

1 ENGROSSED HOUSE
2 BILL NO. 3864

By: Wallace of the House

3 and

4 Thompson of the Senate

5
6 An Act relating to insurance; amending 36 O.S. 2011,
7 Section 6470.19, as last amended by Section 21,
8 Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2019, Section
9 6470.19), which relates to captive insurance taxes;
10 providing for reporting and disbursement of
11 collections; providing an apportionment schedule for
12 disbursement; requiring certain funds be used for
13 certain purposes; providing an effective date; and
14 declaring an emergency.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6470.19, as
17 last amended by Section 21, Chapter 298, O.S.L. 2015 (36 O.S. Supp.
18 2019, Section 6470.19), is amended to read as follows:

19 Section 6470.19 A. Each captive insurance company, other than
20 a sponsored captive insurance company, and each protected cell of a
21 sponsored captive insurance company, shall pay to the Insurance
22 Department, by March 1 of each year, a tax at the rate of two-tenths
23 of one percent (0.2%) on the direct premiums collected or contracted
24 for on policies or contracts of insurance written by the captive
insurance company during the year ending December 31 next preceding,
after deducting from the direct premiums subject to the tax the

1 amounts paid to policyholders as return premiums which shall include
2 dividends on unabsorbed premiums or premium deposits returned or
3 credited to policyholders up to a maximum tax for such year of One
4 Hundred Thousand Dollars (\$100,000.00); provided however, that no
5 tax shall be due or payable as to consideration received for annuity
6 contracts.

7 B. A captive insurance company, other than a sponsored captive
8 insurance company, and each protected cell of a sponsored captive
9 insurance company, shall pay to the Department, by March 1 of each
10 year, a tax at the rate of one-tenth of one percent (0.1%) of
11 assumed reinsurance premium. However, no reinsurance tax applies to
12 premiums for risks or portions of risks which are subject to
13 taxation on a direct basis pursuant to subsection A of this section.
14 A premium tax is not payable in connection with the receipt of
15 assets in exchange for the assumption of loss reserves and other
16 liabilities of another insurer under common ownership and control if
17 the transaction is part of a plan to discontinue the operations of
18 the other insurer and if the intent of the parties to the
19 transaction is to renew or maintain business with the captive
20 insurance company.

21 C. A sponsored captive insurance company shall pay to the
22 Department, by March 1 of each year, a tax on direct and assumed
23 premiums equal, in the aggregate, to the minimum tax provided in
24 subsection D of this section.

1 D. If the aggregate taxes to be paid by a captive insurance
2 company or a protected cell of a sponsored captive insurance company
3 calculated under subsections A and B of this section amount to less
4 than Five Thousand Dollars (\$5,000.00) in any year, the captive
5 insurance company or protected cell shall pay a minimum tax of Five
6 Thousand Dollars (\$5,000.00) for that year. However, in the
7 calendar year in which a captive insurance company is first
8 licensed, or the protected cell is approved by the Commissioner, the
9 minimum tax will be prorated on a quarterly basis. For those
10 licensed in the first quarter, the prorated minimum tax is Five
11 Thousand Dollars (\$5,000.00). For those licensed in the second
12 quarter, the prorated minimum tax is Three Thousand Seven Hundred
13 Fifty Dollars (\$3,750.00). For those licensed in the third quarter,
14 the prorated minimum tax is Two Thousand Five Hundred Dollars
15 (\$2,500.00). For those licensed in the fourth quarter, the prorated
16 minimum tax is One Thousand Two Hundred Fifty Dollars (\$1,250.00).
17 In the calendar year in which a captive insurance company is first
18 licensed or the protected cell is first approved by the
19 Commissioner, if the aggregate taxes to be paid calculated under
20 subsections A and B of this section amount to less than the minimum
21 tax prorated on a quarterly basis, the captive or protected cell
22 shall pay the prorated minimum tax for that calendar year.

