

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 280

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS RUPP AND CUNNINGHAM.

Read 1st time February 2, 2009, and ordered printed.

Read 2nd time February 3, 2009, and referred to the Committee on Small Business, Insurance and Industry.

Reported from the Committee February 18, 2009, with recommendation that the bill do pass and be placed on the Consent Calendar.

Removed from the Consent Calendar February 24, 2009.

Re-reported from the Committee on Small Business, Insurance and Industry, February 25, 2009, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 9, 2009. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1434S.01P

AN ACT

To repeal sections 143.441, 147.010, and 148.370, RSMo, and to enact in lieu thereof three new sections relating to taxation of insurance companies.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 143.441, 147.010, and 148.370, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 143.441,
3 147.010, and 148.370, to read as follows:

143.441. 1. The term "corporation" means every corporation, association,
2 joint stock company and joint stock association organized, authorized or existing
3 under the laws of this state and includes:

4 (1) Every corporation, association, joint stock company, and joint stock
5 association organized, authorized, or existing under the laws of this state, and
6 every corporation, association, joint stock company, and joint stock association,
7 licensed to do business in this state, or doing business in this state, and not
8 organized, authorized, or existing under the laws of this state, or by any receiver
9 in charge of the property of any such corporation, association, joint stock company
10 or joint stock association;

11 (2) Every railroad corporation or receiver in charge of the property thereof
12 which operates over rails owned or leased by it and every corporation operating
13 any buslines, trucklines, airlines, or other forms of transportation operating over

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 fixed routes owned, leased, or used by it extending from this state to another
15 state or states;

16 (3) Every corporation, or receiver in charge of the property thereof, which
17 owns or operates a bridge between this and any other state; and

18 (4) Every corporation, or receiver in charge of the property thereof, which
19 operates a telephone line or lines extending from this state to another state or
20 states or a telegraph line or lines extending from this state to another state or
21 states.

22 2. The tax on corporations provided in subsection 1 of section 143.431 and
23 section 143.071 shall not apply to:

24 (1) A corporation which by reason of its purposes and activities is exempt
25 from federal income tax. The preceding sentence shall not apply to unrelated
26 business taxable income and other income on which chapter 1 of the Internal
27 Revenue Code imposes the federal income tax or any other tax measured by
28 income;

29 (2) An express company which pays an annual tax on its gross receipts in
30 this state;

31 (3) An insurance company which [pays] **is subject to** an annual tax on
32 its gross premium receipts in this state;

33 (4) A Missouri mutual or an extended Missouri mutual insurance company
34 organized under chapter 380, RSMo; and

35 (5) Any other corporation that is exempt from Missouri income taxation
36 under the laws of Missouri or the laws of the United States.

147.010. 1. For the transitional year defined in subsection 4 of this
2 section and each taxable year beginning on or after January 1, 1980, but before
3 January 1, 2000, every corporation organized pursuant to or subject to chapter
4 351, RSMo, or pursuant to any other law of this state shall, in addition to all
5 other fees and taxes now required or paid, pay an annual franchise tax to the
6 state of Missouri equal to one-twentieth of one percent of the par value of its
7 outstanding shares and surplus if its outstanding shares and surplus exceed two
8 hundred thousand dollars, or if the outstanding shares of such corporation or any
9 part thereof consist of shares without par value, then, in that event, for the
10 purpose contained in this section, such shares shall be considered as having a
11 value of five dollars per share unless the actual value of such shares exceeds five
12 dollars per share, in which case the tax shall be levied and collected on the actual
13 value and the surplus if the actual value and the surplus exceed two hundred

14 thousand dollars. If such corporation employs a part of its outstanding shares in
15 business in another state or country, then such corporation shall pay an annual
16 franchise tax equal to one-twentieth of one percent of its outstanding shares and
17 surplus employed in this state if its outstanding shares and surplus employed in
18 this state two hundred thousand dollars, and for the purposes of sections 147.010
19 to 147.120, such corporation shall be deemed to have employed in this state that
20 proportion of its entire outstanding shares and surplus that its property and
21 assets employed in this state bears to all its property and assets wherever
22 located. A foreign corporation engaged in business in this state, whether
23 pursuant to a certificate of authority issued pursuant to chapter 351, RSMo, or
24 not, shall be subject to this section. Any corporation whose outstanding shares
25 and surplus as calculated in this subsection does not exceed two hundred
26 thousand dollars shall state that fact on the annual report form prescribed by the
27 secretary of state. For all taxable years beginning on or after January 1, 2000,
28 the annual franchise tax shall be equal to one-thirtieth of one percent of the
29 corporation's outstanding shares and surplus if the outstanding shares and
30 surplus exceed one million dollars. Any corporation whose outstanding shares
31 and surplus do not exceed one million dollars shall state that fact on the annual
32 report form prescribed by the director of revenue.

