



SENATE BILL 347: Captive Insurance Amendments, Sec. 5: Captive Insurance Company Tax Changes

2021-2022 General Assembly

Committee:		Date:	July 13, 2022
Introduced by:		Prepared by:	Trina Griffin Staff Attorney
Analysis of:	Sec. 5 of S.L. 2022-7		

OVERVIEW: Section 5 of S.L. 2022-7 makes the following tax-related changes regarding captive insurance companies:

- Provides that two or more captive insurance companies under common ownership and control will be taxed as separate companies if they are either a protected cell captive insurance company or a special purpose captive insurance company with a cell or series structure. It also specifies the aggregate amount of tax payable by a special purpose captive insurance company with a cell or series structure with more than 10 cells or series. This provision is effective for premium taxes imposed for taxable years beginning on or after January 1, 2022.
- Provides that if a licensed captive insurance company formed and licensed in another jurisdiction redomesticates to North Carolina with the approval of the Commissioner prior to December 31, 2022, it is exempt from premium taxes otherwise due for the remainder of the year in which redomestication occurs and for the calendar year following its redomestication. This provision is effective for premium taxes imposed for taxable years beginning on or after January 1, 2021, and expires for taxable years beginning on or after January 1, 2024.

CURRENT LAW: Captive insurance companies form and operate in North Carolina under the North Carolina Captive Insurance Act, enacted in 2013. Captive insurance companies are insurance companies that are established solely to insure the risks of a specific company or group. The captive insurance company is a wholly owned subsidiary of a parent company or an industry association. The parent company pays premiums to the captive insurance company, who covers any claims against the parent company. Unlike traditional insurance, when the captive insurance company profits, the parent company does as well. Captive insurance companies are typically used to self-insure against predictable risks, such as workers' compensation and malpractice. Captive insurance companies can purchase reinsurance to cover any claims that may exceed the premiums collected. An inactive captive insurance company, defined as one that has ceased transacting the business of insurance and has no remaining liabilities associated with policies it has written or assumed, is not liable for payment of the gross premium excise tax.

BILL ANALYSIS: Section 5.(a) of the act amends G.S. 105-228.4A to:

- Provide that two or more captive insurance companies under common ownership and control will be taxed as separate companies if they are either a protected cell captive insurance company or a special purpose captive insurance company with a cell or series structure.
- Specify the aggregate amount of tax payable by a special purpose captive insurance company with a cell or series structure with more than 10 cells or series.

Section 5.(b) of the act provides that if a licensed captive insurance company formed and licensed in another jurisdiction redomesticates to North Carolina with the approval of the Commissioner prior to

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December 31, 2022, it is exempt from premium taxes otherwise due for the remainder of the year in which redomestication occurs and for the calendar year following its redomestication. This provision expires for taxable years beginning on or after January 1, 2024.

EFFECTIVE DATE: Section 5.(a) of the act is effective for taxable years beginning on or after January 1, 2022. Section 5.(b) of this act is effective for taxable years beginning on or after January 1, 2021.

LAD Staff Attorney Cindy Avrette substantially contributed to this summary.