

1 HB277
2 164690-1
3 By Representative Knight
4 RFD: Ways and Means General Fund
5 First Read: 12-MAR-15

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8 SYNOPSIS: This bill would repeal certain credits
9 allowed to insurance companies subject to the
10 insurance premium tax.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 To amend Section 27-4A-3, Code of Alabama 1975,
17 related to the insurance premium tax, to repeal the insurance
18 facilities office credit, the real property investment credit,
19 and the credits for ad valorem and privilege taxes that are
20 allowed to insurance companies that are subject to tax.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§27-4A-3.

25 (a) Subject to the exceptions and exemptions
26 hereinafter set forth, for the year beginning on January 1,
27 1995, and for each year thereafter, every insurer shall pay to

1 the commissioner a premium tax equal to the percentage, as set
2 out in this subsection (a), of the premiums received by the
3 insurer for business done in this state, whether the same was
4 actually received by the insurer in this state or elsewhere:

5 (1) PREMIUM TAX ON LIFE INSURANCE PREMIUMS.

6 a. Except as hereinafter provided, the rates of tax-
7 ation on life insurance premiums shall be those amounts set
8 out in the following schedule:

| 9 | Year | Foreign Insurers | Domestic Insurers |
|----|-----------------------|------------------|-------------------|
| 10 | 1995 | 2.9 | 1.3 |
| 11 | 1996 | 2.8 | 1.6 |
| 12 | 1997 | 2.7 | 1.8 |
| 13 | 1998 | 2.5 | 2.1 |
| 14 | Every Year Thereafter | 2.3 | 2.3 |

15 b. Individual life insurance policies in a face
16 amount of greater than \$5,000 and up to and including \$25,000,
17 excluding group life insurance policies, shall be taxed at the
18 rate of one percent per annum.

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

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

5 (2) PREMIUM TAX ON HEALTH INSURANCE PREMIUMS.

6 a. Except as hereinafter provided, the rates of tax-
7 ation on premiums for health insurance, and accident and
8 health insurance for which a separate premium is charged,
9 shall be those amounts set out in the following schedule:

| 10 | Year | Foreign Insurers | Domestic Insurers |
|----|-----------------------|------------------|-------------------|
| 11 | 1995 | 2.9 | 1.3 |
| 12 | 1996 | 2.8 | 1.6 |
| 13 | 1997 | 2.4 | 1.6 |
| 14 | 1998 | 2.0 | 1.6 |
| 15 | Every Year Thereafter | 1.6 | 1.6 |

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

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

1 for governmental employees, shall be exempt from the premium
2 tax levied pursuant to this chapter.

3 (3) PREMIUM TAX ON OTHER INSURANCE PREMIUMS.

4 a. Except as hereinafter provided, the rate of
5 taxation on insurance other than life insurance, health
6 insurance, and accident health insurance shall be 3.6 percent
7 per annum.

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

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

12 2. Mobile homes, mobile homeowners, homeowners and
13 low value dwelling policies in a face amount of \$40,000 or
14 less.

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

17 ~~d. The tax imposed at the rate specified in~~
18 ~~paragraph a. of this subdivision (3) shall be reduced by the~~
19 ~~following credits for certain economic development activities~~
20 ~~pursued in the State of Alabama.~~

21 ~~1. Alabama Insurance Offices Facilities Credit. For~~
22 ~~each office owned or leased by an insurer in the State of Ala-~~
23 ~~bama and used for insurance operations, an insurer shall be~~
24 ~~entitled to a credit against the tax imposed by paragraph a.~~
25 ~~of this subdivision (3) according to the following schedule:~~

| 1 | Number of Full Time Employees | Credit as a % of Premiums Tax- |
|---|-------------------------------|--------------------------------|
| 2 | in Office | able Under Paragraph a. |
| 3 | 1-3 | 0.0025% |
| 4 | 4-10 | 0.0050% |
| 5 | 11-50 | 0.0075% |
| 6 | 51 or more | 0.0100% |

7 ~~The total credit allowable for Alabama insurance~~
8 ~~office facilities shall not exceed one percent of an insurer's~~
9 ~~Alabama premiums taxable at the rate specified in paragraph a.~~
10 ~~of this subdivision (3).~~

11 ~~2. Alabama Real Property Investment Credit. For each~~
12 ~~\$1,000,000 in value of real property investments in the State~~
13 ~~of Alabama, an insurer shall be entitled to a credit of 0.10~~
14 ~~percent of its Alabama premiums taxable at the rate specified~~
15 ~~in paragraph a. of this subdivision (3). The total credit~~
16 ~~allowable for Alabama real property investments shall not~~
17 ~~exceed 1 percent of an insurer's Alabama premiums taxable at~~
18 ~~the rate specified in paragraph a. of this subdivision (3).~~

