Individual State Agency Fiscal Note

Bill Number: 5315 SB	Title: Captive insurance	Agency: 160-Office of Insurance Commissioner

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
General Fund-State 001-1	31,867,500	2,327,500	34,195,000	4,655,000	4,655,000
Total $	31,867,500	2,327,500	34,195,000	4,655,000	4,655,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.1	0.6	0.8	0.6	0.6
Account					
Insurance Commissioners Regulatory Account-State 138-1	158,619	74,780	233,399	149,560	149,560
Total $	158,619	74,780	233,399	149,560	149,560

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☒ Requires new rule making, complete Part V.

Legislative Contact:	Kellee Gunn	Phone: 786-7429	Date: 01/21/2021
Agency Preparation:	Michael Walker	Phone: 360-725-7036	Date: 01/26/2021
Agency Approval:	Bryon Welch	Phone: 360-725-7037	Date: 01/26/2021
OFM Review:	Jason Brown	Phone: (360) 742-7277	Date: 01/26/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 3(1) requires that within 120 days after the effective date of this section or, if later, within 120 days after first issuing a policy that covers WA risks, an entity acting as an eligible captive insurer must register with the Office of Insurance Commissioner (OIC).

Section 3(2) requires the OIC to approve an eligible captive insurer's registration if the eligible captive insurer has sufficiently demonstrated that its assets exceed its liabilities by at least $1 million, has the ability to pay its debts as they come due, are in good standing in its jurisdiction of domicile, and the has paid a fee of $2,500. Section 3(3) allows the Commissioner to request additional documentation and information if needed to show that these requirements have been met.

Section 3(5) allows a registered captive insurer to renew its certificate of registration for successive periods of 12 months each if the registered captive insurer has sufficiently demonstrated that its assets exceed its liabilities by at least $1 million, has the ability to pay its debts as they come due, are in good standing in its jurisdiction of domicile, and has paid a renewal fee in an amount set by the OIC, not to exceed $2,500.

Section 4(1) requires registered eligible captive insurers to pay, on or before March 1st of each year, a 2% tax on premiums for insurance directly procured by and provided to its parent or another affiliate for WA risks during the preceding calendar year. Taxes collected must be deposited to the General Fund.

Sections 4(5) requires registered eligible captive insurers to pay the penalties and interest provided in RCW 48.14.060 if they fail to remit the tax provided by section 4(1) by the last day of the month in which the tax becomes due. Fines collected must be deposited to the General Fund.

Sections 4(6) requires eligible captive insurers to pay taxes on premiums for any period after January 1, 2011, if not previously remitted to the OIC and limits such taxes to an eligible captive insurer's WA risks. Taxes due for periods before July 1, 2021 are not subject to the penalties or interest provided in RCW 48.14.060.

Section 5 authorizes the OIC to use any of the powers established under Title 48 RCW to enforce the laws of this state. An eligible captive insurer that violates any provision of this chapter will be subject to the fines and penalties applicable to authorized insurers generally, including revocation, suspension, and refusal to renew registration. An eligible captive insurer that fails to register under this act is acting as an unlawful, unauthorized insurer and is subject to the fines and penalties applicable to unlawful, unauthorized insurers generally.

Section 6 allows the OIC to adopt rules as necessary to implement this act.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Assumptions:
The Office of Insurance Commissioner (OIC) is using data derived from a contracted captive insurance study completed by Milliman in January 2021. The captive insurance study reflects a range of low, medium and high estimated numbers of eligible captive insurers and taxable premium volume. Although a range of low, medium,

and high estimates will also be reflected in the narrative below for informational purposes, the fiscal note only reflects the medium range assumptions.

REGISTRATION AND RENEWAL FEES:
Section 3(2) requires the OIC to approve an eligible captive insurer's registration if the eligible captive insurer has sufficiently demonstrated that its assets exceed its liabilities by at least $1 million, has the ability to pay its debts as they come due, are in good standing in its jurisdiction of domicile, and has paid a fee of $2,500. Section 3(5) allows a registered captive insurer to renew its certificate of registration for successive periods of 12 months each if the registered captive insurer has sufficiently demonstrated that its assets exceed its liabilities by at least $1 million, has the ability to pay its debts as they come due, are in good standing in its jurisdiction of domicile, and has paid a renewal fee in an amount set by the OIC, not to exceed $2,500.

Low Estimates:
FY2022: $90,000 (36 registrations x $2,500)
FY2023 and after: $90,000 (36 registration renewals x $2,500)

Medium Estimates:
FY2022: $127,500 (51 registrations x $2,500)
FY2023 and after: $127,500 (51 registration renewals x $2,500)

High Estimates:
FY2022: $205,000 (82 registrations x $2,500)
FY2023 and after: $205,000 (82 registration renewals x $2,500)

INSURANCE PREMIUM TAXES:
Section 4(1) requires registered eligible captive insurers to pay, on or before March 1st of each year, a 2% tax on premiums for insurance directly procured by and provided to its parent or another affiliate for WA risks during the preceding calendar year. Taxes collected must be deposited to the General Fund.

Low Estimates:
Beginning FY2022: $2,000,000 ($100,000,000 premium volume per year x 2% tax)

Medium Estimates:
Beginning FY2022: $2,200,000 ($110,000,000 premium volume per year x 2% tax)

High Estimates:
Beginning FY2022: $2,600,000 ($130,000,000 premium volume per year x 2% tax)

PENALTIES/INTEREST/FINES:
Sections 4(5) requires registered eligible captive insurers to pay the penalties and interest provided in RCW 48.14.060 if they fail to remit the tax provided by section 4(1) by the last day of the month in which the tax becomes due. For purposes of this fiscal note, it is assumed that all taxes will be remitted by the due date.

