AMENDED IN ASSEMBLY JUNE 13, 2013

SENATE BILL No. 78

Introduced by Committee on Budget and Fiscal Review

January 10, 2013

~~An act relating to the Budget Act of 2013.~~ *An act to add Section 12009 to, to add Article 4 (commencing with Section 12240) to Chapter 3 of Part 7 of Division 2 of, to add and repeal Section 12207 of, to add and repeal Article 5 (commencing with Section 6174) of Chapter 2 of Part 1 of Division 2 of, and to repeal, add and repeal, and add Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, the Revenue and Taxation Code, and to add Section 14301.11 to the Welfare and Institutions Code, relating to health, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 78, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2013.~~ *Public health: Medi-Cal managed care plan taxes.*

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing law imposes a tax on the gross premiums of insurers in lieu of other taxes on insurers, and, until July 1, 2012,

imposed a tax on the total operating revenue, of a Medi-Cal managed care plan, as defined. The revenues derived from the tax on Medi-Cal managed care plans are continuously appropriated for specified purposes.

This bill would, beginning July 1, 2012, and ending July 1, 2013, impose a tax on the total operating revenue of a Medi-Cal managed care plan, as defined. The proceeds from the tax would be continuously appropriated from the Children's Health and Human Services Special Fund to the State Department of Health Care Services and the Managed Risk Medical Insurance Board for specified purposes. This bill also would authorize the Controller to loan funds in the Children's Health and Human Services Special Fund to the General Fund, as provided.

Existing law requires every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the gross premiums of insurers to be signed by the insurer or an executive officer of the insurer and to be made under oath or contain a written declaration that it is made under penalty of perjury.

This bill would also require Medi-Cal managed care plans to file returns with the commissioner under oath or with a written declaration that is made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The Sales and Use Tax Law imposes a sales tax on retailers for the privilege of selling tangible personal property at retail, measured by the gross receipts from the sale of tangible personal property sold at retail in this state. A violation of specified provisions of this law is a crime.

This bill would, on July 1, 2013, and before July 1, 2016, except if specified contingencies occur as provided, and only if and to the extent that federal financial participation is available and necessary federal approvals have been obtained, impose a sales tax on sellers of Medi-Cal managed care plans for the privilege of selling Medi-Cal health care services at retail, measured by the gross receipts from the sale of those services in this state at a specified rate of those gross receipts, as provided. This bill would specify that a seller is a person or entity that enters into a contract with the State Department of Health Care Services to provide for specified health care services, as provided. This bill would provide for the administration of the tax by the State Board of Equalization. This bill would require all revenues, less refunds, derived from the taxes to be deposited into the Children's Health and Human Services Special Fund. This bill would continuously appropriate the

revenues in the fund to the State Department of Health Care Services solely for purposes of funding managed care rates for health care services for children, seniors, persons with disabilities, and duel eligibles in the Medi-Cal program that reflect the cost of services and acuity of the population served. By changing the definition of a crime, the bill would impose a state-mandated local program.

This bill would also appropriate $245,000,000 from the Federal Trust Fund to the Managed Risk Medical Insurance Board for the purposes of the Healthy Families Program to be available for expenditure in the 2012–13 fiscal year.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.~~

Vote: ~~majority~~ *2/3*. Appropriation: ~~no~~ *yes*. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 5 (commencing with Section 6174) is*
2 *added to Chapter 2 of Part 1 of Division 2 of the Revenue and*
3 *Taxation Code, to read:*
4
5 *Article 5. Inclusion of Medi-Cal Managed Care Plans in Sales*
6 *Tax*
7
8 *6174. For purposes of this article, notwithstanding any*
9 *provision of Chapter 1 (commencing with Section 6001), the*
10 *following words have the following meanings in extending the*
11 *sales tax to sellers of Medi-Cal health care services:*
12 *(a) "Gross receipts" means the total amount received by a seller*
13 *of a Medi-Cal managed care plan in premium or capitation*
14 *payments for the coverage or provision of all health care services,*
15 *including, but not limited to, Medi-Cal services. "Gross receipts"*

shall not include amounts received by a Medi-Cal managed care plan pursuant to a subcontract with a Medi-Cal managed care plan to provide health care services to Medi-Cal beneficiaries.

(b) "Seller" means any person, other than an insurer as described in Section 12003 or a dental managed care plan as described in Section 14087.46 of the Welfare and Institutions Code, or any entity that enters into a contract with the State Department of Health Care Services pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.82 (commencing with Section 14087.98), Article 2.9 (commencing with Section 14088), or Article 2.91 (commencing with Section 14089) of Chapter 7 of, or pursuant to Article 1 (commencing with Section 14200) or Article 7 (commencing with Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare and Institutions Code.

(c) "At retail" means a sale for any purpose other than resale.

(d) "Sale" means the provision of a Medi-Cal managed care plan.