19 ~~(i) Alabama real property investments which qualify~~
20 ~~for the Alabama real property investment credit include any~~
21 ~~improved Alabama real property owned by the insurer or an~~
22 ~~affiliate of the insurer on January 1, 1993, and any improved~~
23 ~~or unimproved Alabama real property acquired or new~~

1 ~~construction placed in service on or after January 1, 1993, by~~
2 ~~the insurer or an affiliate of the insurer.~~

3 ~~(ii) For purposes of determining the Alabama real~~
4 ~~property investment credit, Alabama real property investments~~
5 ~~shall be valued at cost and not at book value or fair market~~
6 ~~value. The cost of capital improvements to existing Alabama~~
7 ~~real property investments, such as the renovation of shopping~~
8 ~~centers, hotels, or other buildings, completed and placed in~~
9 ~~service by the insurer or an affiliate of the insurer on or~~
10 ~~after January 1, 1993, shall be considered an Alabama real~~
11 ~~estate investment.~~

12 ~~(iii) For purposes of determining the value of~~
13 ~~Alabama real property investments, funds borrowed to finance~~
14 ~~Alabama real property investments shall be subtracted from~~
15 ~~cost so that only the net cost in the investment properties~~
16 ~~borne from assets belonging to the insurer or an affiliate of~~
17 ~~the insurer qualifies for the Alabama real property investment~~
18 ~~credit. The cost of debt-financed Alabama real property~~
19 ~~investments of an insurer shall be increased pro tanto as the~~
20 ~~underlying debt is paid off by the insurer or an affiliate of~~
21 ~~the insurer~~

22 ~~(iv) The Alabama real property investment credit~~
23 ~~shall not be allowed for properties in the State of Alabama~~
24 ~~used in an insurer's insurance operations and for which the~~
25 ~~Alabama insurance office facilities credit is allowed or~~
26 ~~allowable, without regard to the 1 percent limitation on the~~
27 ~~credit. However, the cost of real property owned in the State~~

1 of Alabama and used in part as an Alabama real property
2 investment and in part for the insurer's insurance operations
3 shall be allocated on a square-foot basis so that the cost
4 allocated to that portion of the property not used for
5 insurance operations shall qualify for the Alabama real
6 property investment credit.

7 (v) Mortgages held by an insurer that are secured by
8 real property located in the State of Alabama shall not be
9 considered Alabama real property investments for purposes of
10 the Alabama real property investment credit.

11 3. Special Rules. The following special rules apply
12 to the Alabama insurance office facilities credit and the
13 Alabama real property investment credit.

14 (i) For purposes of determining the economic
15 development credits allowed under this section, the term
16 "affiliate" shall mean any business entity, other than a life
17 or health insurance company, which is wholly owned by the
18 insurer subject to tax under paragraph a. of this subdivision
19 (3) or any other insurer and its wholly owned subsidiaries,
20 other than a life or health insurance company, which is part
21 of a group of companies, including the insurer, which are
22 under common control and management. For an insurer having
23 affiliates, all premiums of the insurer and its insurance
24 company affiliates subject to tax at the rate specified in
25 paragraph a. of this subdivision (3) may be aggregated; all
26 Alabama insurance office facilities and all Alabama real
27 property investments may be aggregated; and, subject to the

1 ~~specific credit limitations, the total allowable tax credits~~
2 ~~may be determined as if all the aggregated premiums, office~~
3 ~~facilities, and Alabama real property investments were owned~~
4 ~~by one insurer. Once the total allowable credits have been~~
5 ~~determined, the credits may be allocated to the insurer and~~
6 ~~its insurance company affiliates at the sole discretion of the~~
7 ~~insurer subject to the specific credit limitations on a per~~
8 ~~insurance company basis. The computation of allowable credits~~
9 ~~and their allocation to affiliates shall be made on forms to~~
10 ~~be supplied by the Alabama Department of Insurance, which~~
11 ~~forms shall be filed with the insurer's annual statement.~~

