

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0057-05
Bill No.: HCS for HB 238
Subject: Insurance - General; Insurance Dept.
Type: Original
Date: March 6, 2007

Bill Summary: Establishes regulations for captive insurance companies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$2,620 to \$9,427,620	\$1,147 to \$9,426,147	\$56 to \$9,425,056
Total Estimated Net Effect on General Revenue Fund	\$2,620 to \$9,427,620	\$1,147 to \$9,426,147	\$56 to \$9,425,056

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Insurance Dedicated	\$313,139 to \$1,275,639	\$246,638 to \$1,212,138	\$245,513 to \$1,208,013
Economic Development Advancement	\$0 to \$200,000	\$0 to \$200,000	\$0 to \$200,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$313,139 to \$1,475,639	\$249,638 to \$1,412,138	\$245,513 to \$1,408,013

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1	1	1
Insurance Dedicated	3	3	3
Total Estimated Net Effect on FTE	4	4	4

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission, Department of Labor and Industrial Relations, Office of State Treasurer, and Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Economic Development (DED)** state the DED, with the approval of the Commissioner of Administration, will receive 2% of the premium tax collected from captive insurance companies. The money is to be used by DED for promotional expenses. The legislation does not specify what fund these monies are to be deposited into, but DED assumes the monies would go into the Economic Development Advancement Fund. According to the Department of Insurance, Financial and Professional Regulation, there may be zero to 50 companies paying tax at a rate of \$7,500 to \$200,000 each. Based on these figures, the DED would anticipate receipt of \$0 to \$200,000 per year. Any expenditure authority would be requested through the normal budget process.

Oversight notes the proposal does not specify which DED fund the additional taxes will be transferred into. **Oversight** assumes, based on DED's assumption, that the additional taxes transferred to DED will be deposited into the Economic Development Advancement Fund.

Officials from the **Department of Revenue (DOR)** state this legislation establishes a tax, based on premiums, for captive insurance companies. The Department of Insurance, Financial and Professional Regulation (DIFP) is to receive the returns while the DOR is to process the payments and perform collection activities. Companies failing to pay or file are subject to the provisions found in Section 148.375 through 148.410. This new tax would be handled in the same manner as the insurance premium tax without local distribution.

ASSUMPTION (continued)

The Division of Taxation would require one (1) Tax Processing Technician I to handle the administration of the additional tax. The DOR estimates FY 08 costs of \$39,954; FY 09 costs of \$42,623; and FY 10 costs of \$43,903.

Oversight has, for fiscal note purposes only, changed the starting salary for the Tax Processing Technician to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Oversight assumes the DOR would not require rental space for one additional FTE.

The **Office of Administration Information Technology (ITSD)** DOR estimates the information technology portion of this request can be accomplished within existing resources. However, if priorities shift, additional FTE/overtime would be needed to implement the requirements of this proposal. If priorities were to shift, the COA ITSD DOR estimates that this proposal could be implemented utilizing two (2) existing Computer Information Technologist IIIs for three (3) months for a total cost of \$25,116.

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** state the DIFP will need to develop a new return for the captive insurance companies. One return could be done to tax the direct premiums and the assumed reinsurance premiums at the appropriate amounts. The department would need to have this new return added to the premium tax system.

The DIFP would need to certify the tax to the Department of Revenue (DOR) by March 31, so a new certification report would need to be generated.

An annual assessment would need to be generated based on the tax certified to DOR on March 31. The companies would need to send their annual payments to DOR with the assessments by May 1. The payments would need to be loaded into the payments file in DIFP's premium tax system.

The legislation allows a \$7,500 fee for initial examining, investigating and processing of the captive licenses. In addition, each captive will pay a \$7,500 a renewal license fee each year thereafter. The director is also authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged to the captive. The DIFP

ASSUMPTION (continued)

estimates up to 50 captives may register with the department. This number could be less and would affect the amount of premium tax collected and fees deposited into the Insurance Dedicated Fund. First year estimated revenues are \$375,000 ($\$7,500 \times 50$ captives). Ongoing revenues would be \$375,000. Revenues would be deposited into the Insurance Dedicated Fund. Captives could take these fees as credits against premium tax due.

The annual minimum aggregate tax to be paid by a captive insurance company is \$7,500 and the annual maximum aggregate tax is \$200,000. Assuming 50 captives pay taxes, the minimum amount of tax collected would be \$375,000 ($\$7,500 \times 50$ captives), the maximum \$10,000,000 ($\$200,000 \times 50$ captives). Credits would reduce these amounts by \$375,000, thereby changing the amount of tax collected from \$0 ($\$375,000 - \$375,000$) up to \$9,625,000 ($\$10,000,000 - \$375,000$). Tax from captive insurance companies is deposited into General Revenue.

