

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3864

By: Wallace of the House

4 and

5 Thompson of the Senate

6  
7  
8 AS INTRODUCED

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

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

17 SECTION 1. AMENDATORY 36 O.S. 2011, Section 6470.19, as  
18 last amended by Section 21, Chapter 298, O.S.L. 2015 (36 O.S. Supp.  
19 2019, Section 6470.19), is amended to read as follows:

20 Section 6470.19 A. Each captive insurance company, other than  
21 a sponsored captive insurance company, and each protected cell of a  
22 sponsored captive insurance company, shall pay to the Department, by  
23 March 1 of each year, a tax at the rate of two-tenths of one percent  
24 (0.2%) on the direct premiums collected or contracted for on

1 policies or contracts of insurance written by the captive insurance  
2 company during the year ending December 31 next preceding, after  
3 deducting from the direct premiums subject to the tax the amounts  
4 paid to policyholders as return premiums which shall include  
5 dividends on unabsorbed premiums or premium deposits returned or  
6 credited to policyholders up to a maximum tax for such year of One  
7 Hundred Thousand Dollars (\$100,000.00); provided however, that no  
8 tax shall be due or payable as to consideration received for annuity  
9 contracts.

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

24

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

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

1 or protected cell shall pay the prorated minimum tax for that  
2 calendar year.

3 E. Subject to subsections F, G and H of this section, if the  
4 aggregate taxes on direct and assumed premiums to be paid by a  
5 captive insurance company or a protected cell of a sponsored captive  
6 insurance company calculated under subsections A and B of this  
7 section amount to more than One Hundred Thousand Dollars  
8 (\$100,000.00) in any year, the captive insurance company shall pay a  
9 maximum tax of One Hundred Thousand Dollars (\$100,000.00) for that  
10 year.

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

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

22 H. A captive insurance company that has employed twenty-five or  
23 more separate qualified individuals throughout a given tax year and  
24 that otherwise would be liable under this section for tax for such

1 year in an amount exceeding Fifty Thousand Dollars (\$50,000.00)  
2 shall pay to the Commissioner under this section a tax for such year  
3 in the amount of Fifty Thousand Dollars (\$50,000.00). For purposes  
4 of this subsection, "qualified individual" means a natural person  
5 employed in this state on a regular basis of thirty-five (35) or  
6 more hours per week either by such captive insurance company, or by  
7 a wholly-owned subsidiary of such captive insurance company that  
8 provides captive insurance company management, operating, investment  
9 or related services exclusively to such captive insurance company.

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

17 J. For the fiscal year beginning July 1, 2020, and for each  
18 fiscal year thereafter, the Insurance Commissioner shall report and  
19 disburse all fees and taxes collected pursuant to this section as  
20 follows:

21 1. Of the first Five Hundred Thousand Dollars (\$500,000.00):

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

24

- 1        b.    fourteen percent (14%) to the Oklahoma Police Pension  
2                    and Retirement System,
- 3        c.    five percent (5%) to the Law Enforcement Retirement  
4                    Fund, and
- 5        d.    forty-five percent (45%) to the State Treasury to the  
6                    credit of the General Revenue Fund of the state;

7        2.    Of the next Two Hundred Fifty Thousand Dollars  
8        (\$250,000.00), one hundred percent (100%) to the State Insurance  
9        Commissioner Revolving Fund to be used by the Department for the  
10       purposes of implementing and administering the Oklahoma Captive  
11       Insurance Company Act and any accompanying regulations; and

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

- 14       a.    thirty-six percent (36%) to the Oklahoma Firefighters  
15                    Pension and Retirement Fund,
- 16       b.    fourteen percent (14%) to the Oklahoma Police Pension  
17                    and Retirement System,
- 18       c.    five percent (5%) to the Law Enforcement Retirement  
19                    Fund,
- 20       d.    fifteen percent (15%) to the State Treasury to the  
21                    credit of the General Revenue Fund of the state, and
- 22       e.    thirty percent (30%) to the State Insurance  
23                    Commissioner Revolving Fund to be used by the  
24                    Department for the purposes of implementing and

1                   administering the Oklahoma Captive Insurance Company  
2                   Act and any accompanying regulations.

3           SECTION 2. This act shall become effective July 1, 2020.

4           SECTION 3. It being immediately necessary for the preservation  
5 of the public peace, health or safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

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9           57-2-9328           JM           01/08/20