

## Diana Capes

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**Subject:** Oklahoma SB 66 - Statutory Change Exempting Public School District Surplus Lines Premium from Premium Tax effective November 1, 2021

**Attachments:** Oklahoma SB 0066.pdf

**Importance:** High

Greetings.

This email notice is to Oklahoma surplus lines licensed brokers or to representatives of brokers which are known to have placed one or more policies within the last year on behalf of customers which are Oklahoma public school districts, many of which policies will soon expire and may be subject to renew on July 1, 2021 or soon thereafter.

The purpose of this notice is provide information concerning recent statutory changes to 36 O.S. 2011, Section 1115, regarding premium tax on surplus lines policies sold to Oklahoma public school districts. Notice of this statutory change will also be posted on the OID website for your convenience.

Attached is a copy of Oklahoma SB 66 which was passed by the Legislature and signed into law by Governor Stitt on May 28, 2021. Essentially the new law provides that public school district policy premium is exempt from premium tax effective November 1, 2021. Due to the effective date established in law, any new policy premium with effective dates of coverage through October 31, 2021 is subject to the current six percent premium tax. Policy premium for coverage November 1, 2021 and thereafter is exempt from premium tax.

In your underwriting and customer billing process, please prorate the portion of gross premium through October 31, 2021, then calculate and apply the premium tax rate accordingly. The remainder prorated portion for gross premium from November 1, 2021 and forward will not be subject to premium tax.

Oklahoma currently mandates the use of OPTins for quarterly reporting of surplus lines business and the remittance of premium tax. Forms SL3b and SL3c reside on OPTins and are the required excel format forms for reporting. In order to report a policy with premium for which a portion is taxed and another portion is untaxed please follow these instructions in completing the SL3b and SL3c forms:

- On the first row reporting the policy, please list the policy as taxable, list the prorated effective dates of coverage, and list the prorated amount of policy premium for the period. The form will auto-calculate the premium tax per usual.
- On the very next row, please list the policy as premium tax exempt, list the prorated effective dates of coverage, and list the prorated amount of policy premium for the period as zero. The form will auto-calculate zero premium tax for this policy period.

Calculation of prorated premium and premium tax should mostly affect only broker quarterly reports for 2021 Q3 and Q4. However, if you have a previously issued policy already in force for an Oklahoma public school district that has an effective coverage period that extends beyond November 1, 2021, you may wish to consider if an amended quarterly return to report that portion of exempt policy premium for credit/refund of premium tax may be needed.

Please adhere to statutory provisions for eligibility for the exemption. Only premiums paid by the funds of public school district are eligible for the exemption. Please note that school groups and organizations such as parent-teacher organizations, band clubs, booster clubs, etc. do not meet statutory requirements for exempt premium and will be disallowed if reported for premium tax exemption. For your convenience I have copied below the definition of school district, as referenced in the statute.

§70-1-108. School district - Definition.

A school district is defined as any area or territory comprising a legal entity, whose primary purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit.

Looking forward beyond this immediate transition period, please be advised that although policy premium will be exempt from premium tax on November 1, 2021 and thereafter, all policies—even those exempt from premium tax—are required to be reported, as per usual, with their exempt status and zero premium/premium tax.

Please feel free to contact me or other members of the Oklahoma Premium Tax Unit staff if you have questions or need assistance.

## **Jeannie Parsley, MBA, APIR**

**FSRI • FLMI • ARC • AIAF • AIRC • AINS • ACS**

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# An Act

ENROLLED SENATE  
BILL NO. 66

By: Haste of the Senate

and

Sims of the House

An Act relating to insurance premium taxes; amending 36 O.S. 2011, Section 1115, as last amended by Section 1, Chapter 271, O.S.L. 2017 (36 O.S. Supp. 2020, Section 1115), which relates to surplus lines coverage; creating exemption for certain policies; and providing an effective date.

SUBJECT: Insurance premium tax

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1115, as last amended by Section 1, Chapter 271, O.S.L. 2017 (36 O.S. Supp. 2020, Section 1115), is amended to read as follows:

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

B. Where Oklahoma is the home state of the insured and the insurance covers properties, risks or exposures located or to be performed both in and out of Oklahoma, the sum payable to the Oklahoma Insurance Commissioner shall be computed based on an amount

equal to six percent (6%) of the total gross premiums whether the properties, risks or exposures are located or to be performed inside or outside Oklahoma. Any such unearned gross premium credited by the state to the surplus lines broker or licensee shall be returned to the policyholder by the broker or licensee. The surplus lines licensee or broker is prohibited from rebating, for any reason, any part of the tax.

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

D. The Insurance Commissioner is authorized, in the exercise of his or her sole discretion and judgment, to participate in the Nonadmitted Insurance Multi-State Agreement or any other multistate agreement or compact with the same function and purpose for the function of collecting and disbursing to reciprocal states any funds collected pursuant to the Unauthorized Insurers and Surplus Lines Insurance Act applicable to other properties, risks or exposures located or to be performed outside of Oklahoma. Until such time as the Insurance Commissioner may, while not being required to, join such multistate agreement or compact, premium taxes relating to Oklahoma home-state insureds shall continue to be paid and accounted for by nonadmitted insurers through their surplus lines licensees and brokers as provided in subsections A through C of this section.

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

F. Should the Insurance Commissioner exercise his or her sole discretion and judgment and decide to join the Nonadmitted Insurance Multi-State Agreement or any other multistate agreement or compact with the same function and purpose, the Insurance Commissioner is authorized in such event to establish a uniform, statewide rate of taxation applicable to lines of nonadmitted insurance. This rate shall encompass all existing rates of taxation, fees and assessments

imposed by this state, pursuant to subsections A through C of this section and the Insurance Commissioner shall document the method by which the statewide rate is calculated. The Insurance Commissioner is authorized to receive any monies obtained as premium tax received through any multistate agreement he or she may in the future in his or her discretion choose to join and then disburse such funds as provided by the Insurance Code and other applicable Oklahoma law.

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

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

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

1. The portion of the premium charged for operations in other states taxing the premium of an insured where Oklahoma is the home state; or

2. The premium for operations outside of this state of an insured maintaining its headquarters office outside of this state and branch office in this state.

J. Flood insurance policies where Oklahoma is the home state of the insured and the insurance covers properties, risks, or exposures located in Oklahoma shall be exempt from the surplus line premium tax.

K. Policies sold to any city or town in this state, incorporated pursuant to law, or to any school district, as defined in Section 1-108 of Title 70 of the Oklahoma Statutes, shall be exempt from the surplus lines premium tax.

SECTION 2. This act shall become effective November 1, 2021.

Passed the Senate the 19th day of May, 2021.

Brent Howard  
Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

[Signature]  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 25<sup>th</sup>

day of May, 20 21, at 5:10 o'clock P. M.

By: [Signature]

Approved by the Governor of the State of Oklahoma this 28<sup>th</sup>

day of May, 20 21, at 9:40 o'clock A. M.

[Signature]  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 28<sup>th</sup>

day of May, 20 21, at 1:15 o'clock P. M.

By: [Signature]