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1 AMENDMENT TO SENATE BILL 2015

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2015 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the New  
5 Markets Development Program Act.

6 Section 5. Definitions. As used in this Act:

7 "Applicable percentage" means 0% for each of the first 2  
8 credit allowance dates, 7% for the third credit allowance date,  
9 and 8% for the next 4 credit allowance dates.

10 "Credit allowance date" means with respect to any qualified  
11 equity investment:

12 (1) the date on which the investment is initially made;  
13 and

14 (2) each of the 6 anniversary dates of that date  
15 thereafter.

16 "Department" means the Department of Commerce and Economic

1 Opportunity.

2 "Long-term debt security" means any debt instrument issued  
3 by a qualified community development entity, at par value or a  
4 premium, with an original maturity date of at least 7 years  
5 from the date of its issuance, with no acceleration of  
6 repayment, amortization, or prepayment features prior to its  
7 original maturity date. Cumulative cash payments of interest on  
8 the qualified debt instrument during the period commencing with  
9 the issuance of the qualified debt instrument and ending with  
10 the seventh anniversary of its issuance shall not exceed the  
11 sum of such cash interest payments and the cumulative net  
12 income of the issuing community development entity for the same  
13 period. This definition in no way limits the holder's ability  
14 to accelerate payments on the debt instrument in situations  
15 where the issuer has defaulted on covenants designed to ensure  
16 compliance with this Act or Section 45D of the Internal Revenue  
17 Code of 1986, as amended.

18 "Purchase price" means the amount paid to the issuer of a  
19 qualified equity investment for that qualified equity  
20 investment.

21 "Qualified active low-income community business" has the  
22 meaning given to that term in Section 45D of the Internal  
23 Revenue Code of 1986, as amended; except that any business that  
24 derives or projects to derive 15% or more of its annual revenue  
25 from the rental or sale of real estate is not considered to be  
26 a qualified active low-income community business. This

1 exception does not apply to a business that is controlled by or  
2 under common control with another business if the second  
3 business (i) does not derive or project to derive 15% or more  
4 of its annual revenue from the rental or sale of real estate  
5 and (ii) is the primary tenant of the real estate leased from  
6 the initial business. A business shall be considered a  
7 qualified active low-income community business for the  
8 duration of the qualified community development entity's  
9 investment in or loan to the business if the entity reasonably  
10 expects, at the time it makes the investment or loan, that the  
11 business will continue to satisfy the requirements for being a  
12 qualified active low-income community business throughout the  
13 entire period of the investment or loan.

14 "Qualified community development entity" has the meaning  
15 given to that term in Section 45D of the Internal Revenue Code  
16 of 1986, as amended; provided that such entity has entered  
17 into, or is controlled by an entity that has entered into, an  
18 allocation agreement with the Community Development Financial  
19 Institutions Fund of the U.S. Treasury Department with respect  
20 to credits authorized by Section 45D of the Internal Revenue  
21 Code of 1986, as amended, that includes the State of Illinois  
22 within the service area set forth in that allocation agreement.

23 "Qualified equity investment" means any equity investment  
24 in, or long-term debt security issued by, a qualified community  
25 development entity that:

26 (1) is acquired after the effective date of this Act at

1 its original issuance solely in exchange for cash;

2 (2) has at least 85% of its cash purchase price used by  
3 the issuer to make qualified low-income community  
4 investments in the State of Illinois; and

5 (3) is designated by the issuer as a qualified equity  
6 investment under this Act and is certified by the  
7 Department as not exceeding the limitation contained in  
8 Section 20.

9 This term includes any qualified equity investment that  
10 does not meet the provisions of item (1) of this definition if  
11 the investment was a qualified equity investment in the hands  
12 of a prior holder.

13 "Qualified low-income community investment" means any  
14 capital or equity investment in, or loan to, any qualified  
15 active low-income community business. With respect to any one  
16 qualified active low-income community business, the maximum  
17 amount of qualified low-income community investments made in  
18 that business, on a collective basis with all of its affiliates  
19 that may be counted towards the satisfaction of paragraph (2)  
20 of the definition of qualified equity investment, shall be  
21 \$10,000,000 whether issued to one or several qualified  
22 community development entities.

23 "Tax credit" means a credit against any income, franchise,  
24 or insurance premium taxes otherwise due under Illinois law.

25 "Taxpayer" means any individual or entity subject to any  
26 income, franchise, or insurance premium tax under Illinois law.

