping
17 centers, hotels, or other buildings, completed and placed in
18 service by the insurer or an affiliate of the insurer on or
19 after January 1, 1993, shall be considered an Alabama real
20 estate investment.

21 "(iii) For purposes of determining the value of
22 Alabama real property investments, funds borrowed to finance
23 Alabama real property investments shall be subtracted from
24 cost so that only the net cost in the investment properties
25 borne from assets belonging to the insurer or an affiliate of
26 the insurer qualifies for the Alabama real property investment
27 credit. The cost of debt-financed Alabama real property

1 investments of an insurer shall be increased pro tanto as the
2 underlying debt is paid off by the insurer or an affiliate of
3 the insurer.

4 "(iv) The Alabama real property investment credit
5 shall not be allowed for properties in the State of Alabama
6 used in an insurer's insurance operations and for which the
7 Alabama insurance office facilities credit is allowed or
8 allowable, without regard to the one percent limitation on the
9 credit. However, the cost of real property owned in the State
10 of Alabama and used in part as an Alabama real property
11 investment and in part for the insurer's insurance operations
12 shall be allocated on a square-foot basis so that the cost
13 allocated to that portion of the property not used for
14 insurance operations shall qualify for the Alabama real
15 property investment credit.

16 "(v) Mortgages held by an insurer that are secured
17 by real property located in the State of Alabama shall not be
18 considered Alabama real property investments for purposes of
19 the Alabama real property investment credit.

20 "3. Special Rules. The following special rules apply
21 to the Alabama insurance office facilities credit and the
22 Alabama real property investment credit.

23 "(i) For purposes of determining the economic
24 development credits allowed under this section, the term
25 affiliate means any licensed producer appointed by the
26 insurer, business entity, other than a life or health
27 insurance company, which is wholly owned by the insurer

1 subject to tax under paragraph a. of this subdivision or any
2 other insurer and its wholly owned subsidiaries, other than a
3 life or health insurance company, which is part of a group of
4 companies, including the insurer, which are under common
5 control and management. For an insurer having affiliates, all
6 premiums of the insurer and its insurance company affiliates
7 subject to tax at the rate specified in paragraph a. of this
8 subdivision may be aggregated; all Alabama insurance office
9 facilities and all Alabama real property investments may be
10 aggregated; and, subject to the specific credit limitations,
11 the total allowable tax credits may be determined as if all
12 the aggregated premiums, office facilities, and Alabama real
13 property investments were owned by one insurer. Once the total
14 allowable credits have been determined, the credits may be
15 allocated to the insurer and its insurance company affiliates
16 at the sole discretion of the insurer subject to the specific
17 credit limitations on a per insurance company basis. The
18 computation of allowable credits and their allocation to
19 affiliates shall be made on forms to be supplied by the
20 Alabama Department of Insurance, which forms shall be filed
21 with the insurer's annual statement.

22 "(b) Notwithstanding any provision of law to the
23 contrary, all premium tax payments made subsequent to passage
24 of this chapter shall be remitted in accordance with this
25 subsection. Beginning January 1, 1993, and all years
26 thereafter, each insurer shall pay its premium taxes on a
27 quarterly basis, as follows: on or before May 15, a payment

1 estimated on the basis of 25 percent of its business done in
2 this state during the preceding calendar year or, at the
3 option of the insurer, on the basis of its actual business
4 done in the state from January 1 through March 31 of the same
5 calendar year; on or before August 15, a payment estimated on
6 the basis of 45 percent of its business done in this state
7 during the preceding calendar year or, at the option of the
8 insurer, on the basis of 180 percent of its actual business
9 done in this state from April 1 through June 30 of the same
10 calendar year; on or before November 15, a payment estimated
11 on the basis of 25 percent of its business done in this state
12 during the preceding calendar year or, at the option of the
13 insurer, on the basis of its actual business done in this
14 state from July 1 through September 30 of the same calendar
15 year; on or before March 1, a payment in the amount of the
16 remainder of the actual premium taxes due on its business done
17 in the state during the preceding calendar year. Every
18 authorized insurer shall file with the commissioner a
19 statement, on a form as furnished or approved by the
20 commissioner, setting forth the total amount of premiums
21 received by it for business done in this state during the
22 period covered by the tax payment. The statement shall be
23 verified by an affidavit of an officer of the insurer having
24 knowledge of the facts. It is the intent and meaning of this
25 subsection that any taxes paid on an estimated quarterly basis
26 during the calendar year shall be reconciled to actual
27 premiums received on risks in this state for such calendar

1 year on the March 1 payment date in the succeeding calendar
2 year.

