

HOUSE BILL No. 2361

By Representatives Carter and Burgess

2-8

9 AN ACT concerning taxation; relating to a credit against the premium
10 tax.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) (1) For all taxable years commencing after December
14 31, 2004, the insurer or its affiliate which has maintained a regional home
15 office in this state in a building owned or leased by the insurer, and which
16 complies with either paragraph (2) or (3) of this subsection, shall be al-
17 lowed, in accordance with paragraph (4) of this subsection, a credit against
18 the premiums tax and privilege fees imposed upon a foreign insurance
19 company pursuant to K.S.A. 40-252 and amendments thereto.

20 (2) To receive such credit against the tax premiums tax and privilege
21 fees imposed upon foreign insurance company for the year in which the
22 regional home office was established, such regional home office must
23 have been maintained continuously from on or before August 1 of that
24 year through the last day of that calendar year.

25 (3) To receive such credit against the tax premiums tax and privilege
26 fees imposed upon a foreign insurance company for succeeding years, an
27 insurer or its affiliate shall have maintained such regional home office
28 continuously from the first day of the calendar year for which the tax is
29 imposed through the last day of that calendar year.

30 (4) The amount of the credit allowed shall be equal to the following
31 percentages of the amount of premiums tax and privilege fees imposed
32 upon an insurance company pursuant to K.S.A. 40-252 and amendments
33 thereto:

34 (A) 15%, if there are at least 200 and less than 300 full-time, year-
35 round Kansas employees;

36 (B) 25%, if there are at least 300 and less than 400 full-time, year-
37 round Kansas employees;

38 (C) 35%, if there are at least 400 and less than 500 full-time, year-
39 round Kansas employees; or

40 (D) 50%, if there are 500 or more full-time, year-round Kansas
41 employees.

42 (b) (1) For all taxable years commencing after December 31, 2004,
43 the insurer or its affiliate maintained a regional home office in this state

1 in a building owned or leased by the insurer, and which complies with
2 either paragraph (2) or (3) of this subsection, shall be allowed, in accord-
3 ance with paragraph (4) of this subsection, a credit against the premiums
4 tax and privilege fees imposed upon a domestic insurance company pur-
5 suant to K.S.A. 40-252, and amendments thereto.

6 (2) To receive such credit against the tax premiums tax and privilege
7 fees imposed upon a domestic insurance company for the year in which
8 the regional home office was established, such regional home office must
9 have been maintained continuously from on or before August 1 of that
10 year through the last day of that calendar year.

11 (3) To receive such credit against the tax premiums tax and privilege
12 fees imposed upon a domestic insurance company for succeeding years,
13 an insurer or its affiliate shall have maintained such regional home office
14 continuously from the first day of the calendar year for which the tax is
15 imposed through the last day of that calendar year.

16 (4) The amount of the credit allowed shall be equal to the following
17 percentages of the amount of premiums tax and privilege fees imposed
18 upon an insurance company pursuant to K.S.A. 40-252 and amendments
19 thereto:

20 (A) 35%, if there are at least 400 and less than 500 full-time, year-
21 round Kansas employees; or

22 (B) 50%, if there are 500 or more full-time, year-round Kansas
23 employees.

24 (c) Proof that an insurance company qualifies for the credit author-
25 ized by this section shall be submitted on forms prescribed by the com-
26 missioner of insurance with the return required by K.S.A. 40-252 and
27 amendment thereto.

28 (d) The credit provided for in subsections (a) and (b) of this section
29 shall be based on the total number of Kansas employees in the regional
30 home office or home office when a group of insurers which are under
31 common management and control maintain a regional home office or
32 home office in this state in a building owned or leased by the group of
33 insurers. The credit provided for in subsections (a) and (b) of this section
34 may be allocated among the insurance company and the insurance com-
35 pany affiliates at the discretion of the insurance company on a propor-
36 tioned basis.

37 (e) As used in this section:

38 (1) "Common management and control" means the possession, direct
39 or indirect, of the power to direct or cause the direction of the manage-
40 ment and policies of an insurer, whether through the ownership of voting
41 securities, by contract, or otherwise, unless the power is executed by a
42 person acting in an official capacity, performing duties imposed and ex-
43 ercising authority granted because of the person's position as an officer

1 or employee of the insurer. Control shall be presumed to exist if any
2 person, directly or indirectly, owns, controls, holds with the power to vote,
3 or holds proxies representing 25% or more of the voting securities of the
4 insurer;

5 (2) "Home office" means the executive offices of an insurance com-
6 pany which is domiciled in this state.

7 (3) "Kansas employees" means persons who are employed in Kansas
8 by an insurance company or its affiliate on and after January 1, 2005, on
9 a full-time basis of at least 40 hours per week. Kansas employees do not
10 include any independent contractor or any person to the extent that the
11 compensation of such person is based on commissions; and

12 (4) "Regional home office" means an office transacting insurance
13 business in this state, and performing insurance company operations,
14 which may include one or more or any combination of the following
15 functions and services performed in connection with the development,
16 sale, and administration of products giving rise to receipts subject to a
17 premium tax on domestic and foreign insurance companies, or domestic
18 or foreign health care insurance corporations: actuarial, medical, legal,
19 investments, accounting, auditing, underwriting, policy issuance, infor-
20 mation, policyholder services, premium collection, claims, advertising and
21 publications, public relations, human resources, marketing, sales office
22 staff, training of sales and service personnel, and clerical, managerial, and
23 other support for any such functions or services.

24 (f) Each insurer or insurance group requesting a credit under this
25 section shall certify by affidavit, approved as to form by the commissioner
26 of insurance, that such insurer or insurance group has met all of the
27 qualifications required by this section and is authorized to a credit against
28 the premium tax required to be paid pursuant to K.S.A. 40-252 and
29 amendments thereto. The commissioner of insurance may do an exami-
30 nation of any insurance company for the purpose of determining that all
31 requirements of this section are being met by the insurer requesting to
32 obtain any credits against premium tax.

33 Sec. 2. (a) The tax credit set forth in section 1, and amendments
34 thereto, shall apply to any insurance company that takes action after No-
35 vember 1, 2005, to:

36 (1) Establish new regional home offices; or

37 (2) expand existing regional home offices, and hire new employees.

38 (b) An insurance company that meets any of the requirements of
39 subsection (a) of this section must also meet the hiring minimum require-
40 ments for the applicable tax credit bracket in section 1 and amendments
41 thereto.

42 Sec. 3. Any insurance company that has operated a regional home
43 office in this state that has qualified for the tax credit provided for in

1 section 1, and amendments thereto, and that redomiciles and moves its
2 home office to this state shall continue to receive the tax credit authorized
3 by section 1, and amendments thereto, under the terms for which such
4 tax credit was originally allowed.

5 Sec. 4. This act shall take effect and be in force from and after its
6 publication in the statute book.