1           Section 10. Credit established. A person or entity that  
2 makes a qualified equity investment earns a vested right to tax  
3 credits as follows:

4           (1) on each credit allowance date of the qualified  
5 equity investment, the purchaser of the qualified equity  
6 investment, or subsequent holder of the qualified equity  
7 investment, is entitled to a tax credit during the taxable  
8 year including that credit allowance date;

9           (2) the tax credit amount shall be equal to the  
10 applicable percentage for such credit allowance date  
11 multiplied by the purchase price paid to the issuer of the  
12 qualified equity investment; and

13           (3) the amount of the tax credit claimed shall not  
14 exceed the amount of the State tax liability of the holder,  
15 or the person or entity to whom the credit is allocated for  
16 use pursuant to Section 15, for the tax year for which the  
17 tax credit is claimed.

18           A company doing insurance business in this State claiming a  
19 tax credit against insurance premium taxes payable pursuant to  
20 Section 409 of the Illinois Insurance Code is not required to  
21 pay any additional retaliatory tax imposed pursuant to Section  
22 444 or 444.1 of the Illinois Insurance Code related to that  
23 claim for a tax credit.

24           Section 15. Transferability. No tax credit claimed under

1 this Act shall be refundable or saleable on the open market.  
2 Tax credits earned by a partnership, limited liability company,  
3 S corporation, or other "pass-through" entity may be allocated  
4 to the partners, members, or shareholders of that entity for  
5 their direct use in accordance with the provisions of any  
6 agreement among the partners, members, or shareholders. Any  
7 amount of tax credit that the taxpayer, or partner, member, or  
8 shareholder thereof, is prohibited from claiming in a taxable  
9 year may be carried forward to any of the taxpayer's 5  
10 subsequent taxable years.

11 Section 20. Annual cap on credits. The Department shall  
12 limit the monetary amount of qualified equity investments  
13 permitted under this Act to a level necessary to limit tax  
14 credit use at no more than \$10,000,000 of tax credits in any  
15 fiscal year. This limitation on qualified equity investments  
16 shall be based on the anticipated use of credits without regard  
17 to the potential for taxpayers to carry forward tax credits to  
18 later tax years.

19 Section 25. Certification of qualified equity investments.

20 (a) A qualified community development entity that seeks to  
21 have an equity investment or long-term debt security designated  
22 as a qualified equity investment and eligible for tax credits  
23 under this Section shall apply to the Department. The qualified  
24 community development entity must submit an application on a

1 form that the Department provides that includes:

2 (1) The name, address, tax identification number of the  
3 entity, and evidence of the entity's certification as a  
4 qualified community development entity.

5 (2) A copy of the allocation agreement executed by the  
6 entity, or its controlling entity, and the Community  
7 Development Financial Institutions Fund.

8 (3) A certificate executed by an executive officer of  
9 the entity attesting that the allocation agreement remains  
10 in effect and has not been revoked or cancelled by the  
11 Community Development Financial Institutions Fund.

12 (4) A description of the proposed amount, structure,  
13 and purchaser of the equity investment or long-term debt  
14 security.

15 (5) The name and tax identification number of any  
16 taxpayer eligible to utilize tax credits earned as a result  
17 of the issuance of the qualified equity investment.

18 (6) Information regarding the proposed use of proceeds  
19 from the issuance of the qualified equity investment.

20 (7) A nonrefundable application fee of \$5,000. This fee  
21 shall be paid to the Department and shall be required of  
22 each application submitted.

23 (b) Within 30 days after receipt of a completed application  
24 containing the information necessary for the Department to  
25 certify a potential qualified equity investment, including the  
26 payment of the application fee, the Department shall grant or

1 deny the application in full or in part. If the Department  
2 denies any part of the application, it shall inform the  
3 qualified community development entity of the grounds for the  
4 denial. If the qualified community development entity provides  
5 any additional information required by the Department or  
6 otherwise completes its application within 15 days of the  
7 notice of denial, the application shall be considered completed  
8 as of the original date of submission. If the qualified  
9 community development entity fails to provide the information  
10 or complete its application within the 15-day period, the  
11 application remains denied and must be resubmitted in full with  
12 a new submission date.

