

# An Act

ENROLLED HOUSE  
BILL NO. 3864

By: Wallace of the House

and

Thompson of the Senate

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

SUBJECT: Captive insurance taxes

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

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

Section 6470.19 A. Each captive insurance company, other than a sponsored captive insurance company, and each protected cell of a sponsored captive insurance company, shall pay to the Insurance Department, by March 1 of each year, a tax at the rate of two-tenths of one percent (0.2%) on the direct premiums collected or contracted 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 amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders up to a maximum tax for such year of One Hundred Thousand Dollars (\$100,000.00); provided however, that no tax shall be due or payable as to consideration received for annuity contracts.

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

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

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

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

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

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

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

H. A captive insurance company that has employed twenty-five or more separate qualified individuals throughout a given tax year and that otherwise would be liable under this section for tax for such year in an amount exceeding Fifty Thousand Dollars (\$50,000.00) shall pay to the Insurance Commissioner under this section a tax for such year in the amount of Fifty Thousand Dollars (\$50,000.00). For purposes of this subsection, "qualified individual" means a natural person employed in this state on a regular basis of thirty-five (35) or more hours per week either by such captive insurance company, or by a wholly-owned subsidiary of such captive insurance company that provides captive insurance company management, operating, investment or related services exclusively to such captive insurance company.

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

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

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

- a. thirty-six percent (36%) to the Oklahoma Firefighters Pension and Retirement Fund,
- b. fourteen percent (14%) to the Oklahoma Police Pension and Retirement System,
- c. five percent (5%) to the Law Enforcement Retirement Fund, and
- d. forty-five percent (45%) to the State Treasury to the credit of the General Revenue Fund of the state;

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

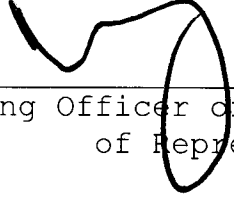
3. Of all amounts in excess of Seven Hundred Fifty Thousand Dollars (\$750,000.00):

- a. thirty-six percent (36%) to the Oklahoma Firefighters Pension and Retirement Fund,
- b. fourteen percent (14%) to the Oklahoma Police Pension and Retirement System,
- c. five percent (5%) to the Law Enforcement Retirement Fund,
- d. fifteen percent (15%) to the State Treasury to the credit of the General Revenue Fund of the state, and
- e. thirty percent (30%) to the State Insurance Commissioner Revolving Fund to be used by the Department for the purposes of implementing and administering the Oklahoma Captive Insurance Company Act and any accompanying regulations.


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

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

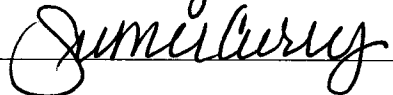
Passed the House of Representatives the 2nd day of March, 2020.

  
Presiding Officer of the House  
of Representatives


Passed the Senate the 13th day of May, 2020.

  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 13<sup>th</sup>  
day of May, 20 20, at 7:14 o'clock pm M.  
By: 

Approved by the Governor of the State of Oklahoma this 19<sup>th</sup>  
day of May, 20 20, at 9:46 o'clock a M.

  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19<sup>th</sup>  
day of May, 20 20, at 10:33 o'clock A M.  
By: 