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LC005810/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO TAXATION -- TAXATION OF INSURANCE COMPANIES

Introduced By: Senator William A. Walaska

Date Introduced: May 19, 2016

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-17-1 of the General Laws entitled "Taxation of Insurance
2 Companies" is hereby amended to read as follows:

3 **44-17-1. Companies required to file – Payment of tax – Retaliatory rates.** -- (a) Every
4 domestic, foreign, or alien insurance company, mutual association, organization, or other insurer,
5 including any health maintenance organization, as defined in § 27-41-1, any medical malpractice
6 insurance joint underwriters association as defined in § 42-14.1-1, any nonprofit dental service
7 corporation as defined in § 27-20.1-2 and any nonprofit hospital or medical service corporation,
8 as defined in chapters 27-19 and 27-20, except companies mentioned in § 44-17-6, and
9 organizations defined in § 27-25-1, transacting business in this state, shall, on or before March 1
10 in each year, file with the tax administrator, in the form that he or she may prescribe, a return
11 under oath or affirmation signed by a duly authorized officer or agent of the company, containing
12 information that may be deemed necessary for the determination of the tax imposed by this
13 chapter, and shall at the same time pay an annual tax to the tax administrator of two percent (2%)
14 of the gross premiums on contracts of insurance, except for ocean marine insurance, as referred to
15 in § 44-17-6, covering property and risks within the state, written during the calendar year ending
16 December 31st next preceding.

17 **(b) Qualifying insurers for purposes of this subsection means every domestic, foreign, or**
18 **alien insurance company, mutual association, organization, or other insurer and excludes:**

19 **(1) Health maintenance organizations, as defined in §27-41-2;**

1 (2) Nonprofit dental service corporations as defined in §27-20.1-2; and

2 (3) Nonprofit hospital or medical service corporations, as defined in §§27-19-1 and 27-
3 20-1.

4 (c) For tax years 2018 and thereafter, the rate of taxation may be reduced as set forth
5 below and, if so reduced, shall be fully applicable to qualifying insurers instead of the two percent
6 (2%) rate listed in subsection (a) above. ~~but in~~ In the case of foreign or alien companies, except as
7 provided in § 27-2-17(d), the tax ~~is~~ shall not be less in amount than is imposed by the laws of the
8 state or country under which the companies are organized upon like companies incorporated in
9 this state or upon its agents, if doing business to the same extent in the state or country. The tax
10 rate shall not be reduced for gross premiums written on contracts of health insurance as defined in
11 §42-14-5(c) but shall remain at two percent (2%) or the appropriate retaliatory tax rate, whichever
12 is higher.

13 (d) For qualifying insurers the premium tax rate may be decreased based upon Rhode
14 Island jobs added by the industry as detailed below:

15 (1) A committee shall be established for the purpose of implementing tax rates using the
16 framework established herein. The committee shall be comprised of the following persons or their
17 designees: the secretary of commerce, the director of the department of business regulation, the
18 director of the department of revenue, and the director of the office of management and budget.
19 No rule may be issued pursuant to this section without the prior, unanimous approval of the
20 committee.

21 (2) On the timetable listed below the committee shall determine whether qualifying
22 insurers have added new qualifying jobs in this state in the preceding calendar year. A qualifying
23 job for purposes of this section is one in which a person is employed for consideration for at least
24 thirty-five (35) hours a week earning no less than the median hourly wage as reported by the
25 United States Bureau of Labor Statistics for the state of Rhode Island.

26 (3) If the committee determines that there has been a sufficient net increase in qualifying
27 jobs in the preceding calendar year(s) to offset a material reduction in the premium tax, it shall
28 calculate a reduced premium tax rate. Such rate shall be determined via a method selected by the
29 committee and designed such that the estimated personal income tax generated by the increase in
30 qualifying jobs is at least one-hundred and twenty-five percent (125%) of the anticipated
31 reduction in premium tax receipts resulting from the new rate. For purposes of this calculation,
32 the committee may consider personal income tax withholdings or receipts, but in no event may
33 the committee include for the purposes of determining revenue neutrality income taxes that are
34 subject to segregation pursuant to section 44-48.3-8(f) of the general laws or that are otherwise

1 available to the general fund.

2 (4) Any reduced rate established pursuant to this section must be established in a
3 rulemaking proceeding pursuant to chapter 35 of title 42, subject to the following conditions:

4 (i) Any net increase in qualifying jobs and the resultant premium tax reduction and
5 revenue impact shall be determined in any rulemaking proceeding conducted under this section
6 and shall be set forth in a report included in the rulemaking record, which report shall also include
7 a description of the data sources and calculation methods used. The first such report shall also
8 include a calculation of the baseline level of employment of qualifying insurers for the calendar
9 year 2015.

