Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Consumer Protection & Business Committee

HB 2493

Brief Description: Concerning captive insurers.

Sponsors: Representatives Kirby, Vick and Walen.

Brief Summary of Bill

- Requires Washington captive insurers to register with the Office of the Insurance Commissioner (OIC).
- Exempts registered Washington captive insurers from insurance premium tax, requires an annual tax of $2500.

Hearing Date: 2/4/20

Staff: Robbi Kesler (786-7153).

Background:

Captive Insurance. A captive insurance company (captive) is a wholly owned subsidiary formed by an entity to provide insurance to its non-insurance parent company. Captives are established to meet the risk-management needs of the parent company and are generally considered a form of self-insurance. They may be formed to supplement commercial insurance, or to provide insurance for risk they are unable to cover with commercial insurance. Once established, the captive operates like any commercial insurer in that it issues policies, collects premiums and pays claims, but it does not offer insurance to the public. It is regulated as a captive, rather than as a traditional insurer, and some states have enacted separate regulatory schemes for these types of insurance companies. The primary oversight of a captive insurer is where it is domiciled. Certain tax advantages exist with respect to a captive. Premiums paid to a captive insurance company by a parent company qualifies as an ordinary business expense and may be deducted from federal income tax.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Insurance Regulation. An authorized insurer, also known as an admitted insurer, is an insurer licensed to do business in the state. To be licensed, an insurer must provide certain information on rates and policies to the OIC. Surplus lines insurance, a kind of unauthorized insurance, is allowable if registered with the OIC. A surplus lines policy may only be sold if:

- a diligent effort has been made to purchase insurance in the authorized market;
- the purpose of buying the coverage is not to secure a lower premium rate than would be accepted by any authorized insurer; and
- the insurance is purchased through a licensed surplus line broker.

Insurance Taxation in Washington State. All net premiums collected and received by authorized insurers and surplus lines insurance are subject to the insurance premiums tax except for title insurers and fraternal benefit societies. The insurance premiums tax rate is 2 percent, except for ocean marine and foreign trade who pay 0.95 percent. For property and casualty insurance, if Washington is the insured's home state, the tax is computed upon the entire premium regardless of whether the policy covers risks or exposures that are in this state. For all other lines of insurance, the tax is computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Exempt Commercial Purchasers. A person is an exempt commercial purchaser if they employ or retain a qualified risk manager to negotiate insurance coverage, have paid aggregate commercial property and casualty insurance premiums exceeding $100,000 in the previous year, and meet one of the following criteria:

- possess a net worth in excess of $20 million;
- generate revenues of at least $50 million;
- employ 500 full-time equivalent employees;
- are a nonprofit or public entity with at least $30 million in annual budgeted expenditures; or
- are a municipality in excess of 50,000 people.

Exempt commercial purchasers are exempt from the requirement if they buy insurance on the commercial insurance market and may instead buy from a surplus line broker if certain criteria are met.

Summary of Bill:

"Washington captive insurer" is defined as an insurance company that is owned by a corporation that has its principal place of business in Washington and is not itself an insurer, insures risks of the parent corporation (or the parent corporation's affiliates, or both), and is licensed as a captive insurer by the jurisdiction in which it is domiciled.

Washington captive insurers must register with the Office of the Insurance Commissioner (OIC). In order to receive a certificate of captive authority, the Washington captive insurer must provide evidence of good standing in its state of domicile and pay a $2500 tax. The registered Washington captive insurer must renew its certificate of captive authority every twelve months and pay a tax not to exceed $2500. Registered Washington captive insurers are not required to pay a premiums tax.

A registered Washington captive insurer may provide insurance to a parent corporation that has its principal place of business in Washington, the principal's other affiliates, or both.

Appropriation: None.

Fiscal Note: Requested on January 21, 2020.

Effective Date: The bill contains an emergency clause and takes effect immediately.