

By: Creighton

S.B. No. 742

A BILL TO BE ENTITLED

1 AN ACT
2 relating to premium and maintenance tax credits related to certain
3 fees paid under the Patient Protection and Affordable Care Act.

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

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

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

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

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

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

23 (b) An insurer or health maintenance organization is
24 entitled to a credit on the amount of tax due under this chapter in a

1 taxable year in an amount equal to the product of the insurer's or
2 health maintenance organization's provider fee amount multiplied
3 by the percentage of the insurer's or health maintenance
4 organization's nationwide health premium or revenue amount that the
5 insurer or health maintenance organization allocates to this state
6 multiplied by the rate of tax imposed under this chapter.

7 (c) The commissioner by rule shall:

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

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

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

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

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

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

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

26 (1) "Affordable Care Act" means the Patient Protection
27 and Affordable Care Act (Pub. L. No. 111-148), as amended by the

1 Health Care and Education Reconciliation Act of 2010 (Pub. L.
2 No. 111-152).

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

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

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

17 (c) The commissioner by rule shall:

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

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

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

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

27 (d) The lines of business identified by the commissioner

1 under Subsection (c) may not include the business of life
2 insurance.

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

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

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