

2016 -- S 3012

LC005810

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 in Chapter 44-17 entitled "Taxation of  
2 Insurance Companies" is hereby amended to read as follows:

3 **44-17-1. Companies required to file -- Payment of tax -- Retaliatory rates. -- (a)**

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

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

21 (2) On the timetable listed below the committee shall determine whether qualifying  
22 insurers have added new, full-time qualifying jobs in this state in the preceding calendar year. If  
23 the committee determines that sufficient jobs have been added in the preceding calendar year(s)  
24 to offset a material reduction in the premium tax, it shall calculate a reduced premium tax rate.  
25 Such rate shall be determined via a method selected by the committee and designed to achieve  
26 revenue neutrality.

27 (3) Any reduced rate established pursuant to this section must be established in a  
28 rulemaking proceeding conducted by the division of taxation pursuant to chapter 35 of title 42  
29 ("administrative procedures act"). The number of jobs created and the resultant premium tax  
30 reduction and revenue impact shall be determined in the rulemaking proceeding.

31 (4) The first of these rulemaking proceedings shall take place in calendar year 2017  
32 evaluating the job creation during calendar year 2016 and the resulting tax rate established in the  
33 regulation shall be applicable for tax year 2018. The second regulatory proceeding shall take  
34 place in calendar year 2018 evaluating the job creation during calendar year 2017 and the

1 resulting tax rate established in the regulation shall be applicable for tax year 2019. The third  
2 regulatory proceeding shall take place in calendar year 2019 evaluating the job creation during  
3 calendar year 2018 and the resulting tax rate established in the regulation shall be applicable for  
4 tax year 2020. For each of these three (3) evaluations the tax rate may remain unchanged or be  
5 decreased as indicated below but may not be increased.

6 (5) The tax rate established in the regulation following regulatory proceedings that take  
7 place in 2019 and are effective for tax year 2020 shall remain in effect through and including  
8 2023. In calendar year 2023 the department of business regulation will conduct a rulemaking  
9 proceeding to determine the number of insurance jobs existing in Rhode Island during calendar  
10 year 2022. The resulting number of jobs shall be compared to the jobs existing at the time the  
11 then existing tax rate was established. The tax rate shall be increased or decreased in accordance  
12 with the formula established in a rulemaking proceeding with the rate going no lower than one  
13 percent (1%) and no higher than two percent (2%). This process shall be repeated every three (3)  
14 calendar years thereafter; however, the base for determination of job increases or decreases shall  
15 remain the number of jobs existing during calendar year 2022.

16 (6) The division of taxation shall not be entitled to reduce the premium tax rate pursuant  
17 to this section until it determines that qualifying insurers have added in this state at least three  
18 hundred fifty (350) new, full-time qualifying jobs above the baseline level of employment of  
19 qualifying insurers for the calendar year 2015.

20 (7) The division of taxation shall have no authority to calculate a premium tax rate lower  
21 than one percent (1%).

22 (8) The division of taxation shall have no authority to raise the premium tax rate above a  
23 rate established pursuant to this section.

24 (9) The division of taxation may adopt implementation guidelines, directives, criteria,  
25 rules and regulations pursuant to chapter 35 of title 42 ("administrative procedures act") as are  
26 necessary to implement this subsection.

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

29 **27-1-45. Determination of premium tax rate.** -- The department of business regulation  
30 may participate in proceedings under §44-17-1(d) to implement guidelines, directives, criteria,  
31 and may promulgate additional resulting rules and regulations pursuant to chapter 35 of title 42  
32 ("administrative procedures act") as are necessary to implement that subsection.

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

1           27-2-28. Determination of premium tax rate. -- The department of business regulation  
2           may participate in proceedings under §44-17-1(d) to implement guidelines, directives, criteria,  
3           and may promulgate additional resulting rules and regulations pursuant to chapter 35 of title 42  
4           ("administrative procedures act") as are necessary to implement that subsection.

5           SECTION 4. This act shall take effect on January 1, 2017.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 1           This act would update the premium tax statute to provide for a reduction in the premium
- 2 tax paid by insurance companies if sufficient specific insurance related jobs are created in Rhode
- 3 Island to make the reduction revenue neutral.
- 4           This act would take effect on January 1, 2017.

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