

SENATE BILL No. 5

January 14, 2009, Introduced by Senator JANSEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," (MCL 421.1 to 421.75) by adding section 22c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 22C. (1) UNLESS THERE HAS BEEN A TRANSFER OF TRADE OR
2 BUSINESS IN VIOLATION OF SECTION 22B(1) OR A DISREGARD OF THE
3 SEPARATE LEGAL ENTITIES THROUGH THE COMMINGLING OF BANK ACCOUNTS
4 AND OTHER ASSETS AND FAILURE TO ABIDE BY CORPORATE FORMALITIES FOR
5 AN UNLAWFUL PURPOSE, THE UNEMPLOYMENT AGENCY SHALL NOT CONSOLIDATE
6 OR COMBINE THE EXPERIENCE AND UNEMPLOYMENT ACCOUNTS OF SEPARATE
7 EMPLOYER ENTITIES INTO A SINGLE ACCOUNT OR ASSESS A CONSOLIDATED OR
8 COMBINED CONTRIBUTION RATE COVERING 2 OR MORE ENTITIES. THIS
9 SECTION DOES NOT PROHIBIT THE UNEMPLOYMENT AGENCY FROM TRANSFERRING
10 THE EXPERIENCE OF AN EMPLOYER ENTITY, OR COMBINING THE EXPERIENCE

1 OF 2 OR MORE EMPLOYER ENTITIES INTO A SINGLE ACCOUNT FOR COVERAGE
2 AFTER JULY 1, 2005, IF THERE HAS BEEN A TRANSFER AFTER JULY 1, 2005
3 OF ALL OR PART OF A TRADE OR BUSINESS FOR THE SOLE OR PRIMARY
4 PURPOSE OF REDUCING REIMBURSEMENT PAYMENTS IN LIEU OF CONTRIBUTIONS
5 OR THE CONTRIBUTION RATE AS DESCRIBED IN SECTION 22B OR A DISREGARD
6 OF THE SEPARATE LEGAL ENTITIES THROUGH THE COMMINGLING OF BANK
7 ACCOUNTS AND OTHER ASSETS AND FAILURE TO ABIDE BY CORPORATE
8 FORMALITIES FOR AN UNLAWFUL PURPOSE.

9 (2) THE UNEMPLOYMENT AGENCY SHALL NOT CONSOLIDATE OR COMBINE
10 THE EXPERIENCE OR UNEMPLOYMENT ACCOUNTS OF EMPLOYER ENTITIES INTO A
11 SINGLE ACCOUNT OR ASSESS A CONSOLIDATED OR COMBINED CONTRIBUTION
12 RATE WHILE A REQUEST FOR A REDETERMINATION UNDER SECTION 32A, AN
13 APPEAL TO THE BOARD OF REVIEW UNDER SECTION 33, OR AN APPEAL TO A
14 CIRCUIT OR APPELLATE COURT UNDER SECTION 38 IS PENDING. IF THE
15 UNEMPLOYMENT AGENCY'S DETERMINATION IS UPHELD IN A FINAL PROCEEDING
16 OR A PROCEEDING FROM WHICH THE TIME FOR APPEAL HAS EXPIRED, THE
17 CONSOLIDATION OR COMBINATION OF THE EXPERIENCE ACCOUNT OR
18 CONTRIBUTION RATE SHALL BE RETROACTIVE TO THE DATE ESTABLISHED IN
19 THE ORIGINAL DETERMINATION. IF THE UNEMPLOYMENT AGENCY'S
20 CONSOLIDATION OR COMBINATION DETERMINATION IS OVERTURNED BY THE
21 BOARD OF REVIEW OR A CIRCUIT OR APPELLATE COURT, THE BOARD OF
22 REVIEW OR CIRCUIT OR APPELLATE COURT SHALL AWARD THE PREVAILING
23 PARTY ITS COURT COSTS AND REASONABLE ATTORNEY FEES.