

1 SB355
2 175655-2
3 By Senator Pittman
4 RFD: Finance and Taxation General Fund
5 First Read: 15-MAR-16

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8 SYNOPSIS: Currently, a tax on certain insurance
9 premiums is offset by certain credits, including
10 credits for insurance office facilities and real
11 property investments.

12 This bill would eliminate the real property
13 investment credit and would revise the credits
14 provided for certain office facilities to apply
15 based on the number of insurance company employees
16 in the state.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Section 27-4A-3, Code of Alabama 1975,
23 relating to a tax on certain insurance premiums and credits
24 for certain facilities and real estate investments; to remove
25 certain credits for the investments; and to eliminate the
26 credit for facilities and replace it with credits for the
27 number of employees of insurance carriers.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§27-4A-3.

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

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

13 "a. Except as hereinafter provided, the rates of
14 taxation on life insurance premiums shall be those amounts set
15 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	2.7	1.8
20	"1998	2.5	2.1
21	"Every Year Thereaf-	2.3	2.3
22	ter		

1 "b. Individual life insurance policies in a face
2 amount of greater than \$5,000 and up to and including \$25,000,
3 excluding group life insurance policies, shall be taxed at the
4 rate of one percent per annum.

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

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

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

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

18	"Year	Foreign Insurers	Domestic Insurers
19	"1995	2.9	1.3
20	"1996	2.8	1.6
21	"1997	2.4	1.6
22	"1998	2.0	1.6
23	"Every Year Thereaf-	1.6	1.6
24	ter		

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.

1 "d. The tax imposed at the rate specified in
2 paragraph a. of this subdivision (3) shall be reduced by the
3 following credits for certain economic development activities
4 pursued in the State of Alabama.

5 "1. Alabama Insurance ~~Offices Facilities~~ Company
6 Employees Credit. For ~~each office owned or leased~~ employees
7 employed by an insurer in the State of Alabama and ~~used~~ work-
8 ing a minimum of 30 hours a week for insurance the insurer's
9 Alabama operations, an insurer shall be entitled to a credit
10 against the tax imposed by paragraph a. of this subdivision
11 (3) according to the following schedule:

12 "Number of ~~Full-Time~~ Employees Credit as a % of Premiums Tax-
13 ~~in Office~~ able Under Paragraph a.

14	1-3	0.0025%
15	<u>Less than 25</u>	<u>.15%</u>
16	4-10	0.0050%
17	<u>26-49</u>	<u>.25%</u>
18	11-50	0.0075%
19	<u>50-99</u>	<u>.35%</u>
20	51 or more	0.0100%
21	<u>100-199</u>	<u>.50%</u>
22	<u>200-299</u>	<u>.65%</u>
23	<u>300-399</u>	<u>.75%</u>

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400 or more

1.00%

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

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

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

~~"(ii) For purposes of determining the Alabama real property investment credit, Alabama real property investments shall be valued at cost and not at book value or fair market value. The cost of capital improvements to existing Alabama real property investments, such as the renovation of shopping~~

1 ~~centers, hotels, or other buildings, completed and placed in~~
2 ~~service by the insurer or an affiliate of the insurer on or~~
3 ~~after January 1, 1993, shall be considered an Alabama real~~
4 ~~estate investment.~~

5 ~~"(iii) For purposes of determining the value of~~
6 ~~Alabama real property investments, funds borrowed to finance~~
7 ~~Alabama real property investments shall be subtracted from~~
8 ~~cost so that only the net cost in the investment properties~~
9 ~~borne from assets belonging to the insurer or an affiliate of~~
10 ~~the insurer qualifies for the Alabama real property investment~~
11 ~~credit. The cost of debt-financed Alabama real property~~
12 ~~investments of an insurer shall be increased pro tanto as the~~
13 ~~underlying debt is paid off by the insurer or an affiliate of~~
14 ~~the insurer.~~

15 ~~"(iv) The Alabama real property investment credit~~
16 ~~shall not be allowed for properties in the State of Alabama~~
17 ~~used in an insurer's insurance operations and for which the~~
18 ~~Alabama insurance office facilities credit is allowed or~~
19 ~~allowable, without regard to the 1 percent limitation on the~~
20 ~~credit. However, the cost of real property owned in the State~~
21 ~~of Alabama and used in part as an Alabama real property~~
22 ~~investment and in part for the insurer's insurance operations~~
23 ~~shall be allocated on a square-foot basis so that the cost~~
24 ~~allocated to that portion of the property not used for~~
25 ~~insurance operations shall qualify for the Alabama real~~
26 ~~property investment credit.~~

1 "~~(v) Mortgages held by an insurer that are secured~~
2 ~~by real property located in the State of Alabama shall not be~~
3 ~~considered Alabama real property investments for purposes of~~
4 ~~the Alabama real property investment credit.~~

5 "~~3. 2. Special Rules. The following special rules~~
6 ~~apply to the Alabama insurance office facilities company~~
7 ~~employees credit and the Alabama real property investment~~
8 ~~credit.~~

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

1 the insurer and its insurance company affiliates at the sole
2 discretion of the insurer subject to the specific credit
3 limitations on a per insurance company basis. The computation
4 of the allowable ~~credits~~ credit and ~~their~~ its allocation to
5 affiliates shall be made on forms to be supplied by the
6 Alabama Department of Insurance, which forms shall be filed
7 with the insurer's annual statement.

8 "(ii) The total dollar tax credit allowed in any one
9 tax year shall be capped at two million dollars (\$2,000,000)
10 for any insurance carrier, including affiliates, qualifying
11 for a premium tax credit.

12 "(iii) Any insurance company, including affiliates,
13 qualifying for premium tax credits may secure those credits,
14 determined annually, for a period of ten years.

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

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

24 "(c) The tax imposed by this section shall be
25 subject to credit and deduction of the full amount, with 25
26 percent of the full amount paid, or estimated to be paid,

1 being credited or deducted on each quarterly payment date, for
2 all of the following:

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

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

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

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

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

23 "(6) Sixty percent of the franchise or privilege
24 taxes paid by the insurer to the State of Alabama for the
25 calendar year.

26 "(7) All credits for assessments as provided under
27 Sections 27-42-16 and 27-44-13, or assessments for any

1 insurance guaranty fund or pool now or hereafter created by
2 statute paid during the calendar year.

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

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

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

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

14 "b. Fifty percent of the premium tax paid by
15 domestic life insurers.

16 "c. No part of the premium tax paid by nonprofit
17 corporations organized pursuant to the provisions of Sections
18 10-4-100 to 10-4-115, inclusive.

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

21 "e. One hundred percent of the premium tax paid by
22 foreign life insurers.

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

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

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

1 "a. Fifty percent of the premium tax paid by
2 domestic life insurers.

3 "b. No part of the premium tax paid by nonprofit
4 corporations organized pursuant to the provisions of Sections
5 10-4-100 to 10-4-115, inclusive.

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

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

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

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

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

26 "(e) For the purposes of this section, the term
27 "insurer" shall not include counties, municipalities,

1 municipal corporations, political subdivisions of the state,
2 instrumentalities of counties, municipalities, municipal
3 corporations, or the State of Alabama, or corporations or
4 associations owned solely by counties, municipalities or the
5 State of Alabama."

6 Section 2. This act shall become effective January
7 1, 2017.