

# SENATE BILL No. 671

June 25, 2009, Introduced by Senators CASSIS, BISHOP and PAPPAGEORGE and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 267 (MCL 208.1267).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 267. (1) Except as otherwise provided under this chapter,  
2 the tax base of a financial institution whose business activities  
3 are confined solely to this state shall be allocated to this state.  
4 ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (5), THE** tax base  
5 of a financial institution whose business activities are subject to  
6 tax both within and outside this state shall be apportioned to this  
7 state by multiplying the tax base by the gross business factor.  
8       (2) A financial institution whose business activities are  
9 subject to tax both within and outside of this state is subject to

1 tax in another state in either of the following circumstances:

2 (a) The financial institution is subject to a business  
3 privilege tax, a net income tax, a franchise tax measured by net  
4 income, a franchise tax for the privilege of doing business, or a  
5 corporate stock tax or a tax of the type imposed under this act in  
6 that state.

7 (b) That state has jurisdiction to subject the financial  
8 institution to 1 or more of the taxes listed in subdivision (a)  
9 regardless of whether that state does or does not subject the  
10 financial institution to that tax.

11 (3) Except as otherwise provided in subsection (4), the gross  
12 business factor is a fraction, the numerator of which is the total  
13 gross business of the financial institution in this state during  
14 the tax year and the denominator of which is the total gross  
15 business of the financial institution everywhere during the tax  
16 year.

17 (4) Except as otherwise provided under this subsection, for a  
18 financial institution that is included in a unitary business group,  
19 gross business includes gross business in this state of every  
20 financial institution included in the unitary business group  
21 without regard to whether the financial institution has nexus in  
22 this state. Gross business between financial institutions included  
23 in a unitary business group must be eliminated in calculating the  
24 gross business factor.

25 **(5) NOTWITHSTANDING SUBSECTION (1), A TAXPAYER THAT**  
26 **RESTRUCTURES AS A FINANCIAL INSTITUTION ON OR AFTER JANUARY 1, 2008**  
27 **AND THAT PRIOR TO THAT RESTRUCTURING QUALIFIED TO APPORTION ITS TAX**

1 BASE BASED ON ITS SALES FACTOR CALCULATED UNDER SECTION 307  
2 MAY ELECT TO CONTINUE TO HAVE ITS BUSINESS ACTIVITIES THAT ARE  
3 SUBJECT TO TAX BOTH WITHIN AND OUTSIDE THIS STATE APPORTIONED TO  
4 THIS STATE BY MULTIPLYING ITS TAX BASE BY ITS SALES FACTOR  
5 CALCULATED IN ACCORDANCE WITH SECTION 307.