23 E. Subject to subsections F, G and H of this section, if the
24 aggregate taxes on direct and assumed premiums to be paid by a

1 captive insurance company or a protected cell of a sponsored captive
2 insurance company calculated under subsections A and B of this
3 section amount to more than One Hundred Thousand Dollars
4 (\$100,000.00) in any year, the captive insurance company shall pay a
5 maximum tax of One Hundred Thousand Dollars (\$100,000.00) for that
6 year.

7 F. Two or more captive insurance companies under common
8 ownership and control must be taxed as though they were a single
9 captive insurance company. Two or more protected cells of a
10 sponsored captive insurance company that are related by common
11 ownership and control must be taxed as though they were a single
12 protected cell.

13 G. As used in this section, "common ownership and control"
14 means the direct or indirect ownership of eighty percent (80%) or
15 more of the outstanding voting stock or other voting interests of
16 two or more captive insurance companies or protected cells of a
17 sponsored captive insurance company by the same person or persons.

18 H. A captive insurance company that has employed twenty-five or
19 more separate qualified individuals throughout a given tax year and
20 that otherwise would be liable under this section for tax for such
21 year in an amount exceeding Fifty Thousand Dollars (\$50,000.00)
22 shall pay to the Insurance Commissioner under this section a tax for
23 such year in the amount of Fifty Thousand Dollars (\$50,000.00). For
24 purposes of this subsection, "qualified individual" means a natural

1 person employed in this state on a regular basis of thirty-five (35)
2 or more hours per week either by such captive insurance company, or
3 by a wholly-owned subsidiary of such captive insurance company that
4 provides captive insurance company management, operating, investment
5 or related services exclusively to such captive insurance company.

6 I. The tax provided for in this section constitutes all taxes
7 collectible under the laws of this state from a captive insurance
8 company or a protected cell of a sponsored captive insurance
9 company, and no other occupation tax or other taxes may be levied or
10 collected from a captive insurance company by the state or a county,
11 city, or municipality within this state, except ad valorem taxes on
12 real and personal property used in the production of income.

13 J. For the fiscal year beginning July 1, 2020, and for each
14 fiscal year thereafter, the Insurance Commissioner shall report and
15 disburse all fees and taxes collected pursuant to this section as
16 follows:

- 17 1. Of the first Five Hundred Thousand Dollars (\$500,000.00):
- 18 a. thirty-six percent (36%) to the Oklahoma Firefighters
19 Pension and Retirement Fund,
 - 20 b. fourteen percent (14%) to the Oklahoma Police Pension
21 and Retirement System,
 - 22 c. five percent (5%) to the Law Enforcement Retirement
23 Fund, and
- 24

1 d. forty-five percent (45%) to the State Treasury to the
2 credit of the General Revenue Fund of the state;

3 2. Of the next Two Hundred Fifty Thousand Dollars
4 (\$250,000.00), one hundred percent (100%) to the State Insurance
5 Commissioner Revolving Fund to be used by the Department for the
6 purposes of implementing and administering the Oklahoma Captive
7 Insurance Company Act and any accompanying regulations; and

8 3. Of all amounts in excess of Seven Hundred Fifty Thousand
9 Dollars (\$750,000.00):

10 a. thirty-six percent (36%) to the Oklahoma Firefighters
11 Pension and Retirement Fund,

12 b. fourteen percent (14%) to the Oklahoma Police Pension
13 and Retirement System,

14 c. five percent (5%) to the Law Enforcement Retirement
15 Fund,

16 d. fifteen percent (15%) to the State Treasury to the
17 credit of the General Revenue Fund of the state, and

18 e. thirty percent (30%) to the State Insurance
19 Commissioner Revolving Fund to be used by the
20 Department for the purposes of implementing and
21 administering the Oklahoma Captive Insurance Company
22 Act and any accompanying regulations.

23 SECTION 2. This act shall become effective July 1, 2020.
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1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 Passed the House of Representatives the 2nd day of March, 2020.

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7 _____
8 Presiding Officer of the House
9 of Representatives

10 Passed the Senate the ___ day of _____, 2020.

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12 _____
13 Presiding Officer of the Senate
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