

1 SENATE BILL NO. 60

2 INTRODUCED BY M. NOLAND

3 BY REQUEST OF THE STATE AUDITOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE PAYMENT OF TAXES BY
6 CERTAIN CAPTIVE INSURERS; REVISING LAWS RELATING TO THE PAYMENT OF TAXES BY SPECIAL
7 PURPOSE INSURERS; AMENDING SECTION 33-28-201, MCA; AND PROVIDING AN APPLICABILITY
8 DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 33-28-201, MCA, is amended to read:

13 **"33-28-201. Tax on premiums collected.** (1) (a) Each captive insurance company shall pay to the
14 commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on
15 policies or contracts of insurance written by the captive insurance company during the year ending December
16 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return
17 premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to
18 policyholders.

19 (b) The tax on direct premiums collected in this state must be calculated as follows:

20 (i) 0.4% on the first \$20 million; and

21 (ii) 0.3% on each subsequent dollar collected.

22 (2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of
23 each year a tax on assumed reinsurance premiums.

24 (b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to
25 taxation on a direct basis pursuant to subsection (1).

26 (c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange
27 for the assumption of loss reserves and other liabilities of another insurer under common ownership and control
28 if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties

1 to the transaction is to renew or maintain the business with the captive insurance company.

2 (d) The amount of the reinsurance tax must be calculated as follows:

3 (i) 0.225% on the first \$20 million of assumed reinsurance premiums;

4 (ii) 0.150% on the next \$20 million of assumed reinsurance premiums; and

5 (iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

6 (3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(a)(iii), if the aggregate taxes to be
7 paid by a captive insurance company calculated under subsections (1) and (2) amount to less than \$5,000 in
8 any year, the captive insurance company shall pay a tax of \$5,000 for that year.

9 (ii) In the calendar year in which a captive insurance company that is subject to the minimum tax is
10 first authorized, the tax must be prorated on a quarterly basis as follows:

11 (A) \$5,000 if authorized in the first quarter;

12 (B) \$3,750 if authorized in the second quarter;

13 (C) \$2,500 if authorized in the third quarter; and

14 (D) \$1,250 if authorized in the fourth quarter.

15 (iii) In the calendar year in which a captive insurance company that is subject to the minimum tax
16 surrenders its certificate of authority, the tax must be prorated on a quarterly basis as follows:

17 (A) \$1,250 if surrendered in the first quarter;

18 (B) \$2,500 if surrendered in the second quarter;

19 (C) \$3,750 if surrendered in the third quarter; and

20 (D) \$5,000 if surrendered in the fourth quarter.

21 (b) Each protected cell in a protected cell captive insurance company must be considered
22 separately in determining the aggregate tax to be paid by the protected cell captive insurance company. If the
23 protected cell captive insurance company insures any risks in addition to the protected cells, the determination
24 of the aggregate tax to be paid by the protected cell captive insurance company must also include the premium
25 on those risks.

26 (c) Each series of members as defined in 35-8-102 of a limited liability company formed as a
27 special purpose captive insurance company must be considered separately pursuant to this section, except that
28 the minimum tax as described in subsection (3)(a) must be considered in the aggregate.

(4) ~~(a) Except as provided in subsection (4)(b), aggregate~~ Aggregate taxes to be paid by a captive insurance company, ~~other than a protected cell captive insurance company,~~ under this section may not exceed \$100,000 in any year.

(b) The provisions of subsection (4)(a) do not apply to:

(i) a protected cell captive insurance company; and

(ii) a special purpose captive insurance company with a series of members as defined in 35-8-102 in a limited liability company.

(5) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(6) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual insurers, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more insurers by the same member or members.

(7) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section.

(8) The tax provided for in this section must be calculated on an annual basis notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium must be prorated for the purposes of determining the tax."

NEW SECTION. Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2025.

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