



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 3366

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3366 by replacing  
3 everything after the enacting clause with the following:

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

1 mutual companies, all religious charitable risk pooling  
2 trusts, and excluding all statutory residual market and special  
3 purpose entities in which companies are statutorily required to  
4 participate, whether incorporated or otherwise, shall pay, for  
5 the privilege of doing business in this State, to the Director  
6 for the State treasury a State tax equal to 0.5% of the net  
7 taxable premium written, together with any amounts due under  
8 Section 444 of this Code, except that the tax to be paid on any  
9 premium derived from any accident and health insurance or on  
10 any insurance business written by any company operating as a  
11 health maintenance organization, voluntary health service  
12 plan, dental service plan, or limited health service  
13 organization shall be equal to 0.4% of such net taxable premium  
14 written, together with any amounts due under Section 444. Upon  
15 the failure of any company to pay any such tax due, the  
16 Director may, by order, revoke or suspend the company's  
17 certificate of authority after giving 20 days written notice to  
18 the company, or commence proceedings for the suspension of  
19 business in this State under the procedures set forth by  
20 Section 401.1 of this Code. The gross taxable premium written  
21 shall be the gross amount of premiums received on direct  
22 business during the calendar year on contracts covering risks  
23 in this State, except premiums on annuities, premiums on which  
24 State premium taxes are prohibited by federal law, premiums  
25 paid by the State for health care coverage for Medicaid  
26 eligible insureds as described in Section 5-2 of the Illinois

1 Public Aid Code, premiums paid for health care services  
2 included as an element of tuition charges at any university or  
3 college owned and operated by the State of Illinois, premiums  
4 on group insurance contracts under the State Employees Group  
5 Insurance Act of 1971, and except premiums for deferred  
6 compensation plans for employees of the State, units of local  
7 government, or school districts. The net taxable premium shall  
8 be the gross taxable premium written reduced only by the  
9 following:

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

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

26 (2) The annual privilege tax payment due from a company

1 under subsection (4) of this Section may be reduced by: (a) the  
2 excess amount, if any, by which the aggregate income taxes paid  
3 by the company, on a cash basis, for the preceding calendar  
4 year under Sections 601 and 803 ~~subsections (a) through (d) of~~  
5 ~~Section 201~~ of the Illinois Income Tax Act exceed 1.5% of the  
6 company's net taxable premium written for that prior calendar  
7 year, as determined under subsection (1) of this Section; and  
8 (b) the amount of any fire department taxes paid by the company  
9 during the preceding calendar year under Section 11-10-1 of the  
10 Illinois Municipal Code. Any deductible amount or offset  
11 allowed under items (a) and (b) of this subsection for any  
12 calendar year will not be allowed as a deduction or offset  
13 against the company's privilege tax liability for any other  
14 taxing period or calendar year.

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

22 (4) (a) All companies subject to the provisions of this  
23 Section shall make an annual return for the preceding calendar  
24 year on or before March 15 setting forth such information on  
25 such forms as the Director may reasonably require. Payments of  
26 quarterly installments of the taxpayer's total estimated tax

1 for the current calendar year shall be due on or before April  
2 15, June 15, September 15, and December 15 of such year, except  
3 that all companies transacting insurance in this State whose  
4 annual tax for the immediately preceding calendar year was less  
5 than \$5,000 shall make only an annual return. Failure of a  
6 company to make the annual payment, or to make the quarterly  
7 payments, if required, of at least 25% of either (i) the total  
8 tax paid during the previous calendar year or (ii) 80% of the  
9 actual tax for the current calendar year shall subject it to  
10 the penalty provisions set forth in Section 412 of this Code.

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

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

16 (ii) all companies subject to the tax as of July 1,  
17 1998 as set forth in subsection (1) shall have estimated  
18 tax installments due on September 15 and December 15 of  
19 1998 which installments shall each amount to no less than  
20 one-half of 80% of the actual tax on its net taxable  
21 premium written during the period July 1, 1998, through  
22 December 31, 1998; and

23 (iii) all other companies shall have estimated tax  
24 installments due on June 15, September 15, and December 15  
25 of 1998 which installments shall each amount to no less  
26 than one-third of 80% of the actual tax on its net taxable

1 premium written during the calendar year 1998.

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

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

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

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

23 (215 ILCS 5/444) (from Ch. 73, par. 1056)

24 Sec. 444. Retaliation.

25 (1) Whenever the existing or future laws of any other state

1 or country shall require of companies incorporated or organized  
2 under the laws of this State as a condition precedent to their  
3 doing business in such other state or country, compliance with  
4 laws, rules, regulations, and prohibitions more onerous or  
5 burdensome than the rules and regulations imposed by this State  
6 on foreign or alien companies, or shall require any deposit of  
7 securities or other obligations in such state or country, for  
8 the protection of policyholders or otherwise or require of such  
9 companies or agents thereof or brokers the payment of  
10 penalties, fees, charges, or taxes greater than the penalties,  
11 fees, charges, or taxes required in the aggregate for like  
12 purposes by this Code or any other law of this State, of  
13 foreign or alien companies, agents thereof or brokers, then  
14 such laws, rules, regulations, and prohibitions of said other  
15 state or country shall apply to companies incorporated or  
16 organized under the laws of such state or country doing  
17 business in this State, and all such companies, agents thereof,  
18 or brokers doing business in this State, shall be required to  
19 make deposits, pay penalties, fees, charges, and taxes, in  
20 amounts equal to those required in the aggregate for like  
21 purposes of Illinois companies doing business in such state or  
22 country, agents thereof or brokers. Whenever any other state or  
23 country shall refuse to permit any insurance company  
24 incorporated or organized under the laws of this State to  
25 transact business according to its usual plan in such other  
26 state or country, the director may, if satisfied that such

1 company of this State is solvent, properly managed, and can  
2 operate legally under the laws of such other state or country,  
3 forthwith suspend or cancel the license of every insurance  
4 company doing business in this State which is incorporated or  
5 organized under the laws of such other state or country to the  
6 extent that it insures in this State against any of the risks  
7 or hazards which are sought to be insured against by the  
8 company of this State in such other state or country.

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

17 (3) The terms "penalties", "fees", "charges", and "taxes"  
18 in subsection (1) of this Section shall include: the penalties,  
19 fees, charges, and taxes collected on a cash basis under State  
20 law and referenced within Article XXV exclusive of any items  
21 referenced by subsection (2) of this Section, but including any  
22 tax offset allowed under Section 531.13 of this Code; the  
23 aggregate Illinois corporate income taxes paid on a cash basis  
24 during the calendar year for which the retaliatory tax  
25 calculation is being made ~~imposed~~ under Sections 601 and 803  
26 ~~subsections (a) through (d) of Section 201~~ of the Illinois



1     Income Tax Act, less the recapture of any Illinois corporate  
2     income tax cash refunds to the extent that the amount of tax  
3     refunded was reported as part of the Illinois basis in the  
4     calculation of the retaliatory tax for a prior tax year,  
5     provided that such recaptured refund shall not exceed the  
6     amount necessary for equivalence of the Illinois basis with the  
7     state of incorporation basis in such tax year, and after any  
8     tax offset allowed under Section 531.13 of this Code; income or  
9     personal property taxes imposed by other states or countries;  
10    penalties, fees, charges, and taxes of other states or  
11    countries imposed for purposes like those of the penalties,  
12    fees, charges, and taxes specified in Article XXV of this Code  
13    exclusive of any item referenced in subsection (2) of this  
14    Section; and any penalties, fees, charges, and taxes required  
15    as a franchise, privilege, or licensing tax for conducting the  
16    business of insurance whether calculated as a percentage of  
17    income, gross receipts, premium, or otherwise.

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

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

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

25           Section 99. Effective date. This Act takes effect upon

1 becoming law.".