

ACT No. 428

2023 Regular Session

HOUSE BILL NO. 513

BY REPRESENTATIVE MAGEE

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AN ACT

To amend and reenact R.S. 22:836, relative to insurance premium tax credits; to authorize an insurance premium tax credit under certain circumstances; to provide for the amount of the credit; to provide for a carry forward period for the credit; to provide for a fiscal year cap for the credit; to authorize the transfer of certain credits; to authorize the promulgation of rules; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:836 is hereby amended and reenacted to read as follows:

§836. Retaliatory taxes and fees; insurance premium tax credits for retaliatory taxes paid by certain domestic insurers

A. When, by the laws of any other state, any taxes, fines, penalties, licenses, deposits, or other obligations or prohibitions, additional to or in excess of those imposed by the laws of this state upon insurers organized under the laws of other states, are imposed or would be imposed on insurers of this state, the same taxes, fines, penalties, licenses, deposits, and other obligations or prohibitions shall be imposed upon all insurers of such state as long as such laws remain in force. Every insurer organized under the laws of any other state and admitted to transact business in this state shall pay the same fees to the commissioner of insurance of this state as such other state may require of any similar insurer incorporated by or organized under the laws of this state. Alien insurers shall pay the same fees as are imposed in the state where the deposit is made ~~under of R.S. 22:333(C)~~. Assessments by

1 insurance guaranty associations or similar organizations are not considered in
2 determining retaliatory taxation.

3 B. A Louisiana domestic insurer that is authorized to write and does write
4 insurance in Louisiana on an admitted basis and in at least one other state on an
5 admitted basis as of July 1, 2023, shall be allowed a refundable credit, subject to the
6 limitation set forth in Paragraph (6) of this Subsection. The refundable credit shall
7 offset insurance premiums taxes due on the Annual Premium Tax Return due March
8 first each year.

9 (1) The amount of the credit shall be equal to the amount of any retaliatory
10 tax paid to any other state as a result of the laws of such state, for the period in which
11 the retaliatory tax was paid.

12 (2) The credit shall be applied against the domestic insurer's state premium
13 tax liability as defined in R.S. 47:6016.1(B)(12), and any credit amount in excess of
14 its premium tax liability shall be refunded to the domestic admitted insurer, subject
15 to the limitations of Paragraph (6) of this Subsection.

16 (3) Any unused amounts of the credit that are unused because the total
17 amount of refundable credits for retaliatory tax paid claimed by all domestic
18 admitted insurers exceeds the limitation set forth in Paragraph (6) of this Subsection
19 may be carried forward for a period not to exceed ten years.

20 (4) Any credits not previously claimed by a domestic admitted insurer against
21 premium tax liability may also be transferred to a domestic admitted insurer within
22 the same insurance holding company subject to the following limitations:

23 (a) A single transfer may involve one or more transferees.

24 (b) Transferors and transferees shall submit to the Department of Insurance,
25 in writing, a notification of any transfer of tax credits within thirty days after the
26 transfer of such tax credits. The notice shall contain the amount of the remaining tax
27 credit balance after transfer, all tax identification numbers for both transferor and
28 transferee, the date of the transfer, the amount transferred, the price paid by the
29 transferee to the transferor, and any other information required by the Department
30 of Insurance. Failure to comply with the provisions of this Subparagraph will result

1 in the disallowance of the refundable tax credit until the taxpayers are in full
2 compliance.

3 (c) The transfer of the credit shall not extend the time in which the credit may
4 be used.

5 (d) To the extent that the transferor did not have rights to claim or use the
6 refundable credit at the time of the transfer, the Department of Insurance shall either
7 disallow the credit claimed by the transferee or recapture the credit from the
8 transferee.

9 (5) The refundable credit for the payment of retaliatory taxes established
10 pursuant to the provisions of this Subsection shall be administered by the
11 commissioner of insurance.

12 (a) Domestic admitted insurers who have paid retaliatory tax in the preceding
13 year shall provide evidence of the payment of same by the date and in such form as
14 prescribed by the commissioner by rule.

15 (b) Domestic admitted insurers claiming a credit for retaliatory taxes paid that
16 have provided evidence of the payment of retaliatory taxes shall be issued a refund
17 by the commissioner for the amounts of retaliatory tax paid within sixty days of the
18 filing of the evidence of the payment of retaliatory taxes for the applicable period.

19 (c) The commissioner of insurance shall promulgate rules in accordance with
20 the Administrative Procedure Act as are necessary to implement the provisions of
21 this Subsection subject to oversight by the House Committee on Ways and Means
22 and the Senate Committee on Revenue and Fiscal Affairs.

23 (6) The maximum amount of credits authorized by this Subsection shall not
24 exceed nine million dollars in any fiscal year.

25 (7) In the event that there are credits claimed for retaliatory taxes paid by
26 domestic admitted insurers that are in excess of nine million dollars in any fiscal
27 year, the commissioner shall make refunds on a pro rata basis to the eligible
28 domestic admitted insurers, based upon the proportion of the total amount of
29 retaliatory tax paid by each domestic admitted insurer for the relevant time period.

1 (8) A domestic admitted insurer which receives a credit for premium taxes
2 paid shall certify to the commissioner that it will utilize such monies exclusively for
3 Louisiana-specific purposes including:

4 (a) Investments within Louisiana which are otherwise permissible
5 investments for a domestic insurer.

6 (b) Community activities or grants to Louisiana non-profit enterprises or
7 Louisiana charitable foundations.

8 (c) Personnel expense for employees based in Louisiana.

9 (d) Ownership and leasehold expenses and improvements to or for its
10 facilities and equipment utilized in the domestic insurer's Louisiana operations.

11 (e) Any other Louisiana-specific purpose that is an otherwise lawful
12 expenditure for a domestic insurer.

13 (9) No credit authorized pursuant to the provisions of this Subsection shall
14 be granted for retaliatory taxes based upon insurance premiums written in other
15 states after December 31, 2029.

16 Section 2.(A) This Act shall become effective if Senate Concurrent Resolution No.
17 3 of the 2023 Regular Session of the Legislature is adopted and concurred in by a favorable
18 vote of at least two-thirds of the elected members of each house.

19 (B) The provisions of this Act shall be applicable to retaliatory taxes based upon
20 insurance premiums written in other states on or after January 1, 2024.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____