

1 ENGROSSED SENATE  
2 BILL NO. 1794

By: Thompson of the Senate

and

Wallace of the House

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6 An Act relating to the Oklahoma Captive Insurance  
7 Company Act; amending 36 O.S. 2011, Section 6470.19,  
8 as last amended by Section 21, Chapter 298, O.S.L.  
9 2015 (36 O.S. Supp. 2019, Section 6470.19), which  
10 relates to captive insurance tax rates; requiring the  
11 Insurance Commissioner to report and disburse certain  
12 monies; establishing schedule for allocation of  
13 monies; and providing an effective date.

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

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

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

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

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

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

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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 is first licensed, or the protected  
8 cell is approved by the Commissioner, the minimum tax will be  
9 prorated on a quarterly basis. For those licensed in the first  
10 quarter, the prorated minimum tax is Five Thousand Dollars  
11 (\$5,000.00). For those licensed in the second quarter, the prorated  
12 minimum tax is Three Thousand Seven Hundred Fifty Dollars  
13 (\$3,750.00). For those licensed in the third quarter, the prorated  
14 minimum tax is Two Thousand Five Hundred Dollars (\$2,500.00). For  
15 those licensed in the fourth quarter, the prorated minimum tax is  
16 One Thousand Two Hundred Fifty Dollars (\$1,250.00). In the calendar  
17 year in which a captive is first licensed or the protected cell is  
18 first approved by the Commissioner, if the aggregate taxes to be  
19 paid calculated under subsections A and B of this section amount to  
20 less than the minimum tax prorated on a quarterly basis, the captive  
21 or protected cell shall pay the prorated minimum tax for that  
22 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 Commissioner under this section a tax for such year  
23 in the amount of Fifty Thousand Dollars (\$50,000.00). For purposes  
24 of this subsection, "qualified individual" means a natural person

1 employed in this state on a regular basis of thirty-five (35) or  
2 more hours per week either by such captive insurance company, or by  
3 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 of the fees and taxes collected under this section as  
16 follows:

17 1. The first Five Hundred Thousand Dollars (\$500,000.00) as  
18 follows:

19 a. thirty-six percent (36%) shall be allocated and  
20 disbursed for the Oklahoma Firefighters Pension and  
21 Retirement Fund, in the manner provided for in  
22 Sections 49-119, 49-120 and 49-123 of Title 11 of the  
23 Oklahoma Statutes,

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- 1           b.   fourteen percent (14%) shall be allocated and  
2                   disbursed to the Oklahoma Police Pension and  
3                   Retirement System pursuant to Sections 50-101 through  
4                   50-136 of Title 11 of the Oklahoma Statutes,  
5           c.   five percent (5%) shall be allocated and disbursed to  
6                   the Law Enforcement Retirement Fund, and  
7           d.   the remaining forty-five percent (45%) shall be  
8                   allocated and disbursed to the State Treasurer to the  
9                   credit of the General Revenue Fund of the state to  
10                  provide revenue for general functions of state  
11                  government;

12           2.   The next Two Hundred Fifty Thousand Dollars (\$250,000.00)  
13           shall be deposited into the State Insurance Commissioner Revolving  
14           Fund and shall be retained for use by the Department for the  
15           purposes of implementing and administering the Oklahoma Captive  
16           Insurance Company Act and any accompanying regulations;

17           3.   Any collections above Seven Hundred Fifty Thousand Dollars  
18           (\$750,000.00) as follows:

- 19           a.   thirty-six percent (36%) shall be allocated and  
20                   disbursed for the Oklahoma Firefighters Pension and  
21                   Retirement Fund, in the manner provided for in  
22                   Sections 49-119, 49-120 and 49-123 of Title 11 of the  
23                   Oklahoma Statutes,

- 1        b.    fourteen percent (14%) shall be allocated and  
2                    disbursed to the Oklahoma Police Pension and  
3                    Retirement System pursuant to the provisions of  
4                    Sections 50-101 through 50-136 of Title 11 of the  
5                    Oklahoma Statutes,
- 6        c.    five percent (5%) shall be allocated and disbursed to  
7                    the Law Enforcement Retirement Fund,
- 8        d.    fifteen percent (15%) shall be allocated and disbursed  
9                    to the State Treasurer to the credit of the General  
10                   Revenue Fund of the state to provide revenue for  
11                   general functions of state government, and
- 12        e.    thirty percent (30%) shall be deposited into the State  
13                   Insurance Commissioner Revolving Fund and shall be  
14                   retained for use by the Department for the purposes of  
15                   implementing and administering the Oklahoma Captive  
16                   Insurance Company Act and any accompanying  
17                   regulations.

18        SECTION 2. This act shall become effective November 1, 2020.  
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