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By:  Creighton S.B. No. 742

A BILL TO BE ENTITLED

AN ACT

relating to premium and maintenance tax credits related to certain fees paid under the Patient Protection and Affordable Care Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 222, Insurance Code, is amended by adding Section 222.0071 to read as follows:

Sec. 222.0071.  CREDIT FOR CERTAIN FEDERAL FEES PAID. (a) In this section:

(1)  "Affordable Care Act" means the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

(2)  "Nationwide health premium or revenue amount" means the amount of gross premium and revenue aggregated on a nationwide basis attributable to lines of business identified by the commissioner under this section and taxed under this chapter.

(3)  "Provider fee amount" means the amount of health insurer provider fees that an insurer or health maintenance organization pays under Section 9010, Affordable Care Act, and may recoup through adjustments to the insurer's premium rate or the health maintenance organization's formula or method for computing its schedule of charges, as applicable.

(b)  An insurer or health maintenance organization is entitled to a credit on the amount of tax due under this chapter in a taxable year in an amount equal to the product of the insurer's or health maintenance organization's provider fee amount multiplied by the percentage of the insurer's or health maintenance organization's nationwide health premium or revenue amount that the insurer or health maintenance organization allocates to this state multiplied by the rate of tax imposed under this chapter.

(c)  The commissioner by rule shall:

(1)  establish formulas to calculate the amount of the credit authorized by Subsection (b), including a formula to calculate:

(A)  an insurer's or health maintenance organization's provider fee amount; and

(B)  the provider fee amount attributable to an insurer or health maintenance organization if the fees are imposed on a controlled group, as defined by Section 9010(c)(3), Affordable Care Act; and

(2)  identify lines of business included in the calculation of the nationwide health premium or revenue amount.

(d)  The lines of business identified by the commissioner under Subsection (c) may not include the business of life insurance.

SECTION 2.  Chapter 257, Insurance Code, is amended by adding Section 257.005 to read as follows:

Sec. 257.005.  CREDIT FOR CERTAIN FEDERAL FEES PAID. (a) In this section:

(1)  "Affordable Care Act" means the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

(2)  "Nationwide health premium amount" means the amount of gross premium aggregated on a nationwide basis attributable to lines of business identified by the commissioner under this section and taxed under this chapter.

(3)  "Provider fee amount" means the amount of health insurer provider fees that an insurer pays under Section 9010, Affordable Care Act, and may recoup through adjustments to the insurer's premium rate.

(b)  An insurer is entitled to a credit on the amount of tax due under this chapter in a taxable year in an amount equal to the product of the insurer's provider fee amount multiplied by the percentage of the insurer's nationwide health premium amount that the insurer allocates to this state multiplied by the rate of tax imposed under this chapter.

(c)  The commissioner by rule shall:

(1)  establish formulas to calculate the amount of the credit authorized by Subsection (b), including a formula to calculate:

(A)  an insurer's provider fee amount; and

(B)  the provider fee amount attributable to an insurer if the fees are imposed on a controlled group, as defined by Section 9010(c)(3), Affordable Care Act; and

(2)  identify lines of business included in the calculation of the nationwide health premium amount.

(d)  The lines of business identified by the commissioner under Subsection (c) may not include the business of life insurance.

SECTION 3.  The changes in law made by this Act apply only to a tax liability accruing on or after January 1, 2014.

SECTION 4.  The comptroller of public accounts and commissioner of insurance shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 5.  This Act takes effect September 1, 2019.