12 (b) Notwithstanding any provision of law to the
13 contrary, including, but not limited to, Section 27-4-4 and
14 Section 27-4-5, all premium tax payments made subsequent to
15 passage of this chapter shall be remitted in accordance with
16 this subsection (b). Beginning January 1, 1993, and all years
17 thereafter, each insurer shall pay its premium taxes on a
18 quarterly basis, as follows: on or before May 15, a payment
19 estimated on the basis of 25 percent of its business done in
20 this state during the preceding calendar year or, at the
21 option of the insurer, on the basis of its actual business
22 done in the state from January 1 through March 31 of the same
23 calendar year; on or before August 15, a payment estimated on
24 the basis of 45 percent of its business done in this state
25 during the preceding calendar year or, at the option of the
26 insurer, on the basis of 180 percent of its actual business
27 done in this state from April 1 through June 30 of the same

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

21 (c) The tax imposed by this section shall be subject
22 to credit and deduction of the full amount, with 25 percent of
23 the full amount paid, or estimated to be paid, being credited
24 or deducted on each quarterly payment date, for all of the
25 following:

26 ~~(1) Ad valorem property taxes paid by an insurer on~~
27 ~~any building and real estate in this state which is owned and~~

1 ~~occupied, in whole or in part, by the insurer for the full~~
2 ~~period of the tax year as its principal office in the State of~~
3 ~~Alabama.~~

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

8 ~~(3) Ad valorem property taxes paid by an insurer on~~
9 ~~the insurer's offices in this state during the calendar year,~~
10 ~~but with respect to the office apportioned to the square foot~~
11 ~~area occupied by the insured, whether the ad valorem taxes are~~
12 ~~paid directly by the insurer or in the form of rent to a~~
13 ~~third-party landlord.~~

14 ~~(4) (1) All license fees and taxes paid to any~~
15 ~~county in this state during the calendar year for the~~
16 ~~privilege of engaging in the business of insurance within the~~
17 ~~county.~~

18 ~~(5) (2) All expenses of examination of the insurer~~
19 ~~by the commissioner paid during the calendar year.~~

20 ~~(6) Sixty percent of the franchise or privilege~~
21 ~~taxes paid by the insurer to the State of Alabama for the~~
22 ~~calendar year.~~

23 ~~(7) (3) All credits for assessments as provided~~
24 ~~under Sections 27-42-16 and 27-44-13, or assessments for any~~
25 ~~insurance guaranty fund or pool now or hereafter created by~~
26 ~~statute paid during the calendar year.~~

1 ~~(8)~~ (4) It is the intent of this subsection (c) that
2 any estimated allowable credits or deductions claimed on
3 quarterly returns be reconciled to actual expenditures made
4 during the calendar year on the return due for March 1 in the
5 succeeding calendar year.

6 (d) The premium taxes collected under this section
7 shall be deposited in the State Treasury and credited as
8 follows:

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

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

12 b. Fifty percent of the premium tax paid by domestic
13 life insurers.

14 c. No part of the premium tax paid by nonprofit
15 corporations organized pursuant to the provisions of Sections
16 10-4-100 to 10-4-115, inclusive.

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

19 e. One hundred percent of the premium tax paid by
20 foreign life insurers.

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

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

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

26 a. Fifty percent of the premium tax paid by domestic
27 life insurers.

1 b. No part of the premium tax paid by nonprofit
2 corporations organized pursuant to the provisions of Sections
3 10-4-100 to 10-4-115, inclusive.

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

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

8 e. Twenty-five percent of the premium tax paid by
9 all other foreign insurers.

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

14 (4) Any provision of this subsection (d) to the
15 contrary notwithstanding, the amount credited to the Education
16 Trust Fund and the Alabama Special Mental Health Trust Fund
17 for any fiscal year after the fiscal year ending September 30,
18 1992, under this subsection (d) shall be limited to no more
19 than the amount so credited in the fiscal year ending
20 September 30, 1992. Any premium tax that would have been
21 credited to the Education Trust Fund or the Alabama Special
22 Mental Health Trust Fund but for this limitation, shall be
23 credited to the State General Fund.

24 (e) For the purposes of this section, the term
25 "insurer" shall not include counties, municipalities,
26 municipal corporations, political subdivisions of the state,
27 instrumentalities of counties, municipalities, municipal

1 corporations, or the State of Alabama, or corporations or
2 associations owned solely by counties, municipalities or the
3 State of Alabama.

4 Section 2. The provisions of this act are severable.
5 If any part of this act is declared invalid or
6 unconstitutional, that declaration shall not affect the part
7 which remains.

8 Section 3. This act shall become effective for all
9 taxable years beginning after December 31, 2015, upon its
10 passage and approval by the Governor, or its otherwise
11 becoming law.