Up to 20% of the tax collected would be transferred into the Insurance Dedicated Fund, until \$200,000 has been transferred, for department regulation of captives. Then, 10% of the tax collected may be transferred into the Insurance Dedicated Fund for regulation of captives and 2% of the tax collected may be transferred to the Department of Economic Development (DED), with the Office of Administration Commissioner's approval, for promotional expenses. The DIFP has assumed that 20%, or \$200,000, would be collected either in the first, or by the second, year of captive's paying taxes.

Under 379.1326.11., captives are allowed to deduct license and renewal fees and examination fees from premium tax due. Deductions for fees cannot exceed a captive insurance company's premium tax liability, but may be carried forward up to 5 years. The amount of tax credits that are estimated to be taken are unknown.

Legislation allows a \$10,000 application fee and a \$7,500 fee for initial examining, investigating and processing of Special Purpose Life Reinsurance Captive (SPLRC) licenses. In addition, each SPLRC will pay a \$7,500 license fee each year thereafter. The director is also authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged to the captive. The DIFP estimates up to 5 SPLRC captives may register with the department. First year estimated revenues would be \$87,500 [$17,500 (\$10,000 \text{ application fee} + \$7,500 \text{ initial exam/processing fee}) \times 5$]. Ongoing revenues would be \$37,500 ($5 \text{ captives} \times \$7,500 \text{ renewal fee}$). Revenues would be deposited into the Insurance Dedicated Fund. The SPLRC could take these fees as credits against premium tax due, notwithstanding the annual aggregate minimum premium tax due.

ASSUMPTION (continued)

The annual minimum aggregate tax to be paid by a SPLRC is \$7,500 and the annual maximum aggregate tax is \$200,000. Assuming 5 captives pay taxes, the minimum amount of tax collected would be \$37,500 (\$7,500 minimum tax X 5 SPLRCs), the maximum \$1,000,000 (\$200,000 maximum tax X 5 SPLRCs). The legislation does not state where premium tax from the SPLRCs is to be deposited. The DIFP assumes it will be deposited as other captives; all into General Revenue.

In order to implement the provisions of the legislation, the DIFP is requesting 3 FTE: An Insurance Regulatory Manager, Band 1 (\$45,000 annually), to direct the overall planning, direction and coordination of the captive insurance regulatory program; an Insurance Financial Analyst II (\$33,888 annually), to review, evaluate and monitor the solvency of captive insurance companies and also review financial statements, legal documents and other technical data from captive insurance companies; and an Office Support Assistant (\$20,724 annually) to perform clerical duties for the program.

One-time contract programming costs of \$14,310 will be needed to update the department's premium tax system to include captive insurance companies.

