

State of Arkansas

76th General Assembly

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HOUSE BILL 2041

By: Representatives Hawkins, Arnold, Dawson, et al. AS ENGROSSED 4/7/87

"AN ACT TO AMEND SECTION 69 OF ACT 148 OF 1959, AS AMENDED, THE SAME BEING ARKANSAS STATUTES ANNOTATED SECTION 66-2302, TO PROVIDE FOR A PREMIUM TAX ON DOMESTIC LIFE AND DISABILITY INSURERS, TO PROVIDE THAT SUCH TAX BE PAID INTO GENERAL REVENUES; TO AMEND SECTION 4 OF ACT 386 OF 1941, AS AMENDED [ARK. STATS. 84-1904], TO PROVIDE THAT ON AND AFTER OCTOBER 1, 1987 THE GROSS RECEIPTS OR GROSS PROCEEDS DERIVED FROM THE SALES OF ITEMS PURCHASED WITH FOOD STAMPS OR FOOD COUPONS SHALL BE EXEMPT FROM THE GROSS RECEIPTS TAX; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 69 of Act 148 of 1959, as amended, the same being Arkansas Statute 66-2302, is hereby amended to read as follows:

"Section 69. (1) Each authorized insurer, and each formerly authorized insurer with respect to direct written premiums while an authorized insurer in this State, shall file with the Commissioner on or before March 1 of each year a report in form as prescribed by the Commissioner showing (except as to wet marine and foreign trade insurance as defined in Subsection (4) below) total direct premium income including policy, membership and other fees, and all other considerations for insurance, from all kinds and classes of insurance, whether designated as premium or otherwise, written by it during the preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this State (with proper proportionate allocation of premium as to such persons, property, subjects, or risks in this State insured under policies or contracts covering persons, property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income dividends and similar returns

paid or credited to policyholders other than as to life insurance, applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, and the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

(2) (a) Each life and disability insurer who fails to maintain facilities in this State as provided in Subsection (2) (b) of this Section, as defined by rules and regulations adopted by the Commissioner, shall pay to the State Treasurer through the Commissioner, as a tax imposed for the privilege of transacting business in this State, a tax upon such net premiums and net considerations, except as provided in Subsection (4) of this Section, such tax to be computed thereon at a rate of two and one-half percent (2½%). Such taxes shall be paid on a quarterly estimate basis as prescribed by the Commissioner, and shall be reconciled annually at the time of filing the annual report required in subsection (1) of this Section.

(b) Coincident with the filing of such tax report each life and disability insurer, including health maintenance organizations, may apply for a credit for the non-commissioned salaries and wages of the insurer's Arkansas employees which are paid in connection with its insurance operations. Such credit may be applied as an offset against the premium tax imposed in Subsection (2) (a) on life and disability insurance. In no event shall such offset reduce the disability premium tax due by more than eighty percent (80%). Provided further, in no event shall such offset reduce the Life premium tax due by more than seventy percent (70%). Such taxes shall be paid on a quarterly estimate basis as prescribed by the Commissioner, and shall be reconciled annually at the time of filing the annual report required in subsection (1) of this Section.

Further, an employee must be employed for six (6) months in such facilities for the salary or wages to be eligible to qualify for the life and disability premium tax credit.

Any life or disability insurer, including health maintenance organizations, desiring to qualify under this provision shall, on or before March 1 of each year, furnish the appropriate data and request on forms prescribed by the Commissioner. For purposes of calculating the taxes under Section 67 of Act

148 of 1959 (□66-2225), an insurer qualifying for a credit under this Section shall compute the tax due under Section 67 of Act 148 of 1959 (□66-2225), if any, by using an Arkansas premium tax rate of two and one-half percent (2 1/2%).

(c) Each insurer other than those in Subsections (2) (a) and (b) above shall pay to the State Treasurer through the Commissioner, as a tax imposed for the privilege of transacting business in this State, a tax at the rate of two and one-half percent (2 1/2%) upon the next premiums and net considerations on all kinds of insurance, except as provided in Subsection (4) of this Section. Such taxes shall be paid on a quarterly estimate basis as prescribed by the Commissioner, and shall be reconciled annually at the time of filing the annual report required in subsection (1) of this Section.

(3) That portion of the tax paid by an insurer in accordance with Section 12 of Act 491 of 1921, as amended, shall be separately specified in the report in such manner as may be prescribed by the Commissioner to enable the Commissioner to make a proper apportionment of such funds.

