

HOUSE BILL No. 5188

October 16, 1989, Introduced by Reps. Gire, DeMars, Barns, Spaniola, Hart, Profit, Ciaramitaro, Joe Young, Sr., Harrison, Clack and Webb and referred to the Committee on Taxation.

A bill to amend the title and section 445 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 445 as amended by Act No. 110 of the Public Acts of 1981, being section 500.445 of the Michigan Compiled Laws; to add sections 480, 482, 484, and 486; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 445 of Act No. 218 of the
2 Public Acts of 1956, section 445 as amended by Act No. 110 of the
3 Public Acts of 1981, being section 500.445 of the Michigan
4 Compiled Laws, are amended and sections 480, 482, 484, and 486
5 are added to read as follows:

1

TITLE

2 An act to revise, consolidate, and classify the laws relat-
3 ing to the insurance and surety business; to regulate the incor-
4 poration or formation of domestic insurance and surety companies
5 and associations and the admission of foreign and alien companies
6 and associations; to provide their rights, powers, and immunities
7 and to prescribe the conditions on which companies and associa-
8 tions organized, existing, or authorized under this act may exer-
9 cise their powers; to provide the rights, powers, and immunities
10 and to prescribe the conditions on which other persons, firms,
11 corporations, and associations engaged in an insurance or surety
12 business may exercise their powers; to provide for the imposition
13 of a privilege fee on domestic insurance companies and associa-
14 tions and the state accident fund; to provide for the imposition
15 of a tax on the business of DOMESTIC, foreign, and alien com-
16 panies and associations; to provide for the imposition of a tax
17 on the business of surplus line agents; to modify tort liability
18 arising out of certain accidents; to provide for limited actions
19 with respect to that modified tort liability, and to prescribe
20 certain procedures for maintaining those actions; to require
21 security for losses arising out of certain accidents; to provide
22 for the continued availability and affordability of automobile
23 insurance and homeowners insurance in this state, and to facili-
24 tate the purchase of that insurance by all residents of this
25 state at fair and reasonable rates; to provide for certain
26 reporting with respect to insurance, and with respect to certain
27 claims against uninsured or self-insured persons; and to

1 prescribe duties for certain state departments and officers with
 2 respect to that reporting; to provide for certain assessments; to
 3 establish and continue certain state insurance funds; to modify
 4 and clarify the status, rights, powers, duties, and operations of
 5 the nonprofit malpractice insurance fund; to provide for the
 6 departmental supervision and regulation of the insurance and
 7 surety business within this state; to provide for the conserva-
 8 tion, rehabilitation, or liquidation of unsound or insolvent
 9 insurers; to provide for the protection of policyholders, claim-
 10 ants, and creditors of unsound or insolvent insurers; to provide
 11 for associations of insurers to protect policyholders and claim-
 12 ants in the event of insurer insolvencies; to prescribe educa-
 13 tional requirements for insurance agents and solicitors; to pro-
 14 vide for the regulation of multiple employer welfare arrange-
 15 ments; to create an automobile theft prevention authority to
 16 reduce the number of automobile thefts in this state; to pre-
 17 scribe the powers and duties of the automobile theft prevention
 18 authority; to provide certain powers and duties upon certain
 19 officials, departments, and authorities of this state; to repeal
 20 certain acts and parts of acts; to repeal certain acts and parts
 21 of acts on specific dates; and to provide penalties for the vio-
 22 lation of this act.

23 Sec. 445. (1) An insurer ~~which~~ THAT fails to make a pay-
 24 ment at the time and in the amount required by section ~~443(1)~~
 25 484 or fails to pay the balance of ~~any~~ A tax provided in this
 26 code before ~~April~~ MARCH 1 next following the close of the
 27 calendar year ~~—~~ is liable for the amount due ~~—~~ and, in

1 addition, for interest in the amount of 1% of the amount due and
2 unpaid for each month or part of a month that the amount due,
3 together with interest, remains unpaid. In addition, the insurer
4 ~~shall be~~ IS liable for a penalty of \$25.00 for each day of
5 delinquency ~~—~~ from the day when the payment was due. The
6 interest and penalty shall be added to the tax and shall be col-
7 lected in the same manner as the tax.

