

RÉSUMÉ DIGEST

ACT 428 (HB 513)

2023 Regular Session

Magee

Existing law provides that when any other state imposes additional fees, taxes, or penalties on La. insurers doing business in the other state, La. shall impose the same additional fees, taxes, and penalties on the other states' insurers doing business in La. Existing law requires insurers organized under other state's laws that are admitted to transact business in La. to pay the same fees to the commissioner of insurance as any other state may require of any similar insurer incorporated by or organized under the laws of La.

New law establishes a refundable insurance premium tax credit for any La. domestic insurer (domestic insurer) that is authorized to write and does write insurance in this state and writes insurance in at least one other state as of July 1, 2023. The amount of the credit is the amount of any retaliatory tax paid to any other state for the period in which the retaliatory tax was paid. The credit shall be applied against the domestic insurer's state premium tax liability, and any credit amount in excess of its premium tax liability shall be refunded to the domestic insurer.

New law requires the commissioner of insurance (commissioner) to administer the refundable tax credit for the payment of retaliatory taxes paid by domestic insurers.

New law provides that the maximum amount of credits authorized by new law shall not exceed \$9M in any fiscal year. However, if credits claimed exceed \$9M in any fiscal year, the commissioner shall make refunds on a pro rata basis to eligible domestic insurers based on the proportion of the total amount of retaliatory tax paid by each insurer for the relevant time period.

New law authorizes unused amounts of the credit that are unused because the total amount of credits claimed exceeds \$9M in a fiscal year to be carried forward for a period not to exceed 10 years.

New law authorizes a domestic insurer to transfer unclaimed amounts of the credit to a domestic insurer within the same insurance holding company. Establishes the procedure and limitations for transferring tax credits, including notice requirements to the Dept. of Insurance and authorization for the commissioner to disallow tax credits if the transferor did not have rights to claim or use the credit at the time of transferor to recapture credits from transferees.

New law requires domestic insurers who have paid retaliatory tax in the preceding year to provide evidence of such payment by the date and in a form prescribed by the commissioner. Further requires the commissioner to refund the retaliatory tax paid within 60 days of the filing of the evidence of the payment of retaliatory taxes by the domestic insurer.

New law requires a domestic insurer which receives a credit pursuant to new law to certify to the commissioner that it will utilize tax credit monies exclusively for Louisiana-specific purposes that are lawful expenditures for a domestic insurer.

New law authorizes the commissioner to promulgate rules in accordance with existing law (Administrative Procedure Act) as are necessary to implement the provisions of new law, subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

New law prohibits a credit established in new law from being allowed for retaliatory taxes incurred or paid after Dec. 31, 2029.

New law shall be applicable to retaliatory taxes based on insurance premiums written in other states on or after Jan. 1, 2024.

Effective August 1, 2023.

(Amends R.S. 22:836)