

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/29/05

A Bill

HOUSE BILL 2900

5 By: Representative Maloch
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For An Act To Be Entitled

9 AN ACT TO PROVIDE FOREIGN AND ALIEN INSURERS A
10 RETALIATORY CREDIT UNDER ARKANSAS INSURANCE LAW;
11 TO CLARIFY THAT RETALIATORY TAXES DO NOT INCLUDE
12 ANY FEES, ASSESSMENTS, MATERIAL OBLIGATIONS, OR
13 LICENSE FEES OF INSURANCE AGENTS AND PRODUCERS;
14 AND FOR OTHER PURPOSES.

Subtitle

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17 TO PROVIDE A RETALIATORY CREDIT FOR
18 PREMIUM TAX PAYMENTS OF FOREIGN AND
19 ALIEN INSURERS AND THAT RETALIATORY
20 TAXES DO NOT APPLY TO INSURANCE AGENT OR
21 PRODUCER FEES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 *SECTION 1. Arkansas Code § 23-63-102 is amended to read as follows:*

27 *23-63-102. Retaliation for foreign taxes, fees, restrictions, etc.*

28 *(a) The commissioner shall impose upon any insurer or upon the agent*
29 *or representative of that insurer of any other state or any foreign country*
30 *doing business in the State of Arkansas the same taxes, licenses, and other*
31 *fees, in the aggregate, and the same fines, penalties, deposit requirements*
32 *or other material requirements, obligations, prohibitions, or restrictions*
33 *that are imposed upon Arkansas insurers or upon their agents or*
34 *representatives by the laws of the other state or its political subdivisions*
35 *or the other country, or its provinces or political subdivisions.*

36 *~~When by or pursuant to the laws of any other state or foreign country~~*



~~any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Arkansas insurers or upon the agents or representatives of the insurers, which are in excess of the taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of those insurers, of the other state or country under the statutes of this state, so long as the laws of the state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, or deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Insurance Commissioner upon those insurers, or upon the agents or representatives of those insurers, of the other state or country doing business or seeking to do business in Arkansas.~~

(b) This section does not apply to:

(1) Application fees, examination fees, license fees, appointment fees and continuation fees for agents, adjusters, service representatives, or consultants; or

(2) Personal income taxes, ad valorem taxes on real or personal property, or special purpose obligations, fees, or assessments imposed by the other state in connection with particular kinds of insurance, other than property insurance. However, the commissioner shall consider deductions from premium taxes or other taxes payable allowed because of real estate or personal property taxes paid in determining the propriety and extent of retaliatory action under this section.

~~Any tax, license, or other fee or other obligation imposed by any city, county, or other political subdivision or agency of another state or country on Arkansas insurers or their agents or representatives shall be deemed to be imposed by that state or country within the meaning of this section.~~

(c) For reporting years beginning on or after January 1, 2005, neither this section nor § 23-63-103 shall apply to any foreign insurer if more than fifteen percent (15%) of its capital stock is owned by a corporation organized under the laws of this state and domiciled within this state.

~~This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, nor as to special purpose~~

1 ~~obligations or assessments imposed by another state in connection with~~
2 ~~particular kinds of insurance, other than property insurance. However,~~
3 ~~deductions, from premium taxes or other taxes otherwise payable, allowed on~~
4 ~~account of real estate or personal property taxes paid, shall be taken into~~
5 ~~consideration by the commissioner in determining the propriety and extent of~~
6 ~~retaliatory action under this section.~~

7 (d) In addition to the funds now appropriated and set aside for the
8 use and benefit of fireman's relief and pension funds by §§ 24-11-809 and 24-
9 11-810, there is appropriated and set aside for the use and benefit of the
10 firemen's relief and pension funds the additional taxes, authorized by
11 subsections (a)-(c) and (b) of this section, on all premiums collected by all
12 fire, tornado, and marine insurance companies, corporations, or associations
13 incorporated under the laws of any state or nation other than the State of
14 Arkansas, in all cities and towns in the State of Arkansas coming within the
15 provisions of §§ 24-11-809 and 24-11-810.

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17 SECTION 2. Section 1 of this act shall first apply to the annual
18 premium tax reports of foreign and alien insurers doing business under an
19 existing Arkansas certificate of authority for the reporting years beginning
20 on and after January 1, 2005.

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22 /s/ Maloch
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