



SPONSOR: Rep. B. Short & Sen. Bushweller
Reps. Keeley, Ramone, D. Short; Sens. Cloutier, Lopez

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 86

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CAPTIVE INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 6914(c), Title 18 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 (c)(1) Except for a series captive insurance company, the annual minimum aggregate tax to be paid by a captive
4 insurance company or a protected cell of a sponsored captive insurance company under subsections (a) and (b) of this
5 section shall be \$5,000 and the annual maximum aggregate tax to be paid by a captive insurance company or a protected
6 cell of a sponsored captive insurance company under subsections (a) and (b) of this section shall be \$200,000, provided,
7 that the tax to be paid by a captive insurance company under subsections (a) and (b) of this section and this subsection is
8 subject to subsections (d), (e) and (f) of this section. Each series captive insurance company shall pay an annual minimum
9 aggregate tax of \$3,500. The aggregation of the tax paid by more than 1 series captive insurance company formed within a
10 limited liability company or statutory trust established under § 17-218(b), § 18-215(b) of Title 6, § 3804(a) of Title 12, or
11 corresponding law of another state shall not be restricted by the annual maximum premium tax limitations under
12 subsections (a) and (b) of this section.

13 (2) Any series captive insurance company that assumes reinsurance premiums from a captive insurance company
14 or protected cell subject to taxation under subsection (a) or (b) of this section may elect to assume the liability for the
15 payment of the tax otherwise payable by such ceding captive insurance company or protected cell on such premium
16 pursuant to subsection (a) or (b) of this section at the rate otherwise applicable to such premium if it had remained in such
17 captive insurance company or protected cell, and such ceding captive insurance company or protected cell shall have no
18 liability under subsections (a) or (b) of this section to the extent of such assumption. Nothing in this paragraph (c)(2) shall
19 affect the application of the minimum tax imposed on the ceding captive insurance company or the series captive insurance
20 company assuming such reinsurance premium and tax liability pursuant to paragraph (c)(1).

21 (3) A special purpose captive insurance company formed as a limited liability company or statutory trust
22 established under § 17-218(b), § 18-215(b) of Title 6, § 3804(a) of Title 12, or corresponding law of another state that has

23 established one or more series licensed as captive insurance companies shall not be subject to the tax imposed under
24 subsection (a) or (b) of this section only if, during the entire calendar year for which the tax shall be imposed, the special
25 purpose captive insurance company:

26 a. Did not contract for nor collect any direct premium

27 b. Did not contract for nor assume any reinsurance premium; and

28 c. Was not obligated as an insurance company of any type under any contract of insurance or reinsurance.

29 Section 2. This Act shall be retroactively effective so as to take effect as of June 24, 2015.

SYNOPSIS

This bill corrects an unintended consequence of House Bill No. 15 of the 148th General Assembly, signed into law by the Governor on June 24, 2015, by preventing double taxation of premium ceded to a series captive insurance company or protected cell. This bill also precludes premium taxation of series limited liability companies, exclusive of any series thereof, when premium is written only in the series of such of series limited liability companies.