

Legislative Analysis



END INSURANCE COMPANY TAX CREDIT FOR AMOUNTS PAID TO MAIPF FOR ASSIGNED CLAIMS

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House Bill 5458 (passed by the House as H-1)
Sponsor: Rep. Earl Poleski

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5457 (passed by the House as H-1)
Sponsor: Rep. Jon Bumstead

Committee: Government Operations (Discharged)
Complete to 6-3-16

SUMMARY:

Section 637 of the Income Tax Act allows an auto insurance company to claim a tax credit based on amounts paid in the previous tax year to various associations and facilities. One of those is the Michigan Automobile Insurance Placement Facility (MAIPF).¹ Section 237 of the Michigan Business Tax (MBT) contains a similar credit for eligible companies that have elected to remain with the MBT rather than file under the corporate income tax.²

House Bill 5458 would amend Part 2 the Income Tax Act, which deals with the corporate income tax (CIT) so that an automobile insurance company, in calculating the Section 637 income tax credit, could not use amounts paid to the MAIPF that are attributable to the Michigan Assigned Claims Plan. This would apply to tax years beginning on or after January 1, 2016. **House Bill 5457** would make the same amendment to the Michigan Business Tax Act. Insurance companies pay a unique version of both taxes based on gross direct premiums.

The Assigned Claims Plan, generally speaking, is a program that aims at providing financial assistance to individuals injured in an uninsured motor vehicle accident in Michigan who have no insurance coverage of their own. Public Act 204 of 2012 transferred the operations of the Assigned Claims Plan from the Department of State to the MAIPF, a nonprofit association made up of all auto insurance companies writing policies in the state.

¹ Others include the Michigan Worker's Compensation Placement Facility; the Michigan Basic Property Insurance Association; the Property and Casualty Guaranty Association; and the Michigan Life and Health Insurance Guaranty Association.

² In 2011, the Michigan Business Tax was replaced by a new Corporate Income Tax. However, businesses that had been approved for, received, or assigned certain "certificated credits" under the MBT prior to January 1, 2012, (the start of the CIT) are allowed elect to continue to file and pay the MBT rather than the CIT in order to continue claiming those certificated credits, until the credits (and any carryforwards) are fully exhausted. Once the last credit or carryforward based on a credit has been claimed, the MBT will be fully repealed.

The assigned claims program has traditionally been supported by assessments from auto insurance companies. These assessments from insurers did not count toward a tax credit when the program was administered by the Department of State. However, one result of the transfer of operations to the MAIPF was that insurance companies could for the first time include those assigned claims assessments in the calculation of the tax credit. Reportedly, this tax benefit was not understood or anticipated by the legislature, nor by the Department of Treasury, when Public Act 204 was enacted.

The program transfer occurred because the MAIPF was considered to be better equipped than the Department of State to deal with the evaluation and processing of personal injury claims, which were said to be increasing in cost faster in the Assigned Claims Plan than elsewhere in the auto insurance sector, and was well-suited to carry out administrative functions. The transfer was supported by the Department of State, the Department of Insurance and Financial Services, and the insurance industry.

As noted above, House Bills 5458 and 5457 would not allow assigned claims-related assessments to continue to be used in calculating a tax credit in tax years beginning on or after January 1, 2016. Other amounts paid to the MAIPF would continue to count toward the Section 637 credit.

FISCAL IMPACT:

It is anticipated that insurance company tax revenue would increase by approximately \$80 million under the bill for FY 2016–17 and subsequent years, corresponding to the amount of decreased revenue resulting from the enactment of Public Act 204 of 2012. All revenue from the insurance company premiums tax and the foreign insurance company retaliatory tax accrues to the General Fund.

BACKGROUND:

The Assigned Claims Plan is a program that aims at providing financial assistance to individuals injured in an uninsured motor vehicle accident in Michigan who have no insurance coverage of their own (or for which the appropriate available insurance is not immediately apparent). Classic examples include a pedestrian with no auto insurance coverage in the household who is hit by an uninsured driver or a hit-and-run driver, and an out-of-state resident injured riding in an uninsured Michigan vehicle. But there are many other kinds of cases.

After initial screening, claims are assigned to participating private auto insurance companies. Following an investigation, the insurance company pays the claim and is reimbursed by the Assigned Claims Fund, which is supported through assessments on all the companies writing auto insurance in the state, as well as the self-insured.

The Michigan Automobile Insurance Placement Facility was created as a "residual market" mechanism to provide auto insurance to drivers who do not qualify for coverage in the normal auto insurance market because of their driving records or other risk factors. (However, other drivers can purchase from the facility as well.)

It is a joint underwriting association whose membership is made up of all of the companies writing auto insurance in the state. It uses a limited number of private auto insurance companies as servicing carriers, and customers are placed by insurance agents with one of the servicing carriers, although the rates would not vary from company to company.

The organization is governed by a board made up of seven representatives from participating auto insurance companies, two insurance agent representatives, and two public representatives. The director of the Department of Insurance and Financial Services (DIFS) appoints the agent members and public representatives.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.