This proposal will increase total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
GENERAL REVENUE FUND			
<u>Income - DOR</u>			
Captive insurance premium taxes	\$0 to \$9,625,000	\$0 to \$9,625,000	\$0 to \$9,625,000
SPLRC premium taxes	<u>\$37,500 to</u> <u>\$1,000,000</u>	<u>\$37,500 to</u> <u>\$1,000,000</u>	<u>\$37,500 to</u> <u>\$1,000,000</u>
Total <u>Income</u> - DOR	<u>\$37,500 to</u> <u>\$10,625,000</u>	<u>\$37,500 to</u> <u>\$10,625,000</u>	<u>\$37,500 to</u> <u>\$10,625,000</u>
<u>Costs - DOR</u>			
Personal service costs (1.0 FTE)	(\$18,355)	(\$22,686)	(\$23,367)
Fringe benefits	(\$8,307)	(\$10,268)	(\$10,576)
Equipment and expense	<u>(\$8,218)</u>	<u>(\$3,399)</u>	<u>(\$3,501)</u>
Total <u>Cost</u> - DOR	<u>(\$34,880)</u>	<u>(\$36,353)</u>	<u>(\$37,444)</u>
FTE Change - DOR	1.0 FTE	1.0 FTE	1.0 FTE
<u>Transfer-Out - DOR</u>			
Transfer of premium taxes to Insurance Dedicated Fund	(\$0 to \$962,500)	(\$0 to \$962,500)	(\$0 to \$962,500)
Transfer of premium taxes to Economic Development Advancement Fund	<u>(\$0 to \$200,000)</u>	<u>(\$0 to \$200,000)</u>	<u>(\$0 to \$200,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u><u>\$2,620 to</u></u> <u><u>\$9,427,620</u></u>	<u><u>\$1,147 to</u></u> <u><u>\$9,426,147</u></u>	<u><u>\$56 to</u></u> <u><u>\$9,425,056</u></u>
Estimated Net FTE Change for General Revenue Fund	1.0 FTE	1.0 FTE	1.0 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
INSURANCE DEDICATED FUND			
<u>Income - DIFP</u>			
Licensing/registration fees	\$465,000	\$412,500	\$412,500
<u>Transfer-In - General Revenue Fund</u>			
Transfer-in of premium taxes	\$0 to \$962,500	\$0 to \$962,500	\$0 to \$962,500
Total <u>Income</u> - DIFP	<u>\$465,000 to</u> <u>\$1,427,500</u>	<u>\$465,000 to</u> <u>\$1,375,000</u>	<u>\$465,000 to</u> <u>\$1,375,000</u>
<u>Costs - DIFP</u>			
Personal service costs (3.0 FTE)	(\$85,085)	(\$104,655)	(\$107,271)
Fringe benefits	(\$38,509)	(\$47,367)	(\$48,551)
Equipment and expense	(\$28,267)	(\$10,840)	(\$11,165)
Total <u>Cost</u> - DIFP	<u>(\$151,861)</u>	<u>(\$162,862)</u>	<u>(\$166,987)</u>
FTE Change - DIFP	3.0 FTE	3.0 FTE	3.0 FTE
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND			
	<u>\$313,139 to</u> <u>\$1,275,639</u>	<u>\$249,638 to</u> <u>\$1,212,138</u>	<u>\$245,513 to</u> <u>\$1,208,013</u>
Estimated Net FTE Change for Insurance Dedicated Fund	3.0 FTE	3.0 FTE	3.0 FTE
ECONOMIC DEVELOPMENT ADVANCEMENT FUND			
<u>Transfer-In from General Revenue Fund</u>			
Transfer-in of premium taxes	<u>\$0 to \$200,000</u>	<u>\$0 to \$200,000</u>	<u>\$0 to \$200,000</u>
ESTIMATED NET EFFECT ON ECONOMIC DEVELOPMENT ADVANCEMENT FUND			
	<u>\$0 to \$200,000</u>	<u>\$0 to \$200,000</u>	<u>\$0 to \$200,000</u>
<u>FISCAL IMPACT - Local Government</u>			
	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal may impact small businesses to the extent they qualify as captive insurance companies.

FISCAL DESCRIPTION

This proposal allows for the formation of captive insurance companies within Missouri under certain conditions.

CAPTIVE INSURANCE COMPANIES - This proposal regulates captive insurance companies.

LICENSE AND RENEWAL FEES - The proposal requires each captive insurance company to pay the director a \$7,500 fee for examining, investigating and processing the company's application for a license. The proposal also requires captive insurance companies to pay an annual license fee of \$7,500. Captive insurance companies may deduct the license, renewal fees and examination fees paid from premium taxes paid to the state (379.1302).

FINANCIAL STATEMENTS/EXAMINATIONS - Under the proposal, captive insurance companies must annually report their financial condition to the director using generally accepted accounting principles. A captive insurance company will be examined at least once every three years by the director or his or her agent to determine its financial condition, its ability to fulfill its obligations and to whether it has complied with this act and other statutory provisions. The expenses and charges of the examination shall be paid by the captive insurance company.

PREMIUM TAXES - The proposal sets forth the premium insurance tax rates and time periods in which captive insurance companies must pay. A percentage of the premium taxes, along with other fees and assessments, shall be paid into the Insurance Dedicated Fund to defray costs associated with regulating captive insurance companies.

SPECIAL PURPOSE LIFE REINSURANCE COMPANIES - This act provides for the creation and operation of special purpose life reinsurance captives (SPLRCs) as a means of facilitating financing of life insurance reserves, annuity reserves, or accident and health reserves and reinsuring the embedded value of insurance business.

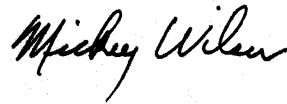
The proposal requires SPLRCs to apply for a license from the director. The proposal requires the SPLRC to pay an initial license fee of \$7,500 and an annual renewal fee of \$7,500.

The proposal also authorizes the director to petition a court for an order of conservation, rehabilitation, or liquidation under certain conditions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Economic Development
Department of Insurance, Financial and Professional Regulation
Department of Labor and Industrial Relations
Department of Revenue
Office of Secretary of State
Office of State Treasurer

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 6, 2007