

SECOND REGULAR SESSION

# HOUSE BILL NO. 2461

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SUTHERLAND.

Read 1st time March 26, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5377L.01I

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## AN ACT

To repeal section 147.010, RSMo, and to enact in lieu thereof one new section relating to corporate franchise tax.

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

Section A. Section 147.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 147.010, to read as follows:

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 147.010 to 147.120, such corporation shall be deemed to have employed in this state that  
17 proportion of its entire outstanding shares and surplus that its property and assets employed in  
18 this state bears to all its property and assets wherever located. A foreign corporation engaged  
19 in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter  
20 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares  
21 and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall  
22 state that fact on the annual report form prescribed by the secretary of state.] For all taxable years  
23 beginning on or after January 1, 2000, **but ending before December 31, 2008**, the annual  
24 franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares  
25 and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation  
26 whose outstanding shares and surplus do not exceed one million dollars shall state that fact on  
27 the annual report form prescribed by the director of revenue. **For taxable years beginning on**  
28 **or after January 1, 2009, the annual franchise tax shall be equal to the percentage rate**  
29 **prescribed in this subsection for the corresponding taxable year of the corporation's**  
30 **outstanding shares and surplus if the outstanding shares and surplus exceed the**  
31 **corresponding minimum threshold amount prescribed as follows:**

32 (1) For tax year 2009, the rate shall be one-thirtieth of one percent and the  
33 threshold amount shall be ten million dollars for any corporation which offers health  
34 insurance to all full-time employees and pays at least fifty percent of such premiums or, in  
35 the case of any other corporation, the rate shall be one-thirtieth of one percent and the  
36 threshold amount shall be one million dollars;

37 (2) For tax year 2010, the rate shall be one-fiftieth of one percent and the threshold  
38 amount shall be ten million dollars for any corporation which offers health insurance to  
39 all full-time employees and pays at least fifty percent of such premiums or, in the case of  
40 any other corporation, the rate shall be one-fiftieth of one percent and the threshold  
41 amount shall be one million dollars;

42 (3) For tax year 2011, the rate shall be one-seventieth of one percent and the  
43 threshold amount shall be ten million dollars for any corporation which offers health  
44 insurance to all full-time employees and pays at least fifty percent of such premiums or, in  
45 the case of any other corporation, the rate shall be one-seventieth of one percent and the  
46 threshold amount shall be one million dollars;

47 (4) For tax year 2012, the rate shall be one-ninetieth of one percent and the  
48 threshold amount shall be ten million dollars for any corporation which offers health  
49 insurance to all full-time employees and pays at least fifty percent of such premiums or, in  
50 the case of any other corporation, the rate shall be one-ninetieth of one percent and the  
51 threshold amount shall be one million dollars; and

52           **(5) For all tax years beginning on or after January 1, 2013, no annual franchise tax**  
53 **shall be imposed under this section.**

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55 **Any corporation which offers health insurance to all full-time employees and pays at least**  
56 **fifty percent of such premiums shall state that fact in the form of an affidavit provided**  
57 **with the annual report form prescribed by the director of revenue.**

58           2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit,  
59 nor to corporations organized pursuant to the provisions of chapter 349, RSMo, nor to express  
60 companies, which now pay an annual tax on their gross receipts in this state, nor to insurance  
61 companies, which pay an annual tax on their premium receipts in this state, nor to state, district,  
62 county, town and farmers' mutual companies now organized or that may be hereafter organized  
63 pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning,  
64 windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the  
65 purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance  
66 corporation not having shares, nor to a company or association organized to transact business of  
67 life or accident insurance on the assessment plan for the purpose of mutual protection and benefit  
68 to its members and the payment of stipulated sums of moneys to the family, heirs, executors,  
69 administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety,  
70 liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature  
71 coming within the provisions of section 147.050 and doing business in this state, nor to savings  
72 and loan associations and domestic and foreign regulated investment companies as defined by  
73 Section 170 of the Act of Congress commonly known as the "Revenue Act of 1942", nor to  
74 electric and telephone corporations organized pursuant to chapter 351, RSMo, and chapter 392,  
75 RSMo, prior to January 1, 1980, which have been declared tax exempt organizations pursuant  
76 to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after  
77 December 31, 1986, to banking institutions subject to the annual franchise tax imposed by  
78 sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the  
79 individual depositor left for safekeeping and shall not be considered in computing the amount  
80 of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

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

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

85           5. The franchise tax payable for a corporation's transitional year shall be computed by  
86 multiplying the amount otherwise due for that year by a fraction, the numerator of which is the  
87 number of months between January 1, 1980, and the end of the taxable year and the denominator

88 of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as  
89 provided in section 143.271, RSMo, shall be similarly computed pursuant to regulations  
90 prescribed by the director of revenue.

91         6. All franchise reports and franchise taxes shall be returned to the director of revenue.  
92 All checks and drafts remitted for payment of franchise taxes shall be made payable to the  
93 director of revenue.

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

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

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