

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 438

By: Sparks

6 AS INTRODUCED

7 An Act relating to insurance premium taxes; amending
8 36 O.S. 2011, Section 1115, as last amended by
9 Section 2, Chapter 49, O.S.L. 2015 (36 O.S. Supp.
10 2016, Section 1115), which relates to premium tax on
11 surplus lines coverage; creating exemption for
12 certain policies; and providing an effective date.

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

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1115, as
14 last amended by Section 2, Chapter 49, O.S.L. 2015 (36 O.S. Supp.
15 2016, Section 1115), is amended to read as follows:

16 Section 1115. A. Where Oklahoma is the home state of the
17 insured, every person licensed pursuant to Section 1106 of this
18 title shall collect and pay as provided in this section a sum for
19 premium tax based on the total gross premiums charged in connection
20 with any broker-procured surplus lines insurance, less any return
21 premiums, for surplus lines insurance sold to the Oklahoma home-
22 state insureds by the surplus lines broker or licensee.

23 B. Where Oklahoma is the home state of the insured and the
24 insurance covers properties, risks or exposures located or to be

1 performed both in and out of Oklahoma, the sum payable to the
2 Oklahoma Insurance Commissioner shall be computed based on an amount
3 equal to six percent (6%) of the total gross premiums whether the
4 properties, risks or exposures are located or to be performed inside
5 or outside Oklahoma. Any such unearned gross premium credited by
6 the state to the surplus lines broker or licensee shall be returned
7 to the policyholder by the broker or licensee. The surplus lines
8 licensee or broker is prohibited from rebating, for any reason, any
9 part of the tax.

10 C. Where Oklahoma is the home state of the insured, gross
11 premiums charged for independently procured insurance, less any
12 return premiums, are subject to a premium tax at the rate of six
13 percent (6%) payable to the Oklahoma Insurance Commissioner, whether
14 the properties, risks or exposures are located or to be performed
15 inside or outside Oklahoma.

16 D. The Insurance Commissioner is authorized, in the exercise of
17 his or her sole discretion and judgment, to participate in the
18 Nonadmitted Insurance Multi-State Agreement or any other multistate
19 agreement or compact with the same function and purpose for the
20 function of collecting and disbursing to reciprocal states any funds
21 collected pursuant to the Unauthorized Insurers and Surplus Lines
22 Insurance Act applicable to other properties, risks or exposures
23 located or to be performed outside of Oklahoma. Until such time as
24 the Insurance Commissioner may, while not being required to, join

1 such multistate agreement or compact, premium taxes relating to
2 Oklahoma home-state insureds shall continue to be paid and accounted
3 for by nonadmitted insurers through their surplus lines licensees
4 and brokers as provided in subsections A through C of this section.

5 E. When the surplus lines coverage of an Oklahoma home-state
6 insured covers properties, risks or exposures located only in
7 Oklahoma, the surplus lines licensee or broker or self-procuring
8 insured shall pay the surplus lines premium tax payable on such
9 Oklahoma-only risks solely to the Oklahoma Insurance Commissioner.

10 F. Should the Insurance Commissioner exercise his or her sole
11 discretion and judgment and decide to join the Nonadmitted Insurance
12 Multi-State Agreement or any other multistate agreement or compact
13 with the same function and purpose, the Insurance Commissioner is
14 authorized in such event to establish a uniform, statewide rate of
15 taxation applicable to lines of nonadmitted insurance. This rate
16 shall encompass all existing rates of taxation, fees and assessments
17 imposed by this state, pursuant to subsections A through C of this
18 section and the Insurance Commissioner shall document the method by
19 which the statewide rate is calculated. The Insurance Commissioner
20 is authorized to receive any monies obtained as premium tax received
21 through any multistate agreement he or she may in the future in his
22 or her discretion choose to join and then disburse such funds as
23 provided by the Insurance Code and other applicable Oklahoma law.

1 G. Should the Insurance Commissioner exercise his or her sole
2 discretion and decide to join the Nonadmitted Insurance Multi-State
3 Agreement or any other multistate agreement or compact with the same
4 function and purpose, the Insurance Commissioner is authorized in
5 such circumstances to utilize or adopt any allocation schedule
6 included in the Nonadmitted Insurance Multi-State Agreement or any
7 other multistate agreement or compact the Insurance Commissioner may
8 enter in the exercise of his or her sole discretion and judgment
9 which schedule has the function and purpose of allocating risk and
10 computing the tax due on the portion of premium attributable to each
11 risk classification and to each state where properties, risks or
12 exposures are located.

13 H. Policies sold to federally recognized Indian tribes shall be
14 reported as provided in Section 1107 of this title; however, these
15 policies shall be exempt from the surplus line premium tax to the
16 extent that the Insurance Commissioner can identify that coverage is
17 for risks which are wholly owned by a tribe and located within
18 Indian Country, as defined in Section 1151 of Title 18 of the United
19 States Code.

20 I. The surplus line premium tax on insurance on motor transit
21 operations conducted between this and other states shall be paid on
22 the total premium charged on all surplus line insurance less:
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24

1 1. The portion of the premium charged for operations in other
2 states taxing the premium of an insured where Oklahoma is the home
3 state; or

4 2. The premium for operations outside of this state of an
5 insured maintaining its headquarters office outside of this state
6 and branch office in this state.

7 J. Flood insurance policies where Oklahoma is the home state of
8 the insured and the insurance covers properties, risks, or exposures
9 located in Oklahoma shall be exempt from the surplus line premium
10 tax.

11 K. Policies sold to any city or town in this state,
12 incorporated pursuant to law, shall be exempt from the surplus lines
13 premium tax.

14 SECTION 2. This act shall become effective November 1, 2017.

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