6175. Notwithstanding any other provisions in this part, for the privilege of selling Medi-Cal health care services at retail, a tax is hereby extended to all sellers of Medi-Cal managed care plans at the rate of 3.9375 percent of the gross receipts of any seller from the sale of all Medi-Cal managed care plans sold at retail in this state.

6176. For the efficient administration of this article and the collection of tax from sellers, a seller shall register with the State Board of Equalization and report and pay the tax to the State Board of Equalization, which shall collect the tax.

6177. For the efficient administration of this article and the collection of tax from sellers, Article 1.1 (commencing with Section 6470) of Chapter 5, pertaining to prepayment of taxes, shall not apply to sellers until no later than three months after the date that federal financial participation is available and any necessary federal approvals have been obtained.

6178. A seller shall file with the board an application pursuant to Section 6066, which shall state that the applicant will actively engage in the retail sale of Medi-Cal health care services.

6179. After compliance by the seller with Section 6178 and by the seller and the board with Section 6067, the board shall grant

and issue a permit or permits to each applicant pursuant to Section 6067.

6180. A permit issued pursuant to this article shall be held only by a seller that is actively engaged in the retail sale of Medi-Cal health care services. Any seller not so engaged shall forthwith surrender its permit to the board for cancellation. The board may revoke the permit of a seller found to be not actively engaged in the retail sale of Medi-Cal health care services.

6181. For purposes of Section 6486, a seller is a retailer.

6182. Every seller shall keep any records, receipts, contracts, and other pertinent papers in such form as the board may require.

6183. The board, or any person authorized in writing by the board, may examine the books, papers, records, and equipment of any seller, and may investigate the character of the business of the seller, pursuant to Section 7054.

6184. Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes extended by this article shall be deposited in the State Treasury to the credit of the Children's Health and Human Services Special Fund. Funds deposited in the Children's Health and Human Services Special Fund pursuant to this section are hereby continuously appropriated to the State Department of Health Care Services solely for purposes of funding managed care rates for health care services for children, seniors, persons with disabilities, and dual eligibles in the Medi-Cal program that reflect the cost of services and acuity of the population served. The State Department of Health Care Services shall provide a quarterly reconciliation of tax revenue utilization to Medi-Cal managed care plans including an itemized accounting of the dollars as a part of the rate setting process.

6184.5. Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), and Part 1.7 (commencing with Section 7285), no county, city, or district shall impose a sales or use tax on the gross receipts defined in Section 6174.

6185. Notwithstanding any other law, the Controller may use the funds in the Children's Health and Human Services Special Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

6186. A seller subject to the tax imposed pursuant to this article shall be assessed the amount the seller will be required to pay, but the seller shall not be required to pay the tax if the State Department of Health Care Services has not fulfilled its obligations to provide actuarially sound, monthly capitation payments to the seller, which are certified as actuarially sound by State Department of Health Care Services' actuaries or contracted actuaries.

6187. This article shall be implemented only if and to the extent that federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq.) is available and any necessary federal approvals have been obtained. This article is automatically repealed if it is delayed based upon a challenge under federal law.

6188. This article shall have no force or effect if there is a final judicial determination made by any state or federal court that is not appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that disallows, defers, or alters the implementation of this article.

6189. This article shall be operative on July 1, 2013, and shall become inoperative on July 1, 2016. As of January 1, 2017, this article is repealed. A tax imposed by this article shall continue to be due and payable until the tax is paid.

SEC. 2. Section 12009 is added to the Revenue and Taxation Code, to read:

12009. (a) "Medi-Cal managed care plan" or "plan" means any individual, organization, or entity, other than an insurer as described in Section 12003 or a dental managed care plan as described in Section 14087.46 of the Welfare and Institutions Code, that enters into a contract with the State Department of Health Care Services pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.82 (commencing with Section 14087.98), Article 2.9 (commencing with Section 14088), or Article 2.91 (commencing with Section 14089) of Chapter 7 of, or pursuant to Article 1 (commencing with Section 14200) or Article 7 (commencing with Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare and Institutions Code.

(b) This section shall become operative on July 1, 2012.

SEC. 3. Section 12201 of the Revenue and Taxation Code is repealed.

~~12201. (a) Every insurer doing business in this state shall annually pay to the state a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified. For purposes of the tax imposed by this chapter, "insurer" shall be deemed to include a home protection company as defined in Section 12740 of the Insurance Code.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 4. Section 12201 is added to the Revenue and Taxation Code, to read:

12201. (a) Every insurer and Medi-Cal managed care plan doing business in this state shall annually pay to the state a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified. For purposes of the tax imposed by this chapter, "insurer" shall be deemed to include a home protection company as defined in Section 12740 of the Insurance Code.

(b) The Children's Health and Human Services Special Fund shall continue to exist in the State Treasury. Notwithstanding Section 13340 of the Government Code, the revenues derived from the imposition of the tax by this chapