Department of Finance and Administration

Legislative Impact Statement

Bill: SB1056
Bill Subtitle: TO PROVIDE A PREMIUM TAX CREDIT FOR INSURANCE COMPANIES THAT INVEST IN ARKANSAS SECURITIES.

Basic Change :
Sen. Hester,

Under Arkansas law, insurance companies pay premium tax in the amount of 2.5% of net premiums for policies covering property, subjects, or risks located in Arkansas. In addition, insurance companies pay an additional tax in the amount of 0.5% of net premiums for fire, allied lines, farm owner and homeowner multiple peril, vehicle physical damage, and vehicle collision coverages. These taxes are reported and remitted to the Insurance Commissioner.

SB1056 allows insurance companies a credit against the taxes levied on their premiums based upon their investments in Arkansas securities. The credit is not allowed for life insurance companies, fraternal benefit associations, orders or societies, health and accident insurance companies, life and accident insurance companies, and nonprofit group hospital service plans. The bill does not impose any specific duties upon DFA.

The bill requires a minimum investment of 25% of an insurer's total admitted assets in Arkansas securities extended at annual statement value. The proposed credit scheme begins by referencing the amount of admitted assets an insurer has invested in the securities of the State in which it has its highest level of investment, other than Arkansas (hereafter referred to as the "referenced sum"). The proposal then offers a credit of 25% toward the insurer's Arkansas net premium tax, up to a net credit of $200,000.00, if that insurer's admitted assets invested in Arkansas securities measures at least 70% but not more than 80% of that referenced sum. If the insurer has at least 80% but not more than 90% so invested, then the credit increases to 50% of the tax, up to a maximum credit of $250,000.00. Finally, if the insurer has admitted assets invested in Arkansas securities equal to or greater than 90% of the referenced sum, then the credit would rise to 75%, up to a maximum credit of $300,000.00.

The bill defines the term "securities" to mean Arkansas real estate owned by the insurer; bonds of the State of Arkansas or other state; bonds or interest-bearing warrants of any county, city, town, school district, municipality, or subdivision; notes or bonds secured by a mortgage or trust deed on property including those insured by the Federal Housing Administration, the Farmers Home Administration, or the federal government or its branches, agencies, departments or bureaus; cash deposits in national or state banks or trust companies on the basis of average daily balances throughout the preceding calendar year; or any other property or security issued by a corporation in which the insurer may invest its funds. Despite this definition, the credit only applies to <u>Arkansas</u> securities.

Revenue Impact :

Unknown loss of state general revenue from insurance premium taxes. The actual amount of the loss will depend on the investments made by insurance companies operating in this state.

Taxpayer Impact :
None

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Resources Required :
None

Legal Analysis :

Tennessee law [Tenn. Code § 56-4-210 (2012)] provides a credit scheme similar to the one proposed in this bill, where the amount of the credit is graduated according to varying levels of investment in Tennessee securities. Similar laws also exist in Oklahoma, Kansas, Iowa, West Virginia, Georgia, South Dakota, Florida, Louisiana, Colorado, New York, South Carolina, Texas, Washington D.C., and Wisconsin. There have been no reported court challenges to the law in any of these states. Given the fact that the Arkansas credit will be allowed for any insurer, foreign or domestic, that invests in Arkansas securities, a successful challenge to the law under either the Commerce Clause or Equal Protection Clause would not be likely.

The changes in this bill are made as an amendment to Ark. Code Ann. § 26-57-615, which provides Arkansas domiciled insurers a dollar-for-dollar credit against the insurer's premium taxes for comparable or retaliatory fees levied by other states based upon administrative and financial regulatory fees payable under Arkansas law. However, this Code section has technical requirements that would not be applicable to the credit provided under the bill. The credit proposed by this bill would be less confusing in a stand-alone section.