

Kreidler launches project to identify, collect premium taxes from captive insurers

By *Insurance* Commissioner Mike Kreidler

Captive insurers are legal in 36 states, but Washington is not one of them. Washington state doesn't have any laws on the books that address them directly. We've never had an idea how many captives are insuring risk in our state. Starting in 2019, we have a plan to identify them.

A captive is an insurance company that is established by a parent company for the sole purpose of insuring the parent's exposures. A textbook example of a captive is Cypress, a company whose sole insured is Microsoft Corp., headquartered in Redmond, Wash.

Captives like Cypress run afoul of state laws because they do not have a certificate of authority to sell insurance in Washington state, and because they don't pay the mandatory 2 percent premium tax that all insurers pay. There are two admitted markets in Washington state – admitted insurers and surplus lines. The business being currently being sold through captives should be placed through surplus lines in order to be legal in our state.

This month, I announced a plan to allow captives that have unlawfully insured risk in Washington state to report their sales to my office. Those who self-report by June 30, 2020 will pay reduced fines and premium tax penalties.

Here's how the plan works:

- The self-reporting period will last 18 months, from Jan. 1, 2019 through June 30, 2020.
- Starting July 1, 2019, the fine amount and tax penalty will increase for every six months that the captive insurer waits to self-report, until June 30, 2020.
- The OIC will pursue maximum fines and tax penalties against captive insurers that have unlawfully insured risk in Washington state after the 18-month grace period ends on June 30, 2020.

Captives that insured risk in Washington state more than 15 years are encouraged to self-report by June 30, 2020.

- If they self-report, they will not be subject to fines and premium tax penalties.
- If they don't self-report, my office will pursue maximum fines and tax penalties.

Going back to the Cypress case, we found that the insurer collected more than \$91 million in premiums from 2009 until 2017. In August 2018, Cypress agreed to pay \$876,820 to settle its unpaid premium

taxes, interest and penalties. Starting in July 2018, Cypress started obtaining new policies through a licensed surplus line broker, in compliance with state law.

We will know more about the landscape of captives in Washington state when we wrap up this project in mid-2020. The bottom line is that I want to make sure that all insurers pay their fair share as part of doing business in this state.

More information:

- Kreidler offers reduced fines, premium tax penalties to captive insurers
<https://www.insurance.wa.gov/news/kreidler-offers-reduced-fines-premium-tax-penalties-captive-insurers>
- Captive insurer for Microsoft pays \$876,820 to settle license, taxes
<https://www.insurance.wa.gov/news/captive-insurer-microsoft-pays-876820-settle-license-taxes>
- Kreidler's captive insurer plan <https://www.insurance.wa.gov/captive-insurers>