

# HOUSE BILL No. 5434

March 27, 2014, Introduced by Reps. Knezek, Irwin, Schor and Switalski 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)~~ **AND (5)**, for purposes of  
18 this section, an insurer organized under the laws of a state or  
19 country other than these United States shall be considered an  
20 insurer of the state in which its general deposit for the benefit  
21 of its policyholders is made.

22 (2) The purpose of this section is to promote the interstate  
23 business of domestic insurers by deterring other states from  
24 enacting discriminatory or excessive taxes. **TO ACHIEVE THIS PURPOSE**  
25 **AND TO AVOID WEAKENING THE INTENDED DETERRENT EFFECTS, CREDITS**  
26 **AGAINST THE TAX IMPOSED UNDER THIS ACT ARE NOT PERMITTED EXCEPT AS**  
27 **OTHERWISE PROVIDED FOR QUALIFIED EQUITY INVESTMENTS UNDER**

1 SUBSECTION (3).

2 (3) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2013, AN  
3 INSURER MAY CREDIT AGAINST THE TAX IMPOSED UNDER THIS SECTION AN  
4 AMOUNT EQUAL TO THE AMOUNT OF THE CREDIT THE INSURER WOULD BE  
5 ELIGIBLE TO CLAIM FOR A QUALIFIED EQUITY INVESTMENT DURING THE  
6 RESPECTIVE TAX YEAR UNDER SECTION 675 OF THE INCOME TAX ACT OF  
7 1967, 1967 PA 281, MCL 206.675, IF THAT INSURER WERE PAYING THE TAX  
8 IMPOSED UNDER PART 2 OF THE INCOME TAX ACT OF 1967, 1967 PA 281,  
9 MCL 206.601 TO 206.699. THE CREDIT ALLOWED UNDER THIS SUBSECTION IS  
10 NOT RELATED TO THE BUSINESS OF INSURANCE OR THE CALCULATION OF ANY  
11 SPECIAL BURDEN AND SHALL NOT BE CONSTRUED AS AUTHORIZING THE  
12 APPLICATION OF ANY OTHER CREDIT AGAINST THE TAX IMPOSED BY THIS  
13 SECTION.

14 (4) ~~(3)~~—Subsection ~~(4)~~—(5) does not apply to a domestic  
15 insurer that is owned or controlled, directly or indirectly, by an  
16 alien or foreign insurer who prior to 1998 and with the  
17 commissioner's approval did not keep books, records, and files or  
18 true copies thereof in this state.

19 (5) ~~(4)~~—For purposes of this section, the state treasurer,  
20 after consultation with the commissioner, shall determine that a  
21 domestic insurer is an alien or foreign insurer domiciled in a  
22 state or country determined by the state treasurer if the insurer  
23 does not comply with all of the following:

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

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

1 (c) Conduct in this state a substantial portion of its  
2 underwriting, sales, claims, legal, and, if applicable, medical  
3 operations relating to Michigan policyholders and certificate  
4 holders.

5 (d) Comply with section 5256(1)(a) and (2) through ~~(6)~~-(7).  
6 The commissioner shall inform the state treasurer when a domestic  
7 insurer is not in compliance with section 5256(1)(a) or (2) through  
8 ~~(6)~~-(7).

9 (6) ~~(5)~~-Taxes collected pursuant to this section are subject  
10 to section 22d of ~~the former single business tax act, 1975 PA 228,~~  
11 ~~or~~ section 243 of the Michigan business tax act, 2007 PA 36, MCL  
12 208.1243, **OR SECTION 643 OF THE INCOME TAX ACT OF 1967, 1967 PA**  
13 **281, MCL 206.643.**

14 (7) ~~(6)~~-The state treasurer shall administer the tax  
15 prescribed by this section in the manner provided in 1941 PA 122,  
16 MCL 205.1 to 205.31.

17 (8) ~~(7)~~-The requirements of section 28 of 1941 PA 122, MCL  
18 205.28, that prohibit an employee or an authorized representative  
19 or former employee or authorized representative or anyone connected  
20 with the department of treasury from divulging any facts or  
21 information obtained in connection with the administration of  
22 taxes, do not apply to disclosure of the tax return prescribed in  
23 this act.

24 Enacting section 1. This amendatory act does not take effect  
25 unless Senate Bill No. \_\_\_\_ or House Bill No. 5435 (request no.  
26 01556'13) of the 97th Legislature is enacted into law.