

# SENATE BILL No. 430

May 9, 1989, Introduced by Senators CARL, SHINKLE and POSTHUMUS and referred to the Committee on Finance.

A bill to amend sections 443, 444, 445, 476a, and 476b of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 443 as amended and sections 476a and 476b as added by Act No. 261 of the Public Acts of 1987 and section 445 as amended by Act No. 110 of the Public Acts of 1981, being sections 500.443, 500.444, 500.445, 500.476a, and 500.476b of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 443, 444, 445, 476a, and 476b of Act  
2       No. 218 of the Public Acts of 1956, section 443 as amended and  
3       sections 476a and 476b as added by Act No. 261 of the Public Acts  
4       of 1987 and section 445 as amended by Act No. 110 of the Public  
5       Acts of 1981, being sections 500.443, 500.444, 500.445, 500.476a,

1 and 500.476b of the Michigan Compiled Laws, are amended to read  
2 as follows:

3       Sec. 443. (1) Before ~~March 31, June 30, September 30~~  
4 APRIL 15, JULY 15, OCTOBER 15, and January ~~1~~ 15 of each year,  
5 each foreign insurer admitted to do any insurance business in  
6 this state and subject to any tax prescribed in section 476a  
7 shall pay to the state treasurer ~~, through the commissioner~~ and  
8 accompanied by forms prescribed by the REVENUE commissioner,  
9 quarterly installments of the insurer's total estimated tax for  
10 the current year. Failure of an insurer to make quarterly pay-  
11 ments of at least 1/4 of either of the following shall subject  
12 the insurer to the penalty and interest prescribed in ~~section~~  
13 ~~445(1)~~ ACT NO. 122 OF THE PUBLIC ACTS OF 1941, BEING  
14 SECTIONS 205.1 TO 205.31 OF THE MICHIGAN COMPILED LAWS:

15       (a) ~~The~~ IF THE PRECEDING YEAR'S LIABILITY WAS \$10,000.00  
16 OR LESS, THE total tax paid by the insurer during the previous  
17 calendar year.

18       (b) ~~Eighty percent~~ 85% of the actual tax liability of the  
19 insurer for the current calendar year.

20       (2) Annually before March 1, each insurer described in sub-  
21 section (1) shall make and file with the REVENUE commissioner its  
22 statement showing all of the data necessary for computation of  
23 its taxes under this chapter, upon ~~such~~ forms and including  
24 ~~such~~ information as the REVENUE commissioner may prescribe, and  
25 shall pay any additional amount due for the preceding calendar  
26 year. The failure to file the statement with the REVENUE

1 commissioner shall not excuse or relieve ~~any~~ AN insurer from  
2 the payment of such tax as is justly due.

3 ~~(3) Except where justice manifestly requires a refund, an~~  
4 ~~overpayment shall be credited toward the next payment, and notice~~  
5 ~~of the amount of overpayment shall be given to the insurer. The~~  
6 ~~commissioner, on receiving a tax payment from an insurer, shall~~  
7 ~~issue duplicate receipts for the tax paid, and shall deliver + to~~  
8 ~~the insurer and file the other.~~

9 Sec. 444. The taxes prescribed in this code may be col-  
10 lected, in case of delinquency, together with any interest or  
11 penalty thereon, by the REVENUE commissioner, out of any ~~moneys~~  
12 MONEY or by the sale of any securities, deposited with the state  
13 treasurer by ~~such~~ THE delinquent insurer or if ~~no~~ securities  
14 or ~~moneys~~ MONEY are NOT deposited, by an action in ~~any~~ A  
15 court of competent jurisdiction as for the collection of a debt  
16 to the state. In ~~any~~ such AN action the computation of the  
17 REVENUE commissioner duly sworn to is prima facie evidence of the  
18 amount thereof.

19 Sec. 445. ~~(1) An insurer which fails to make a payment at~~  
20 ~~the time and in the amount required by section 443(1) or fails to~~  
21 ~~pay the balance of any tax provided in this code before April +~~  
22 ~~next following the close of the calendar year, is liable for the~~  
23 ~~amount due, and in addition, for interest in the amount of 1% of~~  
24 ~~the amount due and unpaid for each month or part of a month that~~  
25 ~~the amount due, together with interest, remains unpaid. In addi-~~  
26 ~~tion, the insurer shall be liable for a penalty of \$25.00 for~~  
27 ~~each day of delinquency, from the day when the payment was due.~~

1 ~~The interest and penalty shall be added to the tax and shall be~~  
2 ~~collected in the same manner as the tax. (2)~~ A certificate of  
3 authority shall not be granted to any insurer or to its agents  
4 ~~as such,~~ if the insurer is delinquent in the payment of the  
5 taxes or penalties prescribed in this chapter.