13 (c) If the application is deemed complete, the Department  
14 shall certify the proposed equity investment or long-term debt  
15 security as a qualified equity investment that is eligible for  
16 tax credits under this Section, subject to the limitations  
17 contained in Section 20. The Department shall provide written  
18 notice of the certification to the qualified community  
19 development entity. The notice shall include the names of those  
20 taxpayers who are eligible to utilize the credits and their  
21 respective credit amounts. If the names of the taxpayers who  
22 are eligible to utilize the credits change due to a transfer of  
23 a qualified equity investment or a change in an allocation  
24 pursuant to Section 15, the qualified community development  
25 entity shall notify the Department of such change.

26 (d) The Department shall certify qualified equity



1 investments in the order applications are received by the  
2 Department. Applications received on the same day shall be  
3 deemed to have been received simultaneously. For applications  
4 received on the same day and deemed complete, the Department  
5 shall certify, consistent with remaining tax credit capacity,  
6 qualified equity investments in proportionate percentages  
7 based upon the ratio of the amount of qualified equity  
8 investment requested in an application to the total amount of  
9 qualified equity investments requested in all applications  
10 received on the same day.

11 (e) Once the Department has certified qualified equity  
12 investments that, on a cumulative basis, are eligible for  
13 \$10,000,000 in tax credits, the Department may not certify any  
14 more qualified equity investments. If a pending request cannot  
15 be fully certified, the Department shall certify the portion  
16 that may be certified unless the qualified community  
17 development entity elects to withdraw its request rather than  
18 receive partial credit.

19 (f) Within 30 days after receiving notice of certification,  
20 the qualified community development entity shall issue the  
21 qualified equity investment and receive cash in the amount of  
22 the certified amount. The qualified community development  
23 entity must provide the Department with evidence of the receipt  
24 of the cash investment within 10 business days after receipt.  
25 If the qualified community development entity does not receive  
26 the cash investment and issue the qualified equity investment

1 within 30 days following receipt of the certification notice,  
2 the certification shall lapse and the entity may not issue the  
3 qualified equity investment without reapplying to the  
4 Department for certification. A certification that lapses  
5 reverts back to the Department and may be reissued only in  
6 accordance with the application process outline in this Section  
7 25.

8 Section 40. Recapture. The Department shall recapture,  
9 from the taxpayer that claimed the credit on a return, the tax  
10 credit allowed under this Act if:

11 (1) any amount of the federal tax credit available with  
12 respect to a qualified equity investment that is eligible  
13 for a tax credit under this Act is recaptured under Section  
14 45D of the Internal Revenue Code of 1986, as amended. In  
15 that case, the Department's recapture shall be  
16 proportionate to the federal recapture with respect to that  
17 qualified equity investment;

18 (2) the issuer redeems or makes principal repayment  
19 with respect to a qualified equity investment prior to the  
20 7th anniversary of the issuance of the qualified equity  
21 investment. In that case, the Department's recapture shall  
22 be proportionate to the amount of the redemption or  
23 repayment with respect to the qualified equity investment;  
24 or

25 (3) the issuer fails to invest at least 85% of the cash

1 purchase price of the qualified equity investment in  
2 qualified low-income community investments in the state of  
3 Illinois within 12 months of the issuance of the qualified  
4 equity investment and maintain such level of investment in  
5 qualified low-income community investments in Illinois  
6 until the last credit allowance date for such qualified  
7 equity investment.

8 For purposes of this Section, an investment shall be  
9 considered held by an issuer even if the investment has been  
10 sold or repaid; provided that the issuer reinvests an amount  
11 equal to the capital returned to or recovered by the issuer  
12 from the original investment, exclusive of any profits  
13 realized, in another qualified low-income community investment  
14 in this State within 12 months after the receipt of that  
15 capital. An issuer is not required to reinvest capital returned  
16 from qualified low-income community investments after the 6th  
17 anniversary of the issuance of the qualified equity investment,  
18 the proceeds of which were used to make the qualified  
19 low-income community investment, and the qualified low-income  
20 community investment shall be considered held by the issuer  
21 through the 7th anniversary of the qualified equity  
22 investment's issuance.

23 The Department shall provide notice to the qualified  
24 community development entity of any proposed recapture of tax  
25 credits pursuant to this Section. The entity shall have 90 days  
26 to cure any deficiency indicated in the Department's original

1 recapture notice and avoid such recapture. If the entity fails  
2 or is unable to cure such deficiency with the 90-day period,  
3 the Department shall provide the entity and the taxpayer from  
4 whom the credit is to be recaptured with a final order of  
5 recapture. Any tax credit for which a final recapture order has  
6 been issued shall be recaptured by the Department from the  
7 taxpayer who claimed the tax credit on a tax return.