10 (ii) Notwithstanding any provision of the law to the contrary, no rule changing the tax
11 rate shall take effect until one hundred and twenty (120) days after notice of the rate change is
12 provided to the speaker of the house, the president of the senate, the house and senate fiscal
13 advisors, and the auditor general, which notice shall include the report required under the
14 preceding provision.

15 (5) For each of the first three (3) rulemaking proceedings required under this section, the
16 tax rate may remain unchanged or be decreased consistent with the requirements of this section,
17 but may not be increased. These first three (3) rulemaking proceedings shall be conducted by the
18 division of taxation and occur in the following manner:

19 (i) The first rulemaking proceeding shall take place in calendar year 2017. This
20 proceeding shall establish a rule that sets forth (A) a new premium tax rate, if allowed under the
21 requirements of this section, which rate shall take effect in 2018, and (B) a method for calculating
22 the number of jobs at qualifying insurers.

23 (ii) The second rulemaking proceeding shall take place in calendar year 2018. This
24 proceeding shall establish a rule that sets forth (A) a new premium tax rate, if allowed under the
25 requirements of this section, which rate shall take effect in 2019, and (B) the changes, if any, to
26 the method for calculating the number of jobs at qualifying insurers.

27 (iii) The third rulemaking proceeding shall take place in calendar year 2019. This
28 proceeding shall establish a rule that sets forth (A) a new premium tax rate, if allowed under the
29 requirements of this section, which rate shall take effect in 2020, and (B) the changes, if any, to
30 the method for calculating the number of jobs at qualifying insurers.

31 (5) The tax rate established in the regulation following regulatory proceedings that take
32 place in 2019 shall remain in effect through and including 2023. In calendar year 2023 the
33 department of business regulation will conduct a rulemaking proceeding and issue a rule that sets
34 forth (A) a new premium tax rate, if allowed under the requirements of this section, which rate

1 shall take effect in 2024, and (B) the changes, if any, to the method for calculating the number of
2 jobs at qualifying insurers. A rule issued by the department of business regulation may decrease
3 the tax rate if the requirements for a rate reduction contained in this section are met, or it may
4 increase the tax rate to the extent necessary to achieve the overall revenue level sought when the
5 then existing tax rate was established. Any rate established shall be no lower than one percent
6 (1%) and no higher than two percent (2%). This proceeding shall be repeated every three (3)
7 calendar years thereafter, however, the base for determination of job increases or decreases shall
8 remain the number of jobs existing during calendar year 2022.

9 (7) No reduction in the premium tax rate pursuant to this section shall be allowed absent a
10 determination that qualifying insurers have added in this state at least three hundred fifty (350)
11 new, full-time, qualifying jobs above the baseline level of employment of qualifying insurers for
12 the calendar year 2015.

13 (8) Notwithstanding any provision of this section to the contrary, the premium tax rate
14 shall never be set lower than one percent (1%).

15 (9) The division of taxation may adopt implementation guidelines, directives, criteria,
16 rules and regulations pursuant to chapter 35 of title 42 as are necessary to implement this section.

17 (10) The calculation of revenue impacts under this section is at the sole discretion of the
18 committee established under subsection (d)(1) of this section. Notwithstanding any provision of
19 law to the contrary, any administrative action or rule setting a tax rate pursuant to this section or
20 failing or declining to alter a tax rate pursuant to this section shall not be subject to judicial
21 review under chapter 35 of title 42.

22 SECTION 2. Chapter 27-1 of the General Laws entitled "Domestic Insurance
23 Companies" is hereby amended by adding thereto the following section:

24 **27-1-45. Determination of premium tax rate.** -- The department of business regulation
25 may participate in proceedings under §44-17-1(d) to implement guidelines, directives, criteria,
26 and may promulgate additional resulting rules and regulations pursuant to chapter 35 of title 42 as
27 are necessary to implement §44-17-1(d).

28 SECTION 3. Chapter 27-2 of the General Laws entitled "Foreign Insurance Companies"
29 is hereby amended by adding thereto the following section:

30 **27-2-28. Determination of premium tax rate.** -- The department of business regulation
31 may participate in proceedings under §44-17-1(d) to implement guidelines, directives, criteria,
32 and may promulgate additional resulting rules and regulations pursuant to chapter 35 of title 42 as
33 are necessary to implement §44-17-1(d).

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- TAXATION OF INSURANCE COMPANIES

1 This act would amend the insurance premium tax statute to provide for a reduction in the
2 premium tax paid by insurance companies if sufficient specific insurance related jobs are created
3 in Rhode Island to make the reduction revenue positive.

4 This act would take effect upon passage.

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