33 2. Sections 147.010 to 147.120 shall not apply to corporations not
34 organized for profit, nor to corporations organized pursuant to the provisions of
35 chapter 349, RSMo, nor to express companies, which now pay an annual tax on
36 their gross receipts in this state, nor to insurance companies, which **[pay] are**
37 **subject to** an annual tax on their premium receipts in this state, nor to state,
38 district, county, town and farmers' mutual companies now organized or that may
39 be hereafter organized pursuant to any of the laws of this state, organized for the
40 sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate
41 glass and mutual automobile insurance and for the purpose of paying any loss
42 incurred by any member by assessment, nor to any mutual insurance corporation
43 not having shares, nor to a company or association organized to transact business
44 of life or accident insurance on the assessment plan for the purpose of mutual
45 protection and benefit to its members and the payment of stipulated sums of
46 moneys to the family, heirs, executors, administrators or assigns of the deceased
47 member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado,
48 health, or other kind of insurance company of whatever nature coming within the
49 provisions of section 147.050 and doing business in this state, nor to savings and

50 loan associations and domestic and foreign regulated investment companies as
51 defined by Section 170 of the Act of Congress commonly known as the "Revenue
52 Act of 1942", nor to electric and telephone corporations organized pursuant to
53 chapter 351, RSMo, and chapter 392, RSMo, prior to January 1, 1980, which have
54 been declared tax exempt organizations pursuant to Section 501(c) of the Internal
55 Revenue Code of 1986, nor for taxable years beginning after December 31, 1986,
56 to banking institutions subject to the annual franchise tax imposed by sections
57 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the
58 individual depositor left for safekeeping and shall not be considered in computing
59 the amount of tax collectible pursuant to the provisions of sections 147.010 to
60 147.120.

61 3. A corporation's "taxable year" for purposes of sections 147.010 to
62 147.120 shall be its taxable year as provided in section 143.271, RSMo.

63 4. A corporation's "transitional year" for the purposes of sections 147.010
64 to 147.120 shall be its taxable year which includes parts of each of the years 1979
65 and 1980.

66 5. The franchise tax payable for a corporation's transitional year shall be
67 computed by multiplying the amount otherwise due for that year by a fraction,
68 the numerator of which is the number of months between January 1, 1980, and
69 the end of the taxable year and the denominator of which is twelve. The
70 franchise tax payable, if a corporation's taxable year is changed as provided in
71 section 143.271, RSMo, shall be similarly computed pursuant to regulations
72 prescribed by the director of revenue.

73 6. All franchise reports and franchise taxes shall be returned to the
74 director of revenue. All checks and drafts remitted for payment of franchise taxes
75 shall be made payable to the director of revenue.

76 7. Pursuant to section 32.057, RSMo, the director of revenue shall
77 maintain the confidentiality of all franchise tax reports returned to the director.

78 8. The director of the department of revenue shall honor all existing
79 agreements between taxpayers and the director of the department of revenue.

148.370. Every insurance company or association organized under the
2 laws of the state of Missouri and doing business under the provisions of sections
3 376.010 to 376.670, 379.205 to 379.310, 379.650 to 379.790 and chapter 381,
4 RSMo, and every mutual fire insurance company organized under the provisions
5 of sections 379.010 to 379.190, RSMo, shall, as hereinafter provided, quarterly
6 pay, beginning with the year 1983, a tax upon the direct premiums received by

7 it from policyholders in this state, whether in cash or in notes, or on account of
8 business done in this state, **in lieu of the taxes imposed under the**
9 **provisions of chapters 143 and 147, RSMo**, for insurance of life, property or
10 interest in this state, at the rate of two percent per annum, which amount of
11 taxes shall be assessed and collected as hereinafter provided; provided, that fire
12 and casualty insurance companies or associations shall be credited with canceled
13 or returned premiums actually paid during the year in this state, and that life
14 insurance companies shall be credited with dividends actually declared to
15 policyholders in this state but held by the company and applied to the reduction
16 of premiums payable by the policyholder.

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Bill

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