(4) (a) As to wet marine and foreign trade insurance written in this State during the preceding calendar year, on or before March 1 of each year each such insurer shall file its report with the Commissioner, on forms as prescribed and furnished by him, of its gross underwriting profit thereon. As a tax imposed for the privilege of transacting such insurance in this State a tax of three quarters of one percent (3/4%) of such gross underwriting profit shall be paid on a quarterly estimate basis as prescribed by the Commissioner and reconciled annually at the time of filing the annual report.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross premiums less all return premiums and premiums for reinsurance (on such wet marine and foreign trade insurance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded (during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this Subsection (4) the amounts refunded or paid as participation dividends by such insurers to the holders of such contracts.

(c) For the purposes of this Section, 'wet marine and foreign trade insurance' shall include only:

(i) Insurances upon vessels, crafts, hulls and of interests therein, of

or with relations thereto;

(ii) Insurance of marine builder's risks, marine war risks, and contracts of marine protection and indemnity insurance;

(iii) Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and

(iv) Insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto.

(5) The premium tax herein levied by this Section shall be in addition to the tax paid by casualty companies and self-insurers writing workers' compensation insurance under Initiated Act No. 4 of 1948 as now or hereafter amended.

(6) The taxes levied herein upon any insurer shall be in lieu of all other State, county, city, town or municipal taxes on such premium receipts and no county, city, town or municipality shall impose any privilege tax or license fee upon any such insurer, or its agents, for the privilege of transacting the business of insurance.

(7) The commissioner shall deposit all premium taxes collected under this Section which are not allocated and appropriated for the various funds under Initiated Act No. 4 of 1948 as now or hereafter amended, for the Arkansas Fire and Police Pension Review Board and Firemen's Relief and Pension Funds under Section 12 of Act 491 of 1921, as amended, and Section 5 of Act 595 of 1981, as amended, and Section 2 of Act 450 of 1975, as amended, and for Arkansas Fire and Police Pension and Review Board and Police Officer's Pension and Relief Funds under Section 2 of Act 270 of 1981, as amended, in the State Treasury as 'general revenues'.

(8) The Commissioner may, in his discretion, suspend or revoke the certificate of authority of any insurer that fails to pay the tax levied under this Section on the date due or during any reasonable extension of time therefor which may have been expressly granted by the Commissioner for good cause upon the insurer's request."

SECTION 2. Section 2 of Act 450 of 1975, as amended, the same being Arkansas Statute 66-2302.1, is hereby amended to read as follows:

"Section 2. All revenues derived from the additional one-half of one percent (½ of 1%) tax levied on premiums by Section 1 of Act 450 of 1975 shall be 'special revenues' and the net amount thereof shall be credited to the Municipal Aid Fund and shall be allocated for administrative and actuarial expenses of the Arkansas Fire and Police Pension Review Board and the fireman's relief and pension funds of the respective municipalities and fire protection districts in the State having such funds in the same proportions that funds set aside by Section 12 of Act 491 of 1921, as amended, are apportioned. Provided, that the payment to the Review Board shall be made prior to the disbursements to the eligible political subdivisions."

SECTION 3. Section 9 of Act 454 of 1975, the same being Arkansas Statute 66-5209, is hereby amended by adding at the end thereof a new subsection to read as follows:

"(3) (a) Each health maintenance organization shall pay a tax on the premiums and co-payments for coverages provided during the calendar year and such tax shall be paid on a quarterly estimate basis as prescribed by the Commissioner and reconciled at the time of filing the annual statement;

(b) The tax shall be paid to the State Treasurer through the Insurance Commissioner as a tax imposed for the privilege of transacting business in this State. The tax shall be computed at the rate of two and one-half percent (2½%), except as provided in Subsection (3)(d) of this Section;

(c) Said taxes shall be paid on a quarterly estimate basis as prescribed by the Commissioner and reconciled annually at the time of filing the annual statement and the commissioner may, in his discretion, suspend or revoke the certificate of authority of any health maintenance organization that fails to pay the tax levied under this Section on the date due or during any reasonable extension of time therefor which may have been expressly granted by the Commissioner for good cause upon the organization's request;

(d) For health maintenance organizations maintaining a home office or a regional office in this State, such tax shall be computed at the rate of two and one-half percent (2½%), except for the credit as provided in Section 1.2(b). For purposes of this subsection, any office in this State shall be deemed an organization's home or regional office if such office performs

substantially the following functions in this State: underwriting, medical, legal, issuance of certificates or contracts, claims servicing, information and service, advertising and publications, public relations, hiring, testing, and training of sales or service forces. Any health maintenance organization desiring to qualify an office in this State as a home or regional office shall, on or before March 1 of each year, furnish to the Commissioner on forms prescribed by the Commissioner proof that it is operating a home or regional office in this State.