6       Sec. 476a. (1) Beginning August 3, 1987, whenever, by any  
7 law in force outside of this state, a domestic insurer or agent  
8 of a domestic insurer is required to make any deposit of securi-  
9 ties ~~thereunder~~ for the protection of policyholders or other-  
10 wise, or to make payment for taxes, fines, penalties, certifi-  
11 cates of authority, valuation of policies, or otherwise, or any  
12 special burden or other burden is imposed, greater in the aggre-  
13 gate than is required by the laws of this state for a similar  
14 alien or foreign insurer or agent of an alien or foreign insurer,  
15 the alien or foreign insurers of such states or governments are  
16 required, as a condition precedent to their transacting business  
17 in this state, to make a like deposit for like purposes with the  
18 state treasurer of this state, and to pay to the REVENUE commis-  
19 sioner for taxes, fines, penalties, certificates of authority,  
20 valuation of policies, and otherwise an amount equal in the  
21 aggregate to the charges and payments imposed by the laws of the  
22 other state upon a similar domestic insurer and the agents of a  
23 domestic insurer, regardless of whether a domestic insurer or  
24 agent of a domestic insurer is actually transacting business in  
25 that state. In the case of fire department or salvage corps  
26 taxes or other local taxes the amount shall be computed by the  
27 REVENUE commissioner by dividing the total of the payments made

1 by domestic insurers in that state by the gross premium received  
2 by domestic insurers in that state less return premiums. Any  
3 alien or foreign insurer refusing for 30 days to make payment of  
4 fees or taxes as required by this chapter shall have its certifi-  
5 cate of authority revoked by the commissioner. For purposes of  
6 this section, insurers organized under the laws of any state or  
7 country, other than these United States, shall be considered  
8 insurers of that state wherein their general deposit for the ben-  
9 efit of their policyholders is made.

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

13 (3) Before January 1, 1991, for purposes of this section, a  
14 domestic insurer that is owned or controlled, directly or indi-  
15 rectly, by a foreign insurer and that was not granted a certifi-  
16 cate of authority before ~~the effective date of this section~~  
17 DECEMBER 28, 1987 shall be considered domiciled in the same state  
18 or country as the controlling foreign insurer.

19 (4) Beginning January 1, 1991, for purposes of this section,  
20 a domestic insurer that does not comply with all of the following  
21 shall be considered a foreign insurer:

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

23 (b) Maintain in this state officers and personnel responsi-  
24 ble for and knowledgeable of the company's operation, books,  
25 records, 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.

4 (5) Taxes collected pursuant to this section shall be  
5 subject to section 22d of the single business tax act, Act  
6 No. 228 of the Public Acts of 1975, being section 208.22d of the  
7 Michigan Compiled Laws.

8 (6) THE TAX PRESCRIBED IN THIS SECTION SHALL BE ADMINISTERED  
9 BY THE REVENUE COMMISSIONER PURSUANT TO ACT NO. 122 OF THE PUBLIC  
10 ACTS OF 1941, BEING SECTIONS 205.1 TO 205.31 OF THE MICHIGAN  
11 COMPILED LAWS. IF THERE IS A CONFLICT BETWEEN THE PROVISIONS OF  
12 ACT NO. 122 OF THE PUBLIC ACTS OF 1941 AND THIS ACT, THE PROVI-  
13 SIONS OF THIS ACT SHALL PREVAIL.

14 (7) THE REQUIREMENTS OF SECTION 28(1)(F) OF ACT NO. 122 OF  
15 THE PUBLIC ACTS OF 1941, BEING SECTION 205.28 OF THE MICHIGAN  
16 COMPILED LAWS, WHICH PROHIBIT AN EMPLOYEE OR AN AUTHORIZED REPRE-  
17 SENTATIVE OR FORMER EMPLOYEE OR AUTHORIZED REPRESENTATIVE OR  
18 ANYONE CONNECTED WITH THE DEPARTMENT OF TREASURY FROM DIVULGING  
19 ANY FACTS OR INFORMATION OBTAINED IN CONNECTION WITH THE ADMINIS-  
20 TRATION OF TAXES, SHALL NOT APPLY TO THE TAX PRESCRIBED IN THIS  
21 SECTION.

22 Sec. 476b. An authorized insurer subject to tax under this  
23 chapter on August 2, 1987 shall be liable for the payment of the  
24 tax under sections 440 to 476 for the 1987 tax year as calculated  
25 on August 2, 1987. Beginning August 3, 1987 AND UNTIL JULY 14,  
26 1989, authorized insurers shall be subject to the tax as provided  
27 in section 476a if applicable or the single business tax, Act

1 No. 228 of the Public Acts of 1975, being sections 208.1 to  
2 208.145 of the Michigan Compiled Laws, whichever is greater.  
3 BEGINNING JULY 15, 1989, AUTHORIZED INSURERS SHALL BE SUBJECT TO  
4 THE TAX AS PROVIDED IN SECTION 476A, IF APPLICABLE.