

1 ENGROSSED SENATE
2 BILL NO. 1209

By: Haste of the Senate

3 and

4 Sims of the House

5
6 An Act relating to insurance premium taxes; amending
7 36 O.S. 2011, Section 1115, as last amended by
8 Section 1, Chapter 271, O.S.L. 2017 (36 O.S. Supp.
9 2019, Section 1115), which relates to surplus lines
10 coverage; creating exemption for certain policies;
11 and providing an effective date

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1115, as
14 last amended by Section 1, Chapter 271, O.S.L. 2017 (36 O.S. Supp.
15 2019, Section 1115), is amended to read as follows:

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

22 B. Where Oklahoma is the home state of the insured and the
23 insurance covers properties, risks or exposures located or to be
24 performed both in and out of Oklahoma, the sum payable to the

1 Oklahoma Insurance Commissioner shall be computed based on an amount
2 equal to six percent (6%) of the total gross premiums whether the
3 properties, risks or exposures are located or to be performed inside
4 or outside Oklahoma. Any such unearned gross premium credited by
5 the state to the surplus lines broker or licensee shall be returned
6 to the policyholder by the broker or licensee. The surplus lines
7 licensee or broker is prohibited from rebating, for any reason, any
8 part of the tax.

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

15 D. The Insurance Commissioner is authorized, in the exercise of
16 his or her sole discretion and judgment, to participate in the
17 Nonadmitted Insurance Multi-State Agreement or any other multistate
18 agreement or compact with the same function and purpose for the
19 function of collecting and disbursing to reciprocal states any funds
20 collected pursuant to the Unauthorized Insurers and Surplus Lines
21 Insurance Act applicable to other properties, risks or exposures
22 located or to be performed outside of Oklahoma. Until such time as
23 the Insurance Commissioner may, while not being required to, join
24 such multistate agreement or compact, premium taxes relating to

1 Oklahoma home-state insureds shall continue to be paid and accounted
2 for by nonadmitted insurers through their surplus lines licensees
3 and brokers as provided in subsections A through C of this section.

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

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

23 G. Should the Insurance Commissioner exercise his or her sole
24 discretion and decide to join the Nonadmitted Insurance Multi-State

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

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

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

21 1. The portion of the premium charged for operations in other
22 states taxing the premium of an insured where Oklahoma is the home
23 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, or to any school district, as defined
10 in Section 1-108 of Title 70 of the Oklahoma Statutes, shall be
11 exempt from the surplus lines premium tax.

12 SECTION 2. This act shall become effective November 1, 2020.

13 Passed the Senate the 3rd day of March, 2020.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,
18 2020.

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Presiding Officer of the House
of Representatives

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