(e) The Commissioner shall deposit all taxes collected under this Section in the State Treasury as 'general revenues'."

SECTION 4. Section 19 of Act 368 of 1977, the same being Arkansas Statute 66-5419, is hereby amended to read as follows:

"Section 19. (a) Taxation on legal insurance premiums shall be fixed at the rate of two and one-half percent (2½%) of direct written premium income in Arkansas, after deduction for dividends paid to policyholders and returned premiums, and shall be due and payable in estimated quarterly installments and reconciled annually at the time of filing the insurer's annual report as required by Section 8 of this Act.

(b) The Commissioner shall deposit all premium taxes collected under this Section in the State Treasury as 'general revenues'.

Section 5. Section 5 of Act 595 of 1981, as amended, the same being Ark. Stat. 19-2212.1, is hereby amended to read as follows:

"Section 5. All additional revenues collected as a result of the levy of the insurance premium tax on domestic insurers, other than for premiums or copayments for life, disability, legal, wet marine and foreign trade, and health maintenance organization insurance or contracts, shall be special revenues and shall be apportioned and remitted to the respective cities, and towns and fire protection districts which maintain a qualified Firemen's Pension Fund and/or cover fire fighters under the Arkansas Local Police and Fire Retirement System. The additional revenues collected pursuant to this Act shall be allocated to each qualified city, town or fire protection district in the proportion that the net premiums and net considerations paid to foreign and alien insurers for risks located in each such city, town or fire protection district bears to the total net premiums and net considerations paid to

foreign and alien insurers for risks located in each such qualified cities, towns and fire protection districts in the State."

SECTION 6. Notwithstanding any provision herein to the contrary, it being the intention of this Act that domestic life and disability insurers shall be subject only to the tax imposed herein, Subsection (2) of Section 6 of Act 118 of 1929, as amended, the same being Arkansas Statute 84-2006(2), is hereby amended to read as follows:

"(2) Domestic life and disability insurance companies and foreign insurance companies."

SECTION 7. Subsection (d) of Section 7 of Act 118 of 1929, as amended, the same being Arkansas Statute 84-2007 (d) (1), (2), (4), (5), (6), (7), and (8), is hereby repealed.

SECTION 8. Section 1 of Act 236 of 1969, the same being Arkansas Statute 84-2007.1, is hereby repealed.

SECTION 9. Subparagraph (h) of Subsection (2) of Section 8 of Act 118 of 1929, as amended, the same being Arkansas Statute 84-2008 (2) (h), is hereby repealed.

SECTION 10. The provisions of this Act as to premium taxes shall apply to all premiums which are collected in calendar year 1987 upon which the premium tax is reported and paid in 1988, and the provisions of this Act as to income taxes shall apply to all income years beginning on or after January 1, 1987.

SECTION 11. Section 4 of Act 386 of 1941, as amended, the same being Arkansas Statute Section 84-1904, is hereby amended to add a new subsection to read as follows:

"(x) (1) Gross receipts and gross proceeds derived from the sale of tangible personal property lawfully purchased with food stamps or food coupons issued in accordance with the Food Stamp Act of 1964 and the gross receipts or gross proceeds derived from the sale of tangible personal property lawfully purchased with food instruments or vouchers issued under the Special

Supplemental Food Program for Women, Infants and Children (WIC) in accordance with Section 17 of the Child Nutrition Act of 1966, as amended. If consideration other than food stamps, food coupons, food instruments or vouchers is used in any sale, that portion of such sale shall be fully taxable.

(2) Gross receipts and gross proceeds derived from the sale of food purchased through bids under the Special Supplemental Food Program for Women, Infants and Children (WIC)."

SECTION 12. The provisions of Section 11 of this Act shall be effective beginning October 1, 1987. The tax exemption provided by Section 11 of this Act shall expire if the exemption becomes no longer required for full participation in the food stamp program and the Special Supplemental Food Program for Women, Infants and Children.

SECTION 13. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 14. If any provision of this Act or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

/s/ Bruce Hawkins et al