BACK TAXES:

Sections 4(6) requires eligible captive insurers to pay taxes on premiums for any period after January 1, 2011, if not previously remitted to the OIC and limits such taxes to an eligible captive insurer's WA risks. Taxes due for periods before July 1, 2021 are not subject to the penalties or interest provided in RCW 48.14.060.

FY2022 (a one-time collection of back premium taxes): $29,540,000 ($1,477,000,000 premium volume for tax years 2011 - 2020 x 2% tax)

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Assumptions: Because of the need to adopt rules and modify IT systems to accommodate registration and tax and fee collection, it is assumed that entities will be required to register and start reporting beginning in January 2022. Estimates for the number of hours required by the various employee classifications listed below are based on past experience in reviewing and processing similar type applications in terms of complexity of regulatory requirements. For the purposes of evaluating expenditures, we will use the medium number of captives to estimate our potential expenditures.

Section 3(1) and 3(5) requires eligible captive insurers to register and annually renew the registrations with the OIC and pay the registration and renewal fees. It is expected to require approximately 12 hours per registration/renewal, or a total of 612 hours (51 registrations x 12 hours) beginning in FY2022 of a Functional Program Analyst 4 to review the registrations to determine if the applicants meet the financial requirements, seek additional information and/or clarification of submitted documentation, finalize and document approval decision, and prepare certificates of registration.

Section 4(1) requires registered eligible captive insurers to pay, on or before March 1st of each year, a 2% tax on premiums for insurance directly procured by and provided to its parent or another affiliate for WA risks during the preceding calendar year.

Sections 4(5) requires registered eligible captive insurers to pay the penalties and interest provided in RCW 48.14.060 if they fail to remit the tax provided by section 4(1) by the last day of the month in which the tax becomes due.

Sections 4(6) requires eligible captive insurers to pay taxes on premiums for any period after January 1, 2011, if not previously remitted to the OIC and limits such taxes to an eligible captive insurer's WA risks. Taxes due for periods before July 1, 2021 are not subject to the penalties or interest provided in RCW 48.14.060.

Sections 3 and 4 requires the OIC to make changes to its Information Technology (IT) systems to enable eligible captive insurers to register and renew, report premiums, and pay taxes as well as report and collect penalty fees for those who are past due. The changes to IT systems would include a combination of system configuration changes and software programming enhancements. The OIC's IT staff will implement these changes in-house to ensure that the system changes align with the existing IT infrastructure and technical approaches that OIC uses in its applications and online e-commerce websites. The cost estimate for the system changes and new software development is assumed to be a one-time cost and estimated at 503 hours over 3 months utilizing five IT staff. The cost estimate to implement this bill is based on what it cost the OIC to recently build the fiscal tax screens in ORCA, the agency's new back-office system as well as enhancements to the existing SIMBA Online system.

Section 5 authorizes the OIC to use any of the powers established under Title 48 RCW to enforce the laws of this state. An eligible captive insurer that violates any provision of this chapter will be subject to the fines and penalties applicable to authorized insurers generally, including revocation, suspension, and refusal to renew registration. An eligible captive insurer that fails to register under this act is acting as an unlawful, unauthorized insurer and is subject to the fines and penalties applicable to unlawful, unauthorized insurers generally. Beginning in FY2022, the OIC anticipates 5 enforcement cases a year, with one case per year requiring an administrative hearing, to address this new captive framework, including but not limited to, failure to register, failure to remit back premium taxes and other violations related to revocation and/or suspension. Investigations generally take anywhere between 25-80 hours per case and enforcement actions require the equivalent of approximately 25 hours per action . For purposes of this fiscal note, it is assumed that investigations will require an average of 35 hours per case, or a total of 175 hours (5 cases x 35 hours) per year of an Investigator 3 and enforcement actions will require an average of 25 hours per enforcement action, or a total of 125 hours (5 cases x 25 hours) per year of an Insurance Enforcement Specialist.

Section 6 allows the OIC to adopt rules as necessary to implement this act. We anticipate this will be 'normal' rule making.

Ongoing Costs:
Salary, benefits and associated costs for .37 FTE Functional Program Analyst 4; .11 FTE Investigator 3; and .08 FTE Insurance Enforcement Specialist effective FY2022.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
138-1	Insurance Commissioners Regulatory Account	State	158,619	74,780	233,399	149,560	149,560
		Total $	158,619	74,780	233,399	149,560	149,560

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	1.1	0.6	0.8	0.6	0.6
A-Salaries and Wages	94,408	43,949	138,357	87,898	87,898
B-Employee Benefits	32,487	15,875	48,362	31,750	31,750
C-Professional Service Contracts					
E-Goods and Other Services	31,724	14,956	46,680	29,912	29,912
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	158,619	74,780	233,399	149,560	149,560

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Functional Program Analyst 4	78,408	0.4	0.4	0.4	0.4	0.4
Insurance Enforcement Specialist	87,120	0.1	0.1	0.1	0.1	0.1
Investigator 3	72,432	0.1	0.1	0.1	0.1	0.1
IT Applications Developer - Journey	96,888	0.1		0.1		
IT Applications Developer - Senior	112,176	0.1		0.1		
IT Architecture - Senior	112,104	0.0		0.0		
IT Business Analyst - Senior	112,104	0.0		0.0		
IT Data Management - Senior	109,500	0.0		0.0		
Senior Policy Analyst	91,896	0.2		0.1		
Total FTEs		1.1	0.6	0.8	0.6	0.6

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 6 allows the OIC to adopt rules as necessary to implement this act. OIC anticipates the need to provide process clarification as well as guidance on what allocation methods are “reasonable” under sections 4(2). This will require a ‘normal’ rulemaking process in FY2022.