3 "(c) The tax imposed by this section shall be
4 subject to credit and deduction of the full amount, with 25
5 percent of the full amount paid, or estimated to be paid,
6 being credited or deducted on each quarterly payment date, for
7 all of the following:

8 "(1) Ad valorem property taxes paid by an insurer on
9 any building and real estate in this state which is owned and
10 occupied, in whole or in part, by the insurer for the full
11 period of the tax year as its principal office in the State of
12 Alabama.

13 "(2) All ad valorem taxes paid by an insurer during
14 the calendar year on any other real estate and improvements
15 thereon in this state which is owned and at least 50 percent
16 occupied by the insurer for the full period of the tax year.

17 "(3) Ad valorem property taxes paid by an insurer on
18 the insurer's offices in this state during the calendar year,
19 but with respect to the office apportioned to the square foot
20 area occupied by the insured, whether the ad valorem taxes are
21 paid directly by the insurer or in the form of rent to a
22 third-party landlord.

23 "(4) All license fees and taxes paid to any county
24 in this state during the calendar year for the privilege of
25 engaging in the business of insurance within the county.

26 "(5) All expenses of examination of the insurer by
27 the commissioner paid during the calendar year.

1 "(6) Sixty percent of the franchise or privilege
2 taxes paid by the insurer to the State of Alabama for the
3 calendar year.

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

8 "(8) It is the intent of this subsection that any
9 estimated allowable credits or deductions claimed on quarterly
10 returns be reconciled to actual expenditures made during the
11 calendar year on the return due for March 1 in the succeeding
12 calendar year.

13 "(d) The premium taxes collected under this section
14 shall be deposited in the State Treasury and credited as
15 follows:

16 "(1) To the credit of the State General Fund:

17 "a. One hundred percent of the premium tax paid by
18 all health maintenance organizations, domestic and foreign.

19 "b. Fifty percent of the premium tax paid by
20 domestic life insurers.

21 "c. No part of the premium tax paid by nonprofit
22 corporations organized pursuant to Sections 10-4-100 to
23 10-4-115, inclusive.

24 "d. Twenty-five percent of the premium tax paid by
25 all other domestic insurers.

26 "e. One hundred percent of the premium tax paid by
27 foreign life insurers.

1 "f. Sixty-two and one-half percent of the premium
2 tax paid by all foreign property insurers.

3 "g. Seventy-five percent of the premium tax paid by
4 all other foreign insurers.

5 "(2) To the credit of the Education Trust Fund:

6 "a. Fifty percent of the premium tax paid by
7 domestic life insurers.

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

11 "c. Seventy-five percent of the premium tax paid by
12 all other domestic insurers.

13 "d. Thirty-seven and one-half percent of the premium
14 tax paid by foreign property insurers.

15 "e. Twenty-five percent of the premium tax paid by
16 all other foreign insurers.

17 "(3) To the credit of the Alabama Special Mental
18 Health Trust Fund, 100 percent of the premium taxes paid by
19 nonprofit corporations organized pursuant to Sections 10-4-100
20 to 10-4-115, inclusive.

21 "(4) Any provision of this subsection to the
22 contrary notwithstanding, the amount credited to the Education
23 Trust Fund and the Alabama Special Mental Health Trust Fund
24 for any fiscal year after the fiscal year ending September 30,
25 1992, under this subsection shall be limited to no more than
26 the amount so credited in the fiscal year ending September 30,
27 1992. Any premium tax that would have been credited to the

1 Education Trust Fund or the Alabama Special Mental Health
2 Trust Fund but for this limitation, shall be credited to the
3 State General Fund.

4 "(5) Effective for the fiscal year beginning on
5 October 1, 2020, and for each fiscal year thereafter, the
6 amount credited to the Education Trust Fund under subdivision
7 (4) shall be deposited into the state General Fund.

8 "(e) For the purposes of this section, the term
9 insurer shall not include counties, municipalities, municipal
10 corporations, political subdivisions of the state,
11 instrumentalities of counties, municipalities, municipal
12 corporations, or the State of Alabama, or corporations or
13 associations owned solely by counties, municipalities, or the
14 State of Alabama."

15 Section 2. This act shall become effective for all
16 taxable years beginning after December 31, 2021, upon its
17 passage and approval by the Governor, or its otherwise
18 becoming law.