

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 2158-07  
Bill No.: Truly Agreed To and Finally Passed CCS for HCS for SB 464  
Subject: Insurance - General; Insurance Dept.  
Type: Original  
Date: June 2, 2009

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Bill Summary: Modifies various provisions relating to insurance producers.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(At least \$11,821)	(At least \$11,821)	(At least \$11,821)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(At least \$11,821)</b>	<b>(At least \$11,821)</b>	<b>(At least \$11,821)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Insurance Dedicated	At least \$11,821	At least \$11,821	At least \$11,821
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>At least \$11,821</b>	<b>At least \$11,821</b>	<b>At least \$11,821</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Office of Administration (COA) - Administrative Hearing Commission, Office of State Courts Administrator, Department of Revenue, and Office of Prosecution Services** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Elementary and Secondary Education (DES)** assume this proposal would have no fiscal impact on their organization. DES officials stated that this proposal may decrease the amount of money going into the County Foreign Insurance fund, but DES has no means to calculate the decrease.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state the proposed legislation should not result in additional costs or savings to the BAP.

This proposal requires the collection of premium taxes from captive insurance companies to be divided between general revenue and the insurance dedicated fund, 90/10 respectively. This provision could raise general and total state revenues by an unknown amount. The BAP defers to the Department of Insurance, Financial Institutions and Professional Registration (DIFP) for an estimate of increased revenues.

This proposal exempts insurance companies subject to an annual tax on gross premium receipts from Missouri corporate income and franchise taxes. The DIFP reports that this bill simply clarifies language in statute and companies that are subject to gross premium taxes currently do not pay corporate or franchise taxes. This provision, therefore, does not have an impact on general and total state revenues.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender costs either through incarceration (FY 08 average annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY 08 average annual cost of \$902 per offender).

ASSUMPTION (continued)

The DOC assumes the narrow scope of the crime will not encompass a large number of offenders, the low felony status of the crime enhances the possibility of plea-bargaining or

imposition of a probation sentence, and the probability exists that offenders would be charged with a similar but more serious offense and that sentences may run concurrent to one another. Therefore, supervision through probation or incarceration would result in some additional costs, but the DOC assumes the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state in May 2008, Special Purpose Life Reinsurance Captive (SPLRC) insurance companies paid \$39,600 in premium tax for calendar year 2007. None was paid by other captive types.

In May 2009, the DIFP anticipates that SPLRC captives will pay \$85,417 for calendar year 2008 and all other types of captives will pay \$32,791; total of \$118,208.

The DIFP assumes in May 2010, May 2011, and May 2012 at least the same amount of premium tax will be paid as May 2009. The department does anticipate growth in the number of captive insurance companies in Missouri, so this estimate is the minimum amount of premium tax expected to be collected.

The premium taxes collected under this legislation are deposited 90% into General Revenue and 10% into the Insurance Dedicated Fund for department oversight of the captive insurance program.

The other provisions of the proposal have no fiscal impact on the DIFP.

**Oversight** assumes the annual premium taxes on captive insurance companies will be at least \$118,208. Because this amount is less than the \$200,000 currently in statute for DIFP to receive 20% of to help cover the costs of the oversight of these companies, no funds will be received by the DIFP. This legislation changes the distribution of premium taxes paid by SPLRCs so DIFP receives 10% of all premium taxes collected from captive insurance companies. As a result of this reallocation, **Oversight** is presenting the 10% allocation of premium taxes paid by captive insurance companies to the Insurance Dedicated Fund as a loss to the General Revenue Fund.

In response to similar legislation, officials at the **Office of State Public Defender (SPD)** stated for the purpose of this proposed legislation, they could not assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes of selling or possessing fraudulent insurance cards. Selling would become a class D felony and possessing the same would become a class B misdemeanor.

ASSUMPTION (continued)

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the SPD system to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Loss - DIFP</u>			
Reduction in premium taxes from captive insurance companies	<u>(At least \$11,821)</u>	<u>(At least \$11,821)</u>	<u>(At least \$11,821)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(At least \$11,821)</u></b>	<b><u>(At least \$11,821)</u></b>	<b><u>(At least \$11,821)</u></b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - DIFP</u>			
Premium taxes from captive insurance companies	<u>At least \$11,821</u>	<u>At least \$11,821</u>	<u>At least \$11,821</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>At least \$11,821</u></b>	<b><u>At least \$11,821</u></b>	<b><u>At least \$11,821</u></b>
<u>FISCAL IMPACT - Local Government</u>			
	FY 2010 (10 Mo.)	FY 2011	FY 2012
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

The proposal may impact small business insurance producers or companies that provide continuing education courses for insurance producers.

FISCAL DESCRIPTION

This proposal modifies various provisions of Missouri's captive insurance company law. Under this proposal, the definition of "association" is amended to include captive insurance companies formed as reciprocal insurers. The proposal amends multiple sections of the captive insurance law to permit reciprocal insurers to be used to form an association captive.

Under the terms of the proposal, the premium taxes imposed on captive insurance companies are redirected. Under the proposal, 90% of the taxes are deposited into the general revenue fund, while the remaining 10% are credited to the Insurance Dedicated Fund (Sections 379.1326 and 379.1332). The proposal contains a similar provision for the disposition of premium taxes assessed on special purpose life insurance captive companies (Section 379.1412).

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 Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
    Division of Budget and Planning  
Office of State Courts Administrator  
Department of Elementary and Secondary Education  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Department of Revenue  
Office of Prosecution Services  
Office of State Public Defender



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Mickey Wilson, CPA  
Director  
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