

1 SB35
2 171850-2
3 By Senator Pittman
4 RFD: Finance and Taxation Education
5 First Read: 10-SEP-15

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8 SYNOPSIS: This bill would repeal the insurance
9 facilities office credit and the real property
10 investment credit.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

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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 and the real property investment
19 credit.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

23 "§27-4A-3.

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

1 out in this subsection (a), of the premiums received by the
2 insurer for business done in this state, whether the same was
3 actually received by the insurer in this state or elsewhere:

4 (1) PREMIUM TAX ON LIFE INSURANCE PREMIUMS.

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

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

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

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

22 d. For the purposes of computing the face amount of
23 life insurance policies, all life insurance policies issued

1 within 60 days of another on the life of the same applicant or
2 applicants shall be treated as one policy.

3 (2) PREMIUM TAX ON HEALTH INSURANCE PREMIUMS.

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

8	Year	Foreign Insurers	Domestic Insurers
9	1995	2.9	1.3
10	1996	2.8	1.6
11	1997	2.4	1.6
12	1998	2.0	1.6
13	Every Year Thereafter	1.6	1.6

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

19 c. Premiums for hospital, medical, surgical, or
20 other health care benefits supplementary to Medicare and
21 Medicaid, or provided pursuant to an employer-sponsored plan
22 for governmental employees, shall be exempt from the premium
23 tax levied pursuant to this chapter.

1 (3) PREMIUM TAX ON OTHER INSURANCE PREMIUMS.

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

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

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

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

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

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

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

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

1	1-3	0.0025%
2	4-10	0.0050%
3	11-50	0.0075%
4	51 or more	0.0100%

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

9 ~~2. Alabama Real Property Investment Credit. For each~~
10 ~~\$1,000,000 in value of real property investments in the State~~
11 ~~of Alabama, an insurer shall be entitled to a credit of 0.10~~
12 ~~percent of its Alabama premiums taxable at the rate specified~~
13 ~~in paragraph a. of this subdivision (3). The total credit~~
14 ~~allowable for Alabama real property investments shall not~~
15 ~~exceed 1 percent of an insurer's Alabama premiums taxable at~~
16 ~~the rate specified in paragraph a. of this subdivision (3).~~

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

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

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

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

1 shall be allocated on a square-foot basis so that the cost
2 allocated to that portion of the property not used for
3 insurance operations shall qualify for the Alabama real
4 property investment credit.

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

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

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

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

10 (b) Notwithstanding any provision of law to the
11 contrary, including, but not limited to, Section 27-4-4 and
12 Section 27-4-5, all premium tax payments made subsequent to
13 passage of this chapter shall be remitted in accordance with
14 this subsection (b). Beginning January 1, 1993, and all years
15 thereafter, each insurer shall pay its premium taxes on a
16 quarterly basis, as follows: on or before May 15, a payment
17 estimated on the basis of 25 percent of its business done in
18 this state during the preceding calendar year or, at the
19 option of the insurer, on the basis of its actual business
20 done in the state from January 1 through March 31 of the same
21 calendar year; on or before August 15, a payment estimated on
22 the basis of 45 percent of its business done in this state
23 during the preceding calendar year or, at the option of the
24 insurer, on the basis of 180 percent of its actual business
25 done in this state from April 1 through June 30 of the same
26 calendar year; on or before November 15, a payment estimated
27 on the basis of 25 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 its actual business done in this
3 state from July 1 through September 30 of the same calendar
4 year; on or before March 1, a payment in the amount of the
5 remainder of the actual premium taxes due on its business done
6 in the state during the preceding calendar year. Every
7 authorized insurer shall file with the commissioner a
8 statement, on a form as furnished or approved by the
9 commissioner, setting forth the total amount of premiums
10 received by it for business done in this state during the
11 period covered by the tax payment. The statement shall be
12 verified by an affidavit of an officer of the insurer having
13 knowledge of the facts. It is the intent and meaning of this
14 subsection (b) that any taxes paid on an estimated quarterly
15 basis during the calendar year shall be reconciled to actual
16 premiums received on risks in this state for such calendar
17 year on the March 1 payment date in the succeeding calendar
18 year.

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

24 (1) Ad valorem property taxes paid by an insurer on
25 any building and real estate in this state which is owned and
26 occupied, in whole or in part, by the insurer for the full

1 period of the tax year as its principal office in the State of
2 Alabama.

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

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

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

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

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

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

25 (8) It is the intent of this subsection (c) that any
26 estimated allowable credits or deductions claimed on quarterly
27 returns be reconciled to actual expenditures made during the

1 calendar year on the return due for March 1 in the succeeding
2 calendar year.

3 (d) The premium taxes collected under this section
4 shall be deposited in the State Treasury and credited as
5 follows:

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

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

9 b. Fifty percent of the premium tax paid by domestic
10 life insurers.

11 c. No part of the premium tax paid by nonprofit
12 corporations organized pursuant to the provisions of Sections
13 10-4-100 to 10-4-115, inclusive.

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

16 e. One hundred percent of the premium tax paid by
17 foreign life insurers.

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

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

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

23 a. Fifty percent of the premium tax paid by domestic
24 life insurers.

25 b. No part of the premium tax paid by nonprofit
26 corporations organized pursuant to the provisions of Sections
27 10-4-100 to 10-4-115, inclusive.

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

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

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

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

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

21 (e) For the purposes of this section, the term
22 "insurer" shall not include counties, municipalities,
23 municipal corporations, political subdivisions of the state,
24 instrumentalities of counties, municipalities, municipal
25 corporations, or the State of Alabama, or corporations or
26 associations owned solely by counties, municipalities or the
27 State of Alabama.

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

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