

1 AN ACT concerning economic development.

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

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
17 Opportunity.

18 "Long-term debt security" means any debt instrument issued
19 by a qualified community development entity, at par value or a
20 premium, with an original maturity date of at least 7 years
21 from the date of its issuance, with no acceleration of
22 repayment, amortization, or prepayment features prior to its
23 original maturity date. Cumulative cash payments of interest on

1 the qualified debt instrument during the period commencing with
2 the issuance of the qualified debt instrument and ending with
3 the seventh anniversary of its issuance shall not exceed the
4 sum of such cash interest payments and the cumulative net
5 income of the issuing community development entity for the same
6 period. This definition in no way limits the holder's ability
7 to accelerate payments on the debt instrument in situations
8 where the issuer has defaulted on covenants designed to ensure
9 compliance with this Act or Section 45D of the Internal Revenue
10 Code of 1986, as amended.

11 "Purchase price" means the amount paid to the issuer of a
12 qualified equity investment for that qualified equity
13 investment.

14 "Qualified active low-income community business" has the
15 meaning given to that term in Section 45D of the Internal
16 Revenue Code of 1986, as amended; except that any business that
17 derives or projects to derive 15% or more of its annual revenue
18 from the rental or sale of real estate is not considered to be
19 a qualified active low-income community business. This
20 exception does not apply to a business that is controlled by or
21 under common control with another business if the second
22 business (i) does not derive or project to derive 15% or more
23 of its annual revenue from the rental or sale of real estate
24 and (ii) is the primary tenant of the real estate leased from
25 the initial business. A business shall be considered a
26 qualified active low-income community business for the

1 duration of the qualified community development entity's
2 investment in or loan to the business if the entity reasonably
3 expects, at the time it makes the investment or loan, that the
4 business will continue to satisfy the requirements for being a
5 qualified active low-income community business throughout the
6 entire period of the investment or loan.

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

16 "Qualified equity investment" means any equity investment
17 in, or long-term debt security issued by, a qualified community
18 development entity that:

19 (1) is acquired after the effective date of this Act at
20 its original issuance solely in exchange for cash;

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

24 (3) is designated by the issuer as a qualified equity
25 investment under this Act and is certified by the
26 Department as not exceeding the limitation contained in

1 Section 20.

2 This term includes any qualified equity investment that
3 does not meet the provisions of item (1) of this definition if
4 the investment was a qualified equity investment in the hands
5 of a prior holder.

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

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

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

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

23 (1) on each credit allowance date of the qualified
24 equity investment, the purchaser of the qualified equity
25 investment, or subsequent holder of the qualified equity

1 investment, is entitled to a tax credit during the taxable
2 year including that credit allowance date;

3 (2) the tax credit amount shall be equal to the
4 applicable percentage for such credit allowance date
5 multiplied by the purchase price paid to the issuer of the
6 qualified equity investment; and

7 (3) the amount of the tax credit claimed shall not
8 exceed the amount of the State tax liability of the holder,
9 or the person or entity to whom the credit is allocated for
10 use pursuant to Section 15, for the tax year for which the
11 tax credit is claimed.

12 A company doing insurance business in this State claiming a
13 tax credit against insurance premium taxes payable pursuant to
14 Section 409 of the Illinois Insurance Code is not required to
15 pay any additional retaliatory tax imposed pursuant to Section
16 444 or 444.1 of the Illinois Insurance Code related to that
17 claim for a tax credit.

18 Section 15. Transferability. No tax credit claimed under
19 this Act shall be refundable or saleable on the open market.
20 Tax credits earned by a partnership, limited liability company,
21 S corporation, or other "pass-through" entity may be allocated
22 to the partners, members, or shareholders of that entity for
23 their direct use in accordance with the provisions of any
24 agreement among the partners, members, or shareholders. Any
25 amount of tax credit that the taxpayer, or partner, member, or

1 shareholder thereof, is prohibited from claiming in a taxable
2 year may be carried forward to any of the taxpayer's 5
3 subsequent taxable years.

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

12 Section 25. Certification of qualified equity investments.

13 (a) A qualified community development entity that seeks to
14 have an equity investment or long-term debt security designated
15 as a qualified equity investment and eligible for tax credits
16 under this Section shall apply to the Department. The qualified
17 community development entity must submit an application on a
18 form that the Department provides that includes:

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

22 (2) A copy of the allocation agreement executed by the
23 entity, or its controlling entity, and the Community
24 Development Financial Institutions Fund.

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

5 (4) A description of the proposed amount, structure,
6 and purchaser of the equity investment or long-term debt
7 security.

