

SUBSTITUTE FOR  
SENATE BILL NO. 1102

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 691 (MCL 206.691), as amended by 2014 PA 14.

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

1           Sec. 691. (1) Except as otherwise provided under section  
2 680(3), a unitary business group shall file a combined return that  
3 includes each United States person that is included in the unitary  
4 business group. ~~Each~~ **Subject to subsection (3), each** United States  
5 person included in a unitary business group or included in a  
6 combined return shall be treated as a single person, and all  
7 transactions between those persons included in the unitary business  
8 group shall be eliminated from the corporate income tax base, the  
9 apportionment formulas, and for purposes of determining exemptions,



1 credits, and the filing threshold under this part. If a United  
2 States person included in a unitary business group or included in a  
3 combined return is subject to the tax under chapter 12 or 13, any  
4 corporate income attributable to that person shall be eliminated  
5 from the corporate income tax base and any sales attributable to  
6 that person shall be eliminated from the apportionment formula  
7 under this part.

8 (2) A person that is part of an affiliated group may elect  
9 without the consent of the department to have all of the persons  
10 that are included in that affiliated group to be treated as a  
11 unitary business group. A taxpayer that elects to file as a unitary  
12 business group pursuant to this subsection shall compute its tax  
13 under this part in accordance with all other provisions of this  
14 part that apply to a unitary business group. The taxpayer shall  
15 make the election under this subsection on a form or in a format as  
16 prescribed by the department that is to be filed in a timely manner  
17 with the taxpayer's annual return. Each person included in the  
18 affiliated group is deemed to have agreed to be bound by the  
19 election made under this subsection and any renewal of that  
20 election and to have waived any objection to its inclusion in the  
21 affiliated group and treatment as a unitary business group. Each  
22 person that subsequently enters the affiliated group after the tax  
23 year for which the election is made is deemed to have consented to  
24 the application of and is bound by the election and to have waived  
25 any objection to its inclusion in the affiliated group and  
26 treatment as a unitary business group. An election made pursuant to  
27 this subsection is irrevocable and binding for and applicable to  
28 the tax year for which it is made and for the next 9 tax years. The  
29 election shall remain in effect for the time period in which the



1 ownership requirements under this section are met irrespective of  
2 whether a federal consolidated group to which the unitary business  
3 group belongs discontinues the filing of a federal consolidated  
4 return or whether the common parent changes due to a reverse  
5 acquisition or acquisition by a related person. Upon the expiration  
6 of the election after it has been in effect for 10 tax years, an  
7 election may be renewed for another 10 tax years, without the  
8 consent of the department; provided however, that in the case of a  
9 nonrenewal a new election under this subsection is not permitted in  
10 any of the immediately following 3 tax years. The renewal shall be  
11 made on a form or in a format as prescribed by the department that  
12 is to be filed in a timely manner with the taxpayer's annual return  
13 after the completion of a 10-year period for which an election  
14 under this subsection was in place.

15 **(3) For purposes of applying the business interest expense**  
16 **limitation under section 163(j) of the internal revenue code if a**  
17 **person included in a unitary business group meets any 1 of the**  
18 **following conditions, that person is not subject to the limitation**  
19 **under section 163(j) (1) of the internal revenue code for purposes**  
20 **of reporting federal taxable income under this part:**

21 **(a) The person's or its federal consolidated group's business**  
22 **interest expense is not limited under section 163(j) (1) of the**  
23 **internal revenue code.**

24 **(b) The person is exempt from the limitation pursuant to**  
25 **section 163(j) (3) of the internal revenue code.**

26 **(c) The person does not have business interest properly**  
27 **allocable to a trade or business under section 163(j) (5) and (j) (7)**  
28 **of the internal revenue code and the related regulations**  
29 **promulgated under the internal revenue code.**



1           (d) The person is included in a federal consolidated group  
2 that meets the conditions under subdivision (a), (b), or (c).

