

SENATE BILL No. 987

February 29, 2012, Introduced by Senators BRANDENBURG, KOWALL and BIEDA and referred to the Committee on Finance.

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
11 transacting business in this state, to make a like deposit for like

1 purposes with the state treasurer of this state, and to pay to the
2 revenue commissioner for taxes, fines, penalties, certificates of
3 authority, valuation of policies, and otherwise an amount equal in
4 the aggregate to the charges and payments imposed by the laws of
5 the other state or country upon a similar domestic insurer and the
6 agents of a domestic insurer, regardless of whether a domestic
7 insurer or agent of a domestic insurer is actually transacting
8 business in that state or country. For fire department or salvage
9 corps taxes or other local taxes the amount shall be computed by
10 the revenue commissioner by dividing the total of the payments made
11 by domestic insurers in that state or country by the gross premium
12 received by domestic insurers in that state or country less return
13 premiums. The commissioner shall revoke the certificate of
14 authority of an alien or foreign insurer refusing for 30 days to
15 make payment of fees or taxes as required by this chapter. Except
16 as provided in subsections ~~(3) and (4)~~ **AND (5)**, for purposes of
17 this section, an insurer organized under the laws of a state or
18 country other than these United States shall be considered an
19 insurer of the state in which its general deposit for the benefit
20 of its policyholders is made.

21 (2) The purpose of this section is to promote the interstate
22 business of domestic insurers by deterring other states from
23 enacting discriminatory or excessive taxes. **TO ACHIEVE THIS PURPOSE**
24 **AND TO AVOID WEAKENING THE INTENDED DETERRENT EFFECTS, CREDITS**
25 **AGAINST THE TAX IMPOSED UNDER THIS ACT ARE NOT PERMITTED EXCEPT AS**
26 **PROVIDED UNDER SUBSECTION (3).**

27 (3) **FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2013 AND FOR**

1 EACH TAX YEAR THEREAFTER THROUGH THE 2023 TAX YEAR, AN INSURER MAY
2 CREDIT AGAINST THE TAX IMPOSED UNDER THIS SECTION AN AMOUNT EQUAL
3 TO THE AMOUNT OF THE CREDIT THE INSURER WOULD BE ELIGIBLE TO CLAIM
4 FOR A PTP CERTIFICATE DURING THE RESPECTIVE TAX YEAR UNDER SECTION
5 645 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.645, IF
6 THAT INSURER WAS PAYING THE TAX IMPOSED UNDER PART 2 OF THE INCOME
7 TAX ACT OF 1967, 1967 PA 281, MCL 206.601 TO 206.699. THE CREDIT
8 ALLOWED UNDER THIS SUBSECTION IS NOT RELATED TO THE BUSINESS OF
9 INSURANCE OR THE CALCULATION OF ANY SPECIAL BURDEN AND SHALL NOT BE
10 CONSTRUED AS AUTHORIZING THE APPLICATION OF ANY OTHER CREDIT
11 AGAINST THE TAX IMPOSED BY THIS SECTION.

12 (4) ~~(3)~~—Subsection ~~(4)~~—(5) does not apply to a domestic
13 insurer that is owned or controlled, directly or indirectly, by an
14 alien or foreign insurer who prior to 1998 and with the
15 commissioner's approval did not keep books, records, and files or
16 true copies thereof in this state.

17 (5) ~~(4)~~—For purposes of this section, the state treasurer,
18 after consultation with the commissioner, shall determine that a
19 domestic insurer is an alien or foreign insurer domiciled in a
20 state or country determined by the state treasurer if the insurer
21 does not comply with all of the following:

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

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

26 (c) Conduct in this state a substantial portion of its
27 underwriting, sales, claims, legal, and, if applicable, medical

1 operations relating to Michigan policyholders and certificate
2 holders.

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

7 (6) ~~(5)~~ Taxes collected pursuant to this section are subject
8 to section 22d of ~~the former single business tax act, 1975 PA 228,~~
9 ~~or~~ section 243 of the Michigan business tax act, 2007 PA 36, MCL
10 208.1243, **OR SECTION 643 OF THE INCOME TAX ACT OF 1967, 1967 PA**
11 **281, MCL 206.643.**

12 (7) ~~(6)~~ The state treasurer shall administer the tax
13 prescribed by this section in the manner provided in 1941 PA 122,
14 MCL 205.1 to 205.31.

15 (8) ~~(7)~~ The requirements of section 28 of 1941 PA 122, MCL
16 205.28, that prohibit an employee or an authorized representative
17 or former employee or authorized representative or anyone connected
18 with the department of treasury from divulging any facts or
19 information obtained in connection with the administration of
20 taxes, do not apply to disclosure of the tax return prescribed in
21 this act.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 96th Legislature are
24 enacted into law:

25 (a) Senate Bill No. 985 _____ (request no.
26 04158'11).

27 (b) Senate Bill No. 986 _____ (request no.

1 04158'11 a).