

Bill No. SB 2032

Barcode 294154

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Baker)
recommended the following **substitute for amendment** (332008):

Senate Amendment (with title amendment)

On page 33, between lines 2 & 3,

insert:

Section 24. Subsection (5) of section 624.509, Florida
Statutes, is amended to read:

624.509 Premium tax; rate and computation.--

(5)

(a)1. There shall be allowed a credit against the net
tax imposed by this section equal to 15 percent of the amount
paid by an ~~the~~ insurer in salaries to employees located or
based within this state and who are covered by the provisions
of chapter 443.

2. As an alternative to the credit allowed in
subparagraph 1., an affiliated group of corporations which
includes at least one insurance company writing premiums in
Florida may elect to take a credit against the net tax imposed
by this section in an amount that may not exceed 15 percent of

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1 the salary of the employees of the affiliated group of
2 corporations who perform insurance-related activities, are
3 located or based within this state, and are covered by chapter
4 443. For purposes of this subparagraph, the term "affiliated
5 group of corporations" means two or more corporations that are
6 entirely owned directly or indirectly by a single corporation
7 and that constitute an affiliated group as defined in s.
8 1504(a) of the Internal Revenue Code. The amount of credit
9 allowed under this subparagraph is limited to the combined
10 Florida salary tax credits allowed for all insurance companies
11 that were members of the affiliated group of corporations for
12 the tax year ending December 31, 2002, divided by the combined
13 Florida taxable premiums written by all insurance companies
14 that were members of the affiliated group of corporations for
15 the tax year ending December 31, 2002, multiplied by the
16 combined Florida taxable premiums of the affiliated group of
17 corporations for the current year. An affiliated group of
18 corporations electing this alternative calculation method must
19 make such election on or before August 1, 2005. The election
20 of this alternative calculation method is irrevocable and
21 binding upon successors and assigns of the affiliated group of
22 corporations electing this alternative. However, if a member
23 of an affiliated group of corporations acquires or merges with
24 another insurance company after the date of the irrevocable
25 election, the acquired or merged company is not entitled to
26 the affiliated group election and shall only be entitled to
27 calculate the tax credit under subparagraph 1.

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29 In no event shall the salary paid to an employee by an
30 affiliated group of corporations be claimed as a credit by
31 more than one insurer or be counted more than once in an

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1 insurer's calculation of the credit as described in
 2 subparagraphs 1. or 2. Only the portion of an employee's
 3 salary paid for the performance of insurance-related
 4 activities may be included in the calculation of the premium
 5 tax credit in this subsection.

6 (b) For purposes of this subsection:

7 1.(a) The term "salaries" does not include amounts
 8 paid as commissions.

9 2.(b) The term "employees" does not include
 10 independent contractors or any person whose duties require
 11 that the person hold a valid license under the Florida
 12 Insurance Code, except adjusters, managing general agents, and
 13 service representatives, as persons defined in s. 626.015 s-
 14 626.015(1), (14), and (16).

15 3.(c) The term "net tax" means the tax imposed by this
 16 section after applying the calculations and credits set forth
 17 in subsection (4).

18 4.(d) An affiliated group of corporations that created
 19 a service company within its affiliated group on July 30,
 20 2002, shall allocate the salary of each service company
 21 employee covered by contracts with affiliated group members to
 22 the companies for which the employees perform services. The
 23 salary allocation is based on the amount of time during the
 24 tax year that the individual employee spends performing
 25 services or otherwise working for each company over the total
 26 amount of time the employee spends performing services or
 27 otherwise working for all companies. The total amount of
 28 salary allocated to an insurance company within the affiliated
 29 group shall be included as that insurer's employee salaries
 30 for purposes of this section.

31 a.1. Except as provided in subparagraph 2., the term

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1 "affiliated group of corporations" means two or more
 2 corporations that are entirely owned by a single corporation
 3 and that constitute an affiliated group of corporations as
 4 defined in s. 1504(a) of the Internal Revenue Code.

5 ~~b.2.~~ The term "service company" means a separate
 6 corporation within the affiliated group of corporations whose
 7 employees provide services to affiliated group members and
 8 which are treated as service company employees for
 9 unemployment compensation and common law purposes. The holding
 10 company of an affiliated group may not qualify as a service
 11 company. An insurance company may not qualify as a service
 12 company.

13 ~~c.3.~~ If an insurance company fails to substantiate,
 14 whether by means of adequate records or otherwise, its
 15 eligibility to claim the service company exception under this
 16 section, or its salary allocation under this section, no
 17 credit shall be allowed.

18 (c) The department may adopt rules pursuant to ss.
 19 120.536(1) and 120.54 to administer this subsection.

20 Section 25. The intent of the revision to section
 21 624.509(5)(b), Florida Statutes, in section 24 is to clarify
 22 that adjusters, managing general agents, and service
 23 representatives, as defined in section 626.015, Florida
 24 Statutes, are considered employees for purposes of the salary
 25 credit provided in section 626.509, Florida Statutes. The
 26 reference in section 624.509, Florida Statutes, to section
 27 626.015, Florida Statutes, was never intended to reference the
 28 definition of a "resident."

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 3, line 19, after the semicolon,

4

5 insert:

6 amending s. 624.509, F.S.; providing for an
7 alternative method of calculating a tax credit
8 against the insurance premium tax for certain
9 groups of affiliated corporations; clarifying
10 the definition of the term "employees" for
11 purposes of calculating such a credit;
12 authorizing the department to adopt rules to
13 administer such a credit; providing legislative
14 intent regarding the meaning of the term
15 "employees" for purposes of determining the
16 salary credit against the insurance premium
17 tax;

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