

HOUSE BILL No. 4177

February 5, 2009, Introduced by Reps. Switalski, Melton, Geiss, Durhal, Gonzales, Young, Sheltroun, Johnson, Polidori, Mayes, Tlaib, Calley, Meadows and Dean 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
10 that state or country is required, as a condition precedent to its

1 transacting business in this state, to make a like deposit for like
2 purposes with the state treasurer of this state, and to pay to the
3 revenue commissioner for taxes, fines, penalties, certificates of
4 authority, valuation of policies, and otherwise an amount equal in
5 the aggregate to the charges and payments imposed by the laws of
6 the other state or country upon a similar domestic insurer and the
7 agents of a domestic insurer, regardless of whether a domestic
8 insurer or agent of a domestic insurer is actually transacting
9 business in that state or country. For fire department or salvage
10 corps taxes or other local taxes the amount shall be computed by
11 the revenue commissioner by dividing the total of the payments made
12 by domestic insurers in that state or country by the gross premium
13 received by domestic insurers in that state or country less return
14 premiums. The commissioner shall revoke the certificate of
15 authority of an alien or foreign insurer refusing for 30 days to
16 make payment of fees or taxes as required by this chapter. Except
17 as provided in subsections (3) and (4), for purposes of this
18 section, an insurer organized under the laws of a state or country
19 other than these United States shall be considered an insurer of
20 the state in which its general deposit for the benefit of its
21 policyholders is made. **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,**
22 **2008, AN INSURER OR AGENT OF AN INSURER MAY CREDIT AGAINST THE TAX**
23 **IMPOSED UNDER THIS SECTION AN AMOUNT EQUAL TO THE AMOUNT OF THE**
24 **CREDIT THE INSURER OR AGENT OF AN INSURER WOULD BE ELIGIBLE TO**
25 **CLAIM FOR A QUALIFIED EQUITY INVESTMENT DURING THE RESPECTIVE TAX**
26 **YEAR UNDER SECTION 465 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA**
27 **36, MCL 208.1465, IF THAT INSURER OR AGENT WAS FILING A RETURN**

1 UNDER THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1101 TO
2 208.1601.

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

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

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

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

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

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

24 (d) Comply with section 5256(1)(a) and (2) through (6). The
25 commissioner shall inform the state treasurer when a domestic
26 insurer is not in compliance with section 5256(1)(a) or (2) through
27 (6).

1 (5) Taxes collected pursuant to this section are subject to
2 section 22d of the former single business tax act, 1975 PA 228, or
3 section 243 of the Michigan business tax act, 2007 PA 36, MCL
4 208.1243.

5 (6) The state treasurer shall administer the tax prescribed by
6 this section in the manner provided in 1941 PA 122, MCL 205.1 to
7 205.31.

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

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No. or House Bill No. 4176(request no.
16 01433'09) of the 95th Legislature is enacted into law.