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February 22, 2017

**AS AMENDED**

SENATE BILL NO. 438

By: Sparks

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[ insurance premium taxes - surplus lines coverage -
exemption - effective date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

B. Where Oklahoma is the home state of the insured and the insurance covers properties, risks or exposures located or to be performed both in and out of Oklahoma, the sum payable to the Oklahoma Insurance Commissioner shall be computed based on an amount equal to six percent (6%) of the total gross premiums whether the

1 properties, risks or exposures are located or to be performed inside  
2 or outside Oklahoma. Any such unearned gross premium credited by  
3 the state to the surplus lines broker or licensee shall be returned  
4 to the policyholder by the broker or licensee. The surplus lines  
5 licensee or broker is prohibited from rebating, for any reason, any  
6 part of the tax.

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

13 D. The Insurance Commissioner is authorized, in the exercise of  
14 his or her sole discretion and judgment, to participate in the  
15 Nonadmitted Insurance Multi-State Agreement or any other multistate  
16 agreement or compact with the same function and purpose for the  
17 function of collecting and disbursing to reciprocal states any funds  
18 collected pursuant to the Unauthorized Insurers and Surplus Lines  
19 Insurance Act applicable to other properties, risks or exposures  
20 located or to be performed outside of Oklahoma. Until such time as  
21 the Insurance Commissioner may, while not being required to, join  
22 such multistate agreement or compact, premium taxes relating to  
23 Oklahoma home-state insureds shall continue to be paid and accounted  
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1 for by nonadmitted insurers through their surplus lines licensees  
2 and brokers as provided in subsections A through C of this section.

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

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

22 G. Should the Insurance Commissioner exercise his or her sole  
23 discretion and decide to join the Nonadmitted Insurance Multi-State  
24 Agreement or any other multistate agreement or compact with the same

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

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

17 I. The surplus line premium tax on insurance on motor transit  
18 operations conducted between this and other states shall be paid on  
19 the total premium charged on all surplus line insurance less:

20 1. The portion of the premium charged for operations in other  
21 states taxing the premium of an insured where Oklahoma is the home  
22 state; or  
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1        2. The premium for operations outside of this state of an  
2 insured maintaining its headquarters office outside of this state  
3 and branch office in this state.

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

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
13 February 22, 2017 - DO PASS AS AMENDED  
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