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

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

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

16 (b) Within 30 days after receipt of a completed application
17 containing the information necessary for the Department to
18 certify a potential qualified equity investment, including the
19 payment of the application fee, the Department shall grant or
20 deny the application in full or in part. If the Department
21 denies any part of the application, it shall inform the
22 qualified community development entity of the grounds for the
23 denial. If the qualified community development entity provides
24 any additional information required by the Department or
25 otherwise completes its application within 15 days of the
26 notice of denial, the application shall be considered completed

1 as of the original date of submission. If the qualified
2 community development entity fails to provide the information
3 or complete its application within the 15-day period, the
4 application remains denied and must be resubmitted in full with
5 a new submission date.

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

19 (d) The Department shall certify qualified equity
20 investments in the order applications are received by the
21 Department. Applications received on the same day shall be
22 deemed to have been received simultaneously. For applications
23 received on the same day and deemed complete, the Department
24 shall certify, consistent with remaining tax credit capacity,
25 qualified equity investments in proportionate percentages
26 based upon the ratio of the amount of qualified equity

1 investment requested in an application to the total amount of
2 qualified equity investments requested in all applications
3 received on the same day.

4 (e) Once the Department has certified qualified equity
5 investments that, on a cumulative basis, are eligible for
6 \$10,000,000 in tax credits, the Department may not certify any
7 more qualified equity investments. If a pending request cannot
8 be fully certified, the Department shall certify the portion
9 that may be certified unless the qualified community
10 development entity elects to withdraw its request rather than
11 receive partial credit.

12 (f) Within 30 days after receiving notice of certification,
13 the qualified community development entity shall issue the
14 qualified equity investment and receive cash in the amount of
15 the certified amount. The qualified community development
16 entity must provide the Department with evidence of the receipt
17 of the cash investment within 10 business days after receipt.
18 If the qualified community development entity does not receive
19 the cash investment and issue the qualified equity investment
20 within 30 days following receipt of the certification notice,
21 the certification shall lapse and the entity may not issue the
22 qualified equity investment without reapplying to the
23 Department for certification. A certification that lapses
24 reverts back to the Department and may be reissued only in
25 accordance with the application process outline in this Section
26 25.

1 Section 40. Recapture. The Department of Revenue shall
2 recapture, from the taxpayer that claimed the credit on a
3 return, the tax credit allowed under this Act if:

4 (1) any amount of the federal tax credit available with
5 respect to a qualified equity investment that is eligible
6 for a tax credit under this Act is recaptured under Section
7 45D of the Internal Revenue Code of 1986, as amended. In
8 that case, the Department of Revenue's recapture shall be
9 proportionate to the federal recapture with respect to that
10 qualified equity investment;

11 (2) the issuer redeems or makes principal repayment
12 with respect to a qualified equity investment prior to the
13 7th anniversary of the issuance of the qualified equity
14 investment. In that case, the Department of Revenue's
15 recapture shall be proportionate to the amount of the
16 redemption or repayment with respect to the qualified
17 equity investment; or

18 (3) the issuer fails to invest at least 85% of the cash
19 purchase price of the qualified equity investment in
20 qualified low-income community investments in the State of
21 Illinois within 12 months of the issuance of the qualified
22 equity investment and maintain such level of investment in
23 qualified low-income community investments in Illinois
24 until the last credit allowance date for such qualified
25 equity investment.

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

16 The Department of Revenue shall provide notice to the
17 qualified community development entity of any proposed
18 recapture of tax credits pursuant to this Section. The entity
19 shall have 90 days to cure any deficiency indicated in the
20 Department of Revenue's original recapture notice and avoid
21 such recapture. If the entity fails or is unable to cure such
22 deficiency with the 90-day period, the Department of Revenue
23 shall provide the entity and the taxpayer from whom the credit
24 is to be recaptured with a final order of recapture. Any tax
25 credit for which a final recapture order has been issued shall
26 be recaptured by the Department of Revenue from the taxpayer

1 who claimed the tax credit on a tax return.

2 Section 45. Examination and Rulemaking.

3 (a) The Department may conduct examinations to verify that
4 the tax credits under this Act have been received and applied
5 according to the requirements of this Act and to verify that no
6 event has occurred that would result in a recapture of tax
7 credits under Section 40.

8 (b) Neither the Department nor the Department of Revenue
9 shall have the authority to promulgate rules under the Act, but
10 the Department and the Department of Revenue shall have the
11 authority to issue advisory letters to individual qualified
12 community development entities and their investors that are
13 limited to the specific facts outlined in an advisory letter
14 request from a qualified community development entity. Such
15 rulings cannot be relied upon by any person or entity other
16 than the qualified community development entity that requested
17 the letter and the taxpayers that are entitled to any tax
18 credits generated from investments in such entity. For purposes
19 of this subsection, "rules" is given the meaning contained in
20 Section 1-70 of the Illinois Administrative Procedure Act.

