

HOUSE BILL No. 6429

September 10, 2008, Introduced by Reps. Robert Jones, Bieda, Johnson, Melton, Hood, Sak, Constan, Condino, Ward, Meltzer, Tobocman, Bauer and Rocca and referred to the Committee on Tax Policy.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 476a (MCL 500.476a), as amended by 2007 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 476a. (1) Beginning August 3, 1987, whenever, by a law in
2 force outside of this state or country, a domestic insurer or agent
3 of a domestic insurer is required to make a deposit of securities
4 for the protection of policyholders or otherwise, or to make
5 payment for taxes, fines, penalties, certificates of authority,
6 valuation of policies, or otherwise, or a special burden or other
7 burden is imposed, greater in the aggregate than is required by the
8 laws of this state for a similar alien or foreign insurer or agent
9 of an alien or foreign insurer, the alien or foreign insurer of

1 that state or country is required, as a condition precedent to its
2 transacting business in this state, to make a like deposit for like
3 purposes with the state treasurer of this state, and to pay to the
4 revenue commissioner for taxes, fines, penalties, certificates of
5 authority, valuation of policies, and otherwise an amount equal in
6 the aggregate to the charges and payments imposed by the laws of
7 the other state or country upon a similar domestic insurer and the
8 agents of a domestic insurer, regardless of whether a domestic
9 insurer or agent of a domestic insurer is actually transacting
10 business in that state or country. For fire department or salvage
11 corps taxes or other local taxes the amount shall be computed by
12 the revenue commissioner by dividing the total of the payments made
13 by domestic insurers in that state or country by the gross premium
14 received by domestic insurers in that state or country less return
15 premiums. The commissioner shall revoke the certificate of
16 authority of an alien or foreign insurer refusing for 30 days to
17 make payment of fees or taxes as required by this chapter. Except
18 as provided in subsections (3) and (4), for purposes of this
19 section, an insurer organized under the laws of a state or country
20 other than these United States shall be considered an insurer of
21 the state in which its general deposit for the benefit of its
22 policyholders is made. **BEGINNING ON AND AFTER JANUARY 1, 2010, AN**
23 **INSURER OR AGENT OF AN INSURER MAY CREDIT AGAINST THE TAX IMPOSED**
24 **UNDER THIS SECTION AN AMOUNT EQUAL TO THE AMOUNT OF THE CREDIT THE**
25 **INSURER OR AGENT OF AN INSURER IS ELIGIBLE TO CLAIM FOR A QUALIFIED**
26 **EQUITY INVESTMENT UNDER SECTION 465 OF THE MICHIGAN BUSINESS TAX**
27 **ACT, 2007 PA 36, MCL 208.1465.**

1 (2) The purpose of this section is to promote the interstate
2 business of domestic insurers by deterring other states from
3 enacting discriminatory or excessive taxes.

4 (3) Subsection (4) does not apply to a domestic insurer that
5 is owned or controlled, directly or indirectly, by an alien or
6 foreign insurer who prior to 1998 and with the commissioner's
7 approval did not keep books, records, and files or true copies
8 thereof in this state.

9 (4) For purposes of this section, the state treasurer, after
10 consultation with the commissioner, shall determine that a domestic
11 insurer is an alien or foreign insurer domiciled in a state or
12 country determined by the state treasurer if the insurer does not
13 comply with all of the following:

14 (a) Maintain its principal place of business in this state.

15 (b) Maintain in this state officers and personnel responsible
16 for and knowledgeable of the company's operation, books, records,
17 administration, and annual statement.

18 (c) Conduct in this state a substantial portion of its
19 underwriting, sales, claims, legal, and, if applicable, medical
20 operations relating to Michigan policyholders and certificate
21 holders.

22 (d) Comply with section 5256(1)(a) and (2) through (6). The
23 commissioner shall inform the state treasurer when a domestic
24 insurer is not in compliance with section 5256(1)(a) or (2) through
25 (6).

26 (5) Taxes collected pursuant to this section are subject to
27 section 22d of the former single business tax act, 1975 PA 228, or

1 section 243 of the Michigan business tax act, 2007 PA 36, MCL
2 208.1243.

3 (6) The state treasurer shall administer the tax prescribed by
4 this section in the manner provided in 1941 PA 122, MCL 205.1 to
5 205.31.

6 (7) The requirements of section 28 of 1941 PA 122, MCL 205.28,
7 that prohibit an employee or an authorized representative or former
8 employee or authorized representative or anyone connected with the
9 department of treasury from divulging any facts or information
10 obtained in connection with the administration of taxes, do not
11 apply to disclosure of the tax return prescribed in this act.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No.____ or House Bill No. 6431(request no.
14 07755'08) of the 94th Legislature is enacted into law.