



2023-2024 General Assembly

SENATE BILL 319: Insurance Rev/Online Auctions/Firefighters, Secs. 1-3: Captive Insurance Revisions

Committee:
Introduced by:
Analysis of: Secs. 1-3 of S.L. 2024-29

Date: August 21, 2024
Prepared by: Trina Griffin
Staff Attorney

OVERVIEW: Sections 1 through 3 of S.L. 2024-29 do the following:

- Provides that a risk retention group chartered in this State is subject to examination by the Commissioner of Insurance whenever the Commissioner deems it prudent and reasonable.
- Reduces from 5% to 1.85% the tax rate applicable to gross premiums paid for coverages within this State to risk retention groups not chartered in this State.
- Eliminates the requirement that a foreign captive insurance company redomesticate to North Carolina prior to December 31, 2022, in order to qualify for the exemption from paying gross premiums taxes in the year of and in the year after redomestication and extends by one year the sunset on this exemption provision, ending it for taxable years beginning on or after January 1, 2026.

Sections 1 and 2 of S.L. 2024-29 become effective October 1, 2024. Section 3 became effective July 2, 2024.

CURRENT LAW: Risk retention groups (RRGs) chartered in this State are regulated by the Commissioner of Insurance pursuant to Article 22 of Chapter 58 of the General Statutes. Premiums paid to RRGs are subject to a gross premiums tax. The tax rate depends on whether the RRG is a domestic or foreign company in North Carolina. Domestic RRGs with North Carolina premiums pay a varying rate based on total premiums (See [G.S. 105-228.4A](#)); foreign RRGs and domestic RRGs writing premium in other states are taxed at a rate of 5% (See [G.S. 58-21-85](#)). Domestic RRGs are a subset of captive insurance companies.

Captive insurance companies form and operate in North Carolina under the North Carolina Captive Insurance Act, enacted in 2013, and are regulated by the Commissioner of Insurance. 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.

Captive insurance companies are also subject to the gross premiums tax set out in G.S. 105-228.4A. If a captive insurance company formed and licensed in another jurisdiction redomesticates to North Carolina with the approval of the Commissioner of Insurance prior to December 31, 2022, it is exempt from gross

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premiums 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 gross premiums taxes imposed for taxable years beginning on or after January 1, 2021, and expires for taxable years beginning on or after January 1, 2024.

BILL ANALYSIS:

Section 1 provides that a risk retention group chartered in this State is subject to examination by the Commissioner of Insurance whenever the Commissioner deems it prudent and reasonable. The examination must be conducted expeditiously, in coordination with other examining bodies to avoid unnecessary repetition, and in accordance with guidelines of the National Association of Insurance Commissioners. The examined risk retention group is responsible for the costs associated with the examination.

Section 2 reduces from 5% to 1.85% the tax rate applicable to gross premiums paid for coverages within this State to risk retention groups not chartered in this State.

Section 3 eliminates the requirement that a foreign captive insurance company redomesticate to North Carolina prior to December 31, 2022, in order to qualify for the exemption from paying gross premiums taxes in the year of and in the year after redomestication and extends by one year the sunset on this exemption provision, ending it for taxable years beginning on or after January 1, 2026.

EFFECTIVE DATE: Sections 1 and 2 of S.L. 2024-29 become effective October 1, 2024. Section 3 became effective July 2, 2024.