21 (c) In rendering advisory letters and making other
22 determinations under this Act, to the extent applicable, the
23 Department and the Department of Revenue shall look for
24 guidance to Section 45D of the Internal Revenue Code of 1986,
25 as amended, and the rules and regulations issued thereunder.

1 Section 50. Sunset. For fiscal years following fiscal year
2 2012, qualified equity investments shall not be made under this
3 Act unless reauthorization is made pursuant to this Section.
4 For all fiscal years following fiscal year 2012, unless the
5 General Assembly adopts a joint resolution granting authority
6 to the Department to approve qualified equity investments for
7 the Illinois new markets development program and clearly
8 describing the amount of tax credits available for the next
9 fiscal year, or otherwise complies with the provisions of this
10 Section, no qualified equity investments may be permitted to be
11 made under this Act. The amount of available tax credits
12 contained in such a resolution shall not exceed the limitation
13 provided under Section 20. Nothing in this Section precludes a
14 taxpayer who makes a qualified equity investment prior to the
15 expiration of authority to make qualified equity investments
16 from claiming tax credits relating to that qualified equity
17 investment for each applicable credit allowance date.

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

20 (215 ILCS 5/409) (from Ch. 73, par. 1021)

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

22 (1) As of January 1, 1999 for all health maintenance
23 organization premiums written; as of July 1, 1998 for all

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

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

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

22 (b) dividends on such direct business that have been
23 paid in cash, applied in reduction of premiums or left to
24 accumulate to the credit of policyholders or annuitants. In
25 the case of life insurance, no deduction shall be made for
26 the payment of deferred dividends paid in cash to

1 policyholders on maturing policies; dividends left to
2 accumulate to the credit of policyholders or annuitants
3 shall be included as gross taxable premium written when
4 such dividend accumulations are applied to purchase
5 paid-up insurance or to shorten the endowment or premium
6 paying period.

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

22 (3) If a company survives or was formed by a merger,
23 consolidation, reorganization, or reincorporation, the
24 premiums received and amounts returned or paid by all companies
25 party to the merger, consolidation, reorganization, or
26 reincorporation shall, for purposes of determining the amount

1 of the tax imposed by this Section, be regarded as received,
2 returned, or paid by the surviving or new company.

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

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

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

23 (ii) all companies subject to the tax as of July 1,
24 1998 as set forth in subsection (1) shall have estimated
25 tax installments due on September 15 and December 15 of
26 1998 which installments shall each amount to no less than

1 one-half of 80% of the actual tax on its net taxable
2 premium written during the period July 1, 1998, through
3 December 31, 1998; and

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

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

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

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

5 Sec. 444. Retaliation.

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

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

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

24 (3) The terms "penalties", "fees", "charges", and "taxes"
25 in subsection (1) of this Section shall include: the penalties,
26 fees, charges, and taxes collected under State law and

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

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

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

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

23 (215 ILCS 5/444.1) (from Ch. 73, par. 1056.1)

24 Sec. 444.1. Payment of retaliatory taxes.

25 (1) Every foreign or alien company doing insurance business

1 in this State shall pay the Director the retaliatory tax
2 determined in accordance with Section 444.

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

19 (b) Notwithstanding the foregoing provisions of paragraph
20 (a) of this subsection, the retaliatory tax liability of
21 companies under Section 444 of this Code for the calendar year
22 ended December 31, 1997 shall be determined in accordance with
23 this amendatory Act of 1998 and shall include in the aggregate
24 comparative tax burden for the State of Illinois, any tax
25 offset allowed under Section 531.13 of this Code and any income
26 taxes paid for the year 1997 under subsections (a) through (d)

1 of Section 201 of the Illinois Income Tax Act after any tax
2 offset allowed under Section 531.13 of this Code.

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

17 (ii) Any overpayment resulting from such amended
18 return and restated tax liability shall be allowed as a
19 credit against any subsequent privilege or retaliatory tax
20 obligations of the taxpayer.

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

25 (3) Any tax payment made under this Section and any tax
26 returns prepared in compliance with Section 410 shall give full

1 consideration to the impact of any future reduction in or
2 elimination of a taxpayer's liability under Section 409,
3 whether such reduction or elimination is due to an operation of
4 law or an Act of the General Assembly.

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

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

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

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

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

1 becoming law.