8 (2) A certificate of authority shall not be granted to ~~any~~
9 AN insurer, or to its agents as such, if the insurer is delin-
10 quent in the payment of the taxes or penalties prescribed in this
11 chapter.

12 SEC. 480. (1) AN INSURER ADMITTED TO DO AND DOING INSURANCE
13 BUSINESS IN THIS STATE, AS A CONDITION PRECEDENT TO THE PRIVILEGE
14 OF DOING BUSINESS, SHALL PAY TO THE COMMISSIONER FOR PROMPT
15 DEPOSIT WITH THE STATE TREASURER AT THE TIMES AND IN THE MANNER
16 REQUIRED BY SECTION 484, SUBJECT TO THE RETALIATORY PROVISIONS IN
17 SECTION 476A, A PREMIUM TAX UPON ITS INSURANCE CARRIER SERVICES
18 WRITTEN IN THIS STATE UNDER THE AUTHORITY OF THE COMMISSIONER FOR
19 THE YEAR ENDING DECEMBER 31, WHICH TAX IS EQUAL TO 2% OF THE
20 GROSS PREMIUMS RECEIVED FOR INSURANCE IN THIS STATE, DEDUCTING
21 FOR PREMIUMS RETURNED ON CANCELED POLICIES AND REINSURANCE PREMI-
22 UMS RECEIVED WHEN THE TAX HAS BEEN PAID ON THE ORIGINAL PREMIUMS,
23 AND ALSO DEDUCTING FOR DIVIDENDS OR OTHER RETURNS PAID TO MEMBERS
24 OR POLICYHOLDERS OTHER THAN FOR LOSSES.

25 (2) THE SPECIFIC PREMIUM TAXES ON THE INSURANCE CARRIER
26 SERVICES PROVIDED FOR IN SUBSECTION (1) SHALL BE IN LIEU OF ALL
27 OTHER TAXATION ON THE INSURANCE CARRIER SERVICES WRITTEN IN THIS

1 STATE, INCLUDING A TAX IMPOSED UNDER THE SINGLE BUSINESS TAX ACT,
2 ACT NO. 228 OF THE PUBLIC ACTS OF 1975, BEING SECTIONS 208.1 TO
3 208.145 OF THE MICHIGAN COMPILED LAWS, WHETHER STATE OR LOCAL,
4 EXCEPT FOR TAXES ON REAL ESTATE OWNED BY INSURERS WITHIN THIS
5 STATE AND SECURITIES DEPOSITED IN THIS STATE AND EXCEPT FOR TAN-
6 GIBLE PERSONAL PROPERTY OWNED OR HELD BY INSURERS WITHIN THIS
7 STATE UNLESS EXEMPTED UNDER THE GENERAL TAX LAWS OF THIS STATE.
8 AS PROVIDED IN SECTION 5208(4), A SERVICE PROVIDED UNDER SECTION
9 5208(1) WHICH IS PERFORMED IN CONNECTION WITH A NONINSURED BENE-
10 FIT PLAN SHALL BE CONSIDERED A BUSINESS ACTIVITY THAT IS NOT AN
11 INSURANCE CARRIER SERVICE AND IS SUBJECT TO TAX UNDER THE SINGLE
12 BUSINESS TAX ACT, ACT NO. 228 OF THE PUBLIC ACTS OF 1975.

13 (3) FOR THE 1990 TAX YEAR AND EACH TAX YEAR AFTER 1990, THE
14 FIRST \$1,000,000.00 OF TAXABLE PREMIUMS OF EACH INSURER SUBJECT
15 TO TAX UNDER THIS ACT ARE EXEMPT FROM THE TAX IMPOSED BY THIS
16 SECTION. THIS EXEMPTION SHALL BE REDUCED BY \$2.00 FOR EACH \$1.00
17 BY WHICH THE INSURER'S GROSS PREMIUMS FROM INSURANCE CARRIER
18 SERVICES IN THIS STATE AND OUTSIDE OF THIS STATE EXCEED
19 \$1,000,000.00.

