

AN ACT concerning regulation.

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

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

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

Sec. 409. Annual privilege tax payable by companies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 444. Retaliation.

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

the protection of policyholders or otherwise or require of such companies or agents thereof or brokers the payment of penalties, fees, charges, or taxes greater than the penalties, fees, charges, or taxes required in the aggregate for like purposes by this Code or any other law of this State, of foreign or alien companies, agents thereof or brokers, then such laws, rules, regulations, and prohibitions of said other state or country shall apply to companies incorporated or organized under the laws of such state or country doing business in this State, and all such companies, agents thereof, or brokers doing business in this State, shall be required to make deposits, pay penalties, fees, charges, and taxes, in amounts equal to those required in the aggregate for like purposes of Illinois companies doing business in such state or country, agents thereof or brokers. Whenever any other state or country shall refuse to permit any insurance company incorporated or organized under the laws of this State to transact business according to its usual plan in such other state or country, the director may, if satisfied that such company of this State is solvent, properly managed, and can operate legally under the laws of such other state or country, forthwith suspend or cancel the license of every insurance company doing business in this State which is incorporated or organized under the laws of such other state or country to the extent that it insures in this State against any of the risks or hazards which are sought to be insured against by the

company of this State in such other state or country.

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

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



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

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

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

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

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