8 Section 45. Examination and Rulemaking.

9 (a) The Department may conduct examinations to verify that  
10 the tax credits under this Act have been received and applied  
11 according to the requirements of this Act and to verify that no  
12 event has occurred that would result in a recapture of tax  
13 credits under Section 40.

14 (b) Neither the Department nor the Department of Revenue  
15 shall have the authority to promulgate rules under the Act, but  
16 the Department and the Department of Revenue shall have the  
17 authority to issue advisory letters to individual qualified  
18 community development entities and their investors that are  
19 limited to the specific facts outlined in an advisory letter  
20 request from a qualified community development entity. Such  
21 rulings cannot be relied upon by any person or entity other  
22 than the qualified community development entity that requested  
23 the letter and the taxpayers that are entitled to any tax  
24 credits generated from investments in such entity. In rendering  
25 such advisory letters and making other determinations under

1 this Act, to the extent applicable, the Department and the  
2 Department of Revenue shall look for guidance to Section 45D of  
3 the Internal Revenue Code of 1986, as amended, and the rules  
4 and regulations issued thereunder.

5 Section 50. Sunset. For fiscal years following fiscal year  
6 2012, qualified equity investments shall not be made under this  
7 Act unless reauthorization is made pursuant to this Section.  
8 For all fiscal years following fiscal year 2012, unless the  
9 General Assembly adopts a joint resolution granting authority  
10 to the Department to approve qualified equity investments for  
11 the Illinois new markets development program and clearly  
12 describing the amount of tax credits available for the next  
13 fiscal year, or otherwise complies with the provisions of this  
14 Section, no qualified equity investments may be permitted to be  
15 made under this Act. The amount of available tax credits  
16 contained in such a resolution shall not exceed the limitation  
17 provided under Section 20. Nothing in this Section precludes a  
18 taxpayer who makes a qualified equity investment prior to the  
19 expiration of authority to make qualified equity investments  
20 from claiming tax credits relating to that qualified equity  
21 investment for each applicable credit allowance date.

22 Section 75. The Illinois Insurance Code is amended by  
23 changing Sections 409, 444, and 444.1 as follows:

1 (215 ILCS 5/409) (from Ch. 73, par. 1021)

2 Sec. 409. Annual privilege tax payable by companies.

3 (1) As of January 1, 1999 for all health maintenance  
4 organization premiums written; as of July 1, 1998 for all  
5 premiums written as accident and health business, voluntary  
6 health service plan business, dental service plan business, or  
7 limited health service organization business; and as of January  
8 1, 1998 for all other types of insurance premiums written,  
9 every company doing any form of insurance business in this  
10 State, including, but not limited to, every risk retention  
11 group, and excluding all fraternal benefit societies, all farm  
12 mutual companies, all religious charitable risk pooling  
13 trusts, and excluding all statutory residual market and special  
14 purpose entities in which companies are statutorily required to  
15 participate, whether incorporated or otherwise, shall pay, for  
16 the privilege of doing business in this State, to the Director  
17 for the State treasury a State tax equal to 0.5% of the net  
18 taxable premium written, together with any amounts due under  
19 Section 444 of this Code, except that the tax to be paid on any  
20 premium derived from any accident and health insurance or on  
21 any insurance business written by any company operating as a  
22 health maintenance organization, voluntary health service  
23 plan, dental service plan, or limited health service  
24 organization shall be equal to 0.4% of such net taxable premium  
25 written, together with any amounts due under Section 444. Upon  
26 the failure of any company to pay any such tax due, the

1 Director may, by order, revoke or suspend the company's  
2 certificate of authority after giving 20 days written notice to  
3 the company, or commence proceedings for the suspension of  
4 business in this State under the procedures set forth by  
5 Section 401.1 of this Code. The gross taxable premium written  
6 shall be the gross amount of premiums received on direct  
7 business during the calendar year on contracts covering risks  
8 in this State, except premiums on annuities, premiums on which  
9 State premium taxes are prohibited by federal law, premiums  
10 paid by the State for health care coverage for Medicaid  
11 eligible insureds as described in Section 5-2 of the Illinois  
12 Public Aid Code, premiums paid for health care services  
13 included as an element of tuition charges at any university or  
14 college owned and operated by the State of Illinois, premiums  
15 on group insurance contracts under the State Employees Group  
16 Insurance Act of 1971, and except premiums for deferred  
17 compensation plans for employees of the State, units of local  
18 government, or school districts. The net taxable premium shall  
19 be the gross taxable premium written reduced only by the  
20 following:

21 (a) the amount of premiums returned thereon which shall  
22 be limited to premiums returned during the same preceding  
23 calendar year and shall not include the return of cash  
24 surrender values or death benefits on life policies  
25 including annuities;

26 (b) dividends on such direct business that have been

1       paid in cash, applied in reduction of premiums or left to  
2       accumulate to the credit of policyholders or annuitants. In  
3       the case of life insurance, no deduction shall be made for  
4       the payment of deferred dividends paid in cash to  
5       policyholders on maturing policies; dividends left to  
6       accumulate to the credit of policyholders or annuitants  
7       shall be included as gross taxable premium written when  
8       such dividend accumulations are applied to purchase  
9       paid-up insurance or to shorten the endowment or premium  
10      paying period.

11       (2) The annual privilege tax payment due from a company  
12      under subsection (4) of this Section may be reduced by: (a) the  
13      excess amount, if any, by which the aggregate income taxes paid  
14      by the company, on a cash basis, for the preceding calendar  
15      year under subsections (a) through (d) of Section 201 of the  
16      Illinois Income Tax Act exceed 1.5% of the company's net  
17      taxable premium written for that prior calendar year, as  
18      determined under subsection (1) of this Section; and (b) the  
19      amount of any fire department taxes paid by the company during  
20      the preceding calendar year under Section 11-10-1 of the  
21      Illinois Municipal Code. Any deductible amount or offset  
22      allowed under items (a) and (b) of this subsection for any  
23      calendar year will not be allowed as a deduction or offset  
24      against the company's privilege tax liability for any other  
25      taxing period or calendar year.

26       (3) If a company survives or was formed by a merger,



1 consolidation, reorganization, or reincorporation, the  
2 premiums received and amounts returned or paid by all companies  
3 party to the merger, consolidation, reorganization, or  
4 reincorporation shall, for purposes of determining the amount  
5 of the tax imposed by this Section, be regarded as received,  
6 returned, or paid by the surviving or new company.

7 (4) (a) All companies subject to the provisions of this  
8 Section shall make an annual return for the preceding calendar  
9 year on or before March 15 setting forth such information on  
10 such forms as the Director may reasonably require. Payments of  
11 quarterly installments of the taxpayer's total estimated tax  
12 for the current calendar year shall be due on or before April  
13 15, June 15, September 15, and December 15 of such year, except  
14 that all companies transacting insurance in this State whose  
15 annual tax for the immediately preceding calendar year was less  
16 than \$5,000 shall make only an annual return. Failure of a  
17 company to make the annual payment, or to make the quarterly  
18 payments, if required, of at least 25% of either (i) the total  
19 tax paid during the previous calendar year or (ii) 80% of the  
20 actual tax for the current calendar year shall subject it to  
21 the penalty provisions set forth in Section 412 of this Code.

22 (b) Notwithstanding the foregoing provisions, no annual  
23 return shall be required or made on March 15, 1998, under this  
24 subsection. For the calendar year 1998:

25 (i) each health maintenance organization shall have no  
26 estimated tax installments;

1           (ii) all companies subject to the tax as of July 1,  
2           1998 as set forth in subsection (1) shall have estimated  
3           tax installments due on September 15 and December 15 of  
4           1998 which installments shall each amount to no less than  
5           one-half of 80% of the actual tax on its net taxable  
6           premium written during the period July 1, 1998, through  
7           December 31, 1998; and

8           (iii) all other companies shall have estimated tax  
9           installments due on June 15, September 15, and December 15  
10          of 1998 which installments shall each amount to no less  
11          than one-third of 80% of the actual tax on its net taxable  
12          premium written during the calendar year 1998.

13          In the year 1999 and thereafter all companies shall make  
14          annual and quarterly installments of their estimated tax as  
15          provided by paragraph (a) of this subsection.

16          (5) In addition to the authority specifically granted under  
17          Article XXV of this Code, the Director shall have such  
18          authority to adopt rules and establish forms as may be  
19          reasonably necessary for purposes of determining the  
20          allocation of Illinois corporate income taxes paid under  
21          subsections (a) through (d) of Section 201 of the Illinois  
22          Income Tax Act amongst members of a business group that files  
23          an Illinois corporate income tax return on a unitary basis, for  
24          purposes of regulating the amendment of tax returns, for  
25          purposes of defining terms, and for purposes of enforcing the  
26          provisions of Article XXV of this Code. The Director shall also

1 have authority to defer, waive, or abate the tax imposed by  
2 this Section if in his opinion the company's solvency and  
3 ability to meet its insured obligations would be immediately  
4 threatened by payment of the tax due.

5 (c) This Section is subject to the provisions of Section 10  
6 of the New Markets Development Program Act.

7 (Source: P.A. 90-583, eff. 5-29-98.)

8 (215 ILCS 5/444) (from Ch. 73, par. 1056)

9 Sec. 444. Retaliation.

10 (1) Whenever the existing or future laws of any other state  
11 or country shall require of companies incorporated or organized  
12 under the laws of this State as a condition precedent to their  
13 doing business in such other state or country, compliance with  
14 laws, rules, regulations, and prohibitions more onerous or  
15 burdensome than the rules and regulations imposed by this State  
16 on foreign or alien companies, or shall require any deposit of  
17 securities or other obligations in such state or country, for  
18 the protection of policyholders or otherwise or require of such  
19 companies or agents thereof or brokers the payment of  
20 penalties, fees, charges, or taxes greater than the penalties,  
21 fees, charges, or taxes required in the aggregate for like  
22 purposes by this Code or any other law of this State, of  
23 foreign or alien companies, agents thereof or brokers, then  
24 such laws, rules, regulations, and prohibitions of said other  
25 state or country shall apply to companies incorporated or

1 organized under the laws of such state or country doing  
2 business in this State, and all such companies, agents thereof,  
3 or brokers doing business in this State, shall be required to  
4 make deposits, pay penalties, fees, charges, and taxes, in  
5 amounts equal to those required in the aggregate for like  
6 purposes of Illinois companies doing business in such state or  
7 country, agents thereof or brokers. Whenever any other state or  
8 country shall refuse to permit any insurance company  
9 incorporated or organized under the laws of this State to  
10 transact business according to its usual plan in such other  
11 state or country, the director may, if satisfied that such  
12 company of this State is solvent, properly managed, and can  
13 operate legally under the laws of such other state or country,  
14 forthwith suspend or cancel the license of every insurance  
15 company doing business in this State which is incorporated or  
16 organized under the laws of such other state or country to the  
17 extent that it insures in this State against any of the risks  
18 or hazards which are sought to be insured against by the  
19 company of this State in such other state or country.

20 (2) The provisions of this Section shall not apply to  
21 residual market or special purpose assessments or guaranty fund  
22 or guaranty association assessments, both under the laws of  
23 this State and under the laws of any other state or country,  
24 and any tax offset or credit for any such assessment shall, for  
25 purposes of this Section, be treated as a tax paid both under  
26 the laws of this State and under the laws of any other state or

1 country.

2 (3) The terms "penalties", "fees", "charges", and "taxes"  
3 in subsection (1) of this Section shall include: the penalties,  
4 fees, charges, and taxes collected under State law and  
5 referenced within Article XXV exclusive of any items referenced  
6 by subsection (2) of this Section, but including any tax offset  
7 allowed under Section 531.13 of this Code; the Illinois  
8 corporate income taxes imposed under subsections (a) through  
9 (d) of Section 201 of the Illinois Income Tax Act after any tax  
10 offset allowed under Section 531.13 of this Code; income or  
11 personal property taxes imposed by other states or countries;  
12 penalties, fees, charges, and taxes of other states or  
13 countries imposed for purposes like those of the penalties,  
14 fees, charges, and taxes specified in Article XXV of this Code  
15 exclusive of any item referenced in subsection (2) of this  
16 Section; and any penalties, fees, charges, and taxes required  
17 as a franchise, privilege, or licensing tax for conducting the  
18 business of insurance whether calculated as a percentage of  
19 income, gross receipts, premium, or otherwise.

20 (4) Nothing contained in this Section or Section 409 or  
21 Section 444.1 is intended to authorize or expand any power of  
22 local governmental units or municipalities to impose taxes,  
23 fees, or charges.

24 (5) This Section is subject to the provisions of Section 10  
25 of the New Markets Development Program Act.

26 (Source: P.A. 90-583, eff. 5-29-98.)

1 (215 ILCS 5/444.1) (from Ch. 73, par. 1056.1)

2 Sec. 444.1. Payment of retaliatory taxes.

3 (1) Every foreign or alien company doing insurance business  
4 in this State shall pay the Director the retaliatory tax  
5 determined in accordance with Section 444.

6 (2) (a) All companies subject to the provisions of this  
7 Section shall make an annual return for the preceding calendar  
8 year on or before March 15 setting forth such information on  
9 such forms as the Director may reasonably require. Payments of  
10 quarterly installments of the taxpayer's total estimated  
11 retaliatory tax for the current calendar year shall be due on  
12 or before April 15, June 15, September 15, and December 15 of  
13 such year, except that all companies transacting insurance  
14 business in this State whose annual tax for the immediately  
15 preceding calendar year was less than \$5,000 shall make only an  
16 annual return. Failure of a company to make the annual payment,  
17 or to make the quarterly payments, if required, of at least  
18 one-fourth of either (i) the total tax paid during the previous  
19 calendar year or (ii) 80% of the actual tax for the current  
20 calendar year shall subject it to the penalty provisions set  
21 forth in Section 412 of this Code.

22 (b) Notwithstanding the foregoing provisions of paragraph  
23 (a) of this subsection, the retaliatory tax liability of  
24 companies under Section 444 of this Code for the calendar year  
25 ended December 31, 1997 shall be determined in accordance with

1 this amendatory Act of 1998 and shall include in the aggregate  
2 comparative tax burden for the State of Illinois, any tax  
3 offset allowed under Section 531.13 of this Code and any income  
4 taxes paid for the year 1997 under subsections (a) through (d)  
5 of Section 201 of the Illinois Income Tax Act after any tax  
6 offset allowed under Section 531.13 of this Code.

7 (i) Any annual retaliatory tax returns and payments  
8 made for the year ended December 31, 1997 and any quarterly  
9 installments of the taxpayer's total estimated 1998  
10 retaliatory tax liability paid prior to the effective date  
11 of this Amendatory Act of 1998 that do not include the  
12 items specified by subsection (1) of this Section shall be  
13 amended and restated, at the taxpayer's election, on forms  
14 prepared by the Director so as to provide for the inclusion  
15 of such items. An amended and restated return for the year  
16 ended December 31, 1997 filed under this subparagraph shall  
17 treat any payment of estimated privilege taxes under  
18 Section 409 as in effect prior to October 23, 1997 as a  
19 payment of estimated retaliatory taxes for the year ended  
20 December 31, 1997.

21 (ii) Any overpayment resulting from such amended  
22 return and restated tax liability shall be allowed as a  
23 credit against any subsequent privilege or retaliatory tax  
24 obligations of the taxpayer.

25 (iii) In the year 1999 and thereafter all companies  
26 shall make annual and quarterly installments of their

1           estimated tax as provided by paragraph (a) of this  
2           subsection.

3           (3) Any tax payment made under this Section and any tax  
4           returns prepared in compliance with Section 410 shall give full  
5           consideration to the impact of any future reduction in or  
6           elimination of a taxpayer's liability under Section 409,  
7           whether such reduction or elimination is due to an operation of  
8           law or an Act of the General Assembly.

9           (4) Any foreign or alien taxpayer who makes, under protest,  
10          a tax payment required by Section 409 shall, at the time of  
11          payment, file a retaliatory tax return sufficient to disclose  
12          the full amount of retaliatory taxes which would be due and  
13          owing for the tax period in question if the protest were  
14          upheld. Notwithstanding the provisions of the State Officers  
15          and Employees Money Disposition Act or any other laws of this  
16          State, the protested payment, to the extent of the retaliatory  
17          tax so disclosed, shall be deposited directly in the General  
18          Revenue Fund; and the balance of the payment, if any, shall be  
19          deposited in a protest account pursuant to the provisions of  
20          the aforesaid Act, as now or hereafter amended.

21          (5) The failure of a company to make the annual payment or  
22          to make the quarterly payments, if required, of at least  
23          one-fourth of either (i) the total tax paid during the  
24          preceding calendar year or (ii) 80% of the actual tax for the  
25          current calendar year shall subject it to the penalty  
26          provisions set forth in Section 412 of this Code.



1           (6) This Section is subject to the provisions of Section 10  
2           of the New Markets Development Program Act.

3           (Source: P.A. 90-583, eff. 5-29-98.)

4           Section 99. Effective date. This Act takes effect upon  
5           becoming law.".