

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 409 and 444 as follows:

6 (215 ILCS 5/409) (from Ch. 73, par. 1021)

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

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

1 Section 444 of this Code, except that the tax to be paid on any
2 premium derived from any accident and health insurance or on
3 any insurance business written by any company operating as a
4 health maintenance organization, voluntary health service
5 plan, dental service plan, or limited health service
6 organization shall be equal to 0.4% of such net taxable premium
7 written, together with any amounts due under Section 444. Upon
8 the failure of any company to pay any such tax due, the
9 Director may, by order, revoke or suspend the company's
10 certificate of authority after giving 20 days written notice to
11 the company, or commence proceedings for the suspension of
12 business in this State under the procedures set forth by
13 Section 401.1 of this Code. The gross taxable premium written
14 shall be the gross amount of premiums received on direct
15 business during the calendar year on contracts covering risks
16 in this State, except premiums on annuities, premiums on which
17 State premium taxes are prohibited by federal law, premiums
18 paid by the State for health care coverage for Medicaid
19 eligible insureds as described in Section 5-2 of the Illinois
20 Public Aid Code, premiums paid for health care services
21 included as an element of tuition charges at any university or
22 college owned and operated by the State of Illinois, premiums
23 on group insurance contracts under the State Employees Group
24 Insurance Act of 1971, and except premiums for deferred
25 compensation plans for employees of the State, units of local
26 government, or school districts. The net taxable premium shall

1 be the gross taxable premium written reduced only by the
2 following:

3 (a) the amount of premiums returned thereon which shall
4 be limited to premiums returned during the same preceding
5 calendar year and shall not include the return of cash
6 surrender values or death benefits on life policies
7 including annuities;

8 (b) dividends on such direct business that have been
9 paid in cash, applied in reduction of premiums or left to
10 accumulate to the credit of policyholders or annuitants. In
11 the case of life insurance, no deduction shall be made for
12 the payment of deferred dividends paid in cash to
13 policyholders on maturing policies; dividends left to
14 accumulate to the credit of policyholders or annuitants
15 shall be included as gross taxable premium written when
16 such dividend accumulations are applied to purchase
17 paid-up insurance or to shorten the endowment or premium
18 paying period.

19 (2) The annual privilege tax payment due from a company
20 under subsection (4) of this Section may be reduced by: (a) the
21 excess amount, if any, by which the aggregate income taxes paid
22 by the company, on a cash basis, for the preceding calendar
23 year under Sections 601 and 803 ~~subsections (a) through (d) of~~
24 ~~Section 201~~ of the Illinois Income Tax Act exceed 1.5% of the
25 company's net taxable premium written for that prior calendar
26 year, as determined under subsection (1) of this Section; and

1 (b) the amount of any fire department taxes paid by the company
2 during the preceding calendar year under Section 11-10-1 of the
3 Illinois Municipal Code. Any deductible amount or offset
4 allowed under items (a) and (b) of this subsection for any
5 calendar year will not be allowed as a deduction or offset
6 against the company's privilege tax liability for any other
7 taxing period or calendar year.

8 (3) If a company survives or was formed by a merger,
9 consolidation, reorganization, or reincorporation, the
10 premiums received and amounts returned or paid by all companies
11 party to the merger, consolidation, reorganization, or
12 reincorporation shall, for purposes of determining the amount
13 of the tax imposed by this Section, be regarded as received,
14 returned, or paid by the surviving or new company.

15 (4) (a) All companies subject to the provisions of this
16 Section shall make an annual return for the preceding calendar
17 year on or before March 15 setting forth such information on
18 such forms as the Director may reasonably require. Payments of
19 quarterly installments of the taxpayer's total estimated tax
20 for the current calendar year shall be due on or before April
21 15, June 15, September 15, and December 15 of such year, except
22 that all companies transacting insurance in this State whose
23 annual tax for the immediately preceding calendar year was less
24 than \$5,000 shall make only an annual return. Failure of a
25 company to make the annual payment, or to make the quarterly
26 payments, if required, of at least 25% of either (i) the total

1 tax paid during the previous calendar year or (ii) 80% of the
2 actual tax for the current calendar year shall subject it to
3 the penalty provisions set forth in Section 412 of this Code.

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

7 (i) each health maintenance organization shall have no
8 estimated tax installments;

9 (ii) all companies subject to the tax as of July 1,
10 1998 as set forth in subsection (1) shall have estimated
11 tax installments due on September 15 and December 15 of
12 1998 which installments shall each amount to no less than
13 one-half of 80% of the actual tax on its net taxable
14 premium written during the period July 1, 1998, through
15 December 31, 1998; and

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

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

24 (5) In addition to the authority specifically granted under
25 Article XXV of this Code, the Director shall have such
26 authority to adopt rules and establish forms as may be

1 reasonably necessary for purposes of determining the
2 allocation of Illinois corporate income taxes paid under
3 subsections (a) through (d) of Section 201 of the Illinois
4 Income Tax Act amongst members of a business group that files
5 an Illinois corporate income tax return on a unitary basis, for
6 purposes of regulating the amendment of tax returns, for
7 purposes of defining terms, and for purposes of enforcing the
8 provisions of Article XXV of this Code. The Director shall also
9 have authority to defer, waive, or abate the tax imposed by
10 this Section if in his opinion the company's solvency and
11 ability to meet its insured obligations would be immediately
12 threatened by payment of the tax due.

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

15 (Source: P.A. 97-813, eff. 7-13-12.)

16 (215 ILCS 5/444) (from Ch. 73, par. 1056)

17 Sec. 444. Retaliation.

18 (1) Whenever the existing or future laws of any other state
19 or country shall require of companies incorporated or organized
20 under the laws of this State as a condition precedent to their
21 doing business in such other state or country, compliance with
22 laws, rules, regulations, and prohibitions more onerous or
23 burdensome than the rules and regulations imposed by this State
24 on foreign or alien companies, or shall require any deposit of
25 securities or other obligations in such state or country, for

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

1 company of this State in such other state or country.

2 (2) The provisions of this Section shall not apply to
3 residual market or special purpose assessments or guaranty fund
4 or guaranty association assessments, both under the laws of
5 this State and under the laws of any other state or country,
6 and any tax offset or credit for any such assessment shall, for
7 purposes of this Section, be treated as a tax paid both under
8 the laws of this State and under the laws of any other state or
9 country.

10 (3) The terms "penalties", "fees", "charges", and "taxes"
11 in subsection (1) of this Section shall include: the penalties,
12 fees, charges, and taxes collected on a cash basis under State
13 law and referenced within Article XXV exclusive of any items
14 referenced by subsection (2) of this Section, but including any
15 tax offset allowed under Section 531.13 of this Code; the
16 aggregate Illinois corporate income taxes paid ~~imposed~~ under
17 Sections 601 and 803 subsections (a) through (d) of Section 201
18 of the Illinois Income Tax Act during the calendar year for
19 which the retaliatory tax calculation is being made, less the
20 recapture of any Illinois corporate income tax cash refunds to
21 the extent that the amount of tax refunded was reported as part
22 of the Illinois basis in the calculation of the retaliatory tax
23 for a prior tax year, provided that such recaptured refund
24 shall not exceed the amount necessary for equivalence of the
25 Illinois basis with the state of incorporation basis in such
26 tax year, and after any tax offset allowed under Section 531.13

1 of this Code; income or personal property taxes imposed by
2 other states or countries; penalties, fees, charges, and taxes
3 of other states or countries imposed for purposes like those of
4 the penalties, fees, charges, and taxes specified in Article
5 XXV of this Code exclusive of any item referenced in subsection
6 (2) of this Section; and any penalties, fees, charges, and
7 taxes required as a franchise, privilege, or licensing tax for
8 conducting the business of insurance whether calculated as a
9 percentage of income, gross receipts, premium, or otherwise.

10 (4) Nothing contained in this Section or Section 409 or
11 Section 444.1 is intended to authorize or expand any power of
12 local governmental units or municipalities to impose taxes,
13 fees, or charges.

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

16 (Source: P.A. 95-1024, eff. 12-31-08.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.