20 SEC. 482. (1) FOR THE 1990 TAX YEAR AND EACH TAX YEAR AFTER
21 1990, AN INSURER THAT IS SUBJECT TO THE WORKER'S DISABILITY COM-
22 PENSATION ACT OF 1969, ACT NO. 317 OF THE PUBLIC ACTS OF 1969,
23 BEING SECTIONS 418.101 TO 418.941 OF THE MICHIGAN COMPILED LAWS,
24 MAY CREDIT AGAINST THE PREMIUM TAX IMPOSED BY SECTION 480 AN
25 AMOUNT EQUAL TO THE AMOUNT PAID DURING THAT TAX YEAR BY THE
26 INSURER PURSUANT TO SECTION 352 OF THE WORKER'S DISABILITY
27 COMPENSATION ACT OF 1969, ACT NO. 317 OF THE PUBLIC ACTS OF 1969,

1 BEING SECTION 418.352 OF THE MICHIGAN COMPILED LAWS, AS CERTIFIED
2 BY THE DIRECTOR OF THE BUREAU OF WORKER'S DISABILITY COMPENSATION
3 PURSUANT TO SECTION 391(6) OF THE WORKER'S DISABILITY COMPENSA-
4 TION ACT OF 1969, ACT NO. 317 OF THE PUBLIC ACTS OF 1969, BEING
5 SECTION 418.391 OF THE MICHIGAN COMPILED LAWS.

6 (2) THE CREDIT UNDER THIS SECTION SHALL BE CLAIMED IN THE
7 MANNER PRESCRIBED BY THE COMMISSIONER.

8 (3) A TAXPAYER CLAIMING A CREDIT UNDER THIS SECTION MAY
9 CLAIM A PORTION OF THE CREDIT ALLOWED BY THIS SECTION EQUAL TO
10 THE PAYMENTS MADE DURING A CALENDAR QUARTER PURSUANT TO
11 SECTION 352 OF THE WORKER'S DISABILITY COMPENSATION ACT OF 1969,
12 ACT NO. 317 OF THE PUBLIC ACTS OF 1969, BEING SECTION 418.352 OF
13 THE MICHIGAN COMPILED LAWS, AGAINST THE QUARTERLY PAYMENTS
14 REQUIRED UNDER SECTION 484. CREDIT IN EXCESS OF A QUARTERLY PAY-
15 MENT SHALL BE REFUNDED TO THE TAXPAYER ON A QUARTERLY BASIS
16 WITHIN 60 DAYS OF RECEIPT OF A PROPERLY COMPLETED QUARTERLY
17 FILING REQUIRED BY THIS ACT. A SUBSEQUENT INCREASE OR DECREASE
18 IN THE AMOUNT CLAIMED FOR PAYMENTS MADE BY THE INSURER OR
19 SELF-INSURER SHALL BE REFLECTED IN THE AMOUNT OF THE CREDIT TAKEN
20 FOR THE CALENDAR QUARTER IN WHICH THE AMOUNT OF THE ADJUSTMENT IS
21 FINALIZED.

22 (4) CREDIT UNDER THIS SECTION THAT IS IN EXCESS OF THE PRE-
23 MIUM TAX LIABILITY OF THE INSURER FOR THE CALENDAR YEAR SHALL BE
24 REFUNDED, WITHOUT INTEREST, TO THE INSURER WITHIN 60 DAYS AFTER
25 RECEIPT OF A PROPERLY COMPLETED ANNUAL PREMIUM TAX RETURN
26 REQUIRED BY THIS ACT.

1 (5) AN INSURER THAT CLAIMS A CREDIT UNDER SECTION 38B OF THE
2 SINGLE BUSINESS TAX ACT, ACT NO. 228 OF THE PUBLIC ACTS OF 1975,
3 BEING SECTION 208.38B OF THE MICHIGAN COMPILED LAWS, IS NOT ELI-
4 GIBLE FOR A CREDIT UNDER THIS SECTION.

5 SEC. 484. (1) BEGINNING JANUARY 1, 1990, BEFORE MARCH 31,
6 JUNE 30, SEPTEMBER 30, AND JANUARY 1 OF EACH YEAR, AN INSURER
7 ADMITTED TO DO INSURANCE BUSINESS IN THIS STATE AND SUBJECT TO
8 THE TAX PRESCRIBED IN SECTION 480 SHALL PAY TO THE STATE TREASUR-
9 ER, THROUGH THE COMMISSIONER AND ACCOMPANIED BY FORMS PRESCRIBED
10 BY THE COMMISSIONER, QUARTERLY INSTALLMENTS OF THE INSURER'S
11 TOTAL ESTIMATED TAX FOR THE CURRENT YEAR. FAILURE OF AN INSURER
12 TO MAKE QUARTERLY PAYMENTS OF AT LEAST 1/4 OF EITHER OF THE FOL-
13 LOWING SHALL SUBJECT THE INSURER TO THE PENALTY AND INTEREST PRE-
14 SCRIBED IN SECTION 445:

15 (A) THE TOTAL TAX PAID BY THE INSURER DURING THE PREVIOUS
16 CALENDAR YEAR.

17 (B) EIGHTY PERCENT OF THE ACTUAL TAX LIABILITY OF THE
18 INSURER FOR THE CURRENT CALENDAR YEAR.

19 (2) ANNUALLY BEFORE MARCH 1, EACH INSURER DESCRIBED IN SUB-
20 SECTION (1) SHALL MAKE AND FILE WITH THE COMMISSIONER ITS STATE-
21 MENT SHOWING ALL OF THE DATA NECESSARY FOR COMPUTATION OF ITS
22 TAXES UNDER THIS CHAPTER, UPON SUCH FORMS AND INCLUDING SUCH
23 INFORMATION AS THE COMMISSIONER PRESCRIBES, AND SHALL PAY ANY
24 ADDITIONAL AMOUNT DUE FOR THE PRECEDING CALENDAR YEAR. THE FAIL-
25 URE TO FILE THE STATEMENT WITH THE COMMISSIONER DOES NOT EXCUSE
26 AN INSURER FROM THE PAYMENT OF THE TAX THAT IS JUSTLY DUE.

1 (3) UNLESS JUSTICE MANIFESTLY REQUIRES A REFUND, AN
2 OVERPAYMENT SHALL BE CREDITED TOWARD THE NEXT PAYMENT, AND NOTICE
3 OF THE AMOUNT OF OVERPAYMENT SHALL BE GIVEN TO THE INSURER. ON
4 RECEIVING A TAX PAYMENT FROM AN INSURER, THE COMMISSIONER SHALL
5 ISSUE DUPLICATE RECEIPTS FOR THE TAX PAID AND SHALL DELIVER 1 TO
6 THE INSURER AND FILE THE OTHER.

7 SEC. 486. BEGINNING JANUARY 1, 1990, AN INSURANCE COMPANY
8 IS SUBJECT TO THE TAX IMPOSED BY SECTION 480 OR SECTION 476A,
9 WHICHEVER IS GREATER. AN INSURANCE COMPANY SHALL PAY THE TAXES
10 REQUIRED BY THIS ACT ON A TAX YEAR THAT IS THE CALENDAR YEAR.
11 THE LIABILITY OF AN INSURER FOR THE PERIOD BEFORE JANUARY 1, 1990
12 SHALL BE DETERMINED AS PROVIDED IN FORMER SECTIONS 22 TO 22F OF
13 THE SINGLE BUSINESS TAX ACT, ACT NO. 228 OF THE PUBLIC ACTS OF
14 1975, AND PRORATED BASED ON THE PORTION OF THE TAX YEAR BEFORE
15 JANUARY 1, 1990.

16 Section 2. This amendatory act shall take effect January 1,
17 1990.

18 Section 3. Sections 22, 22a, 22b, 22c, 22d, 22e, and 22f of
19 Act No. 228 of the Public Acts of 1975, being sections 208.22,
20 208.22a, 208.22b, 208.22c, 208.22d, 208.22e, and 208.22f, are
21 repealed.

22 Section 4. This amendatory act shall not take effect unless
23 Senate Bill No. _____ or House Bill No. 5187 (request
24 no. 03953'89) of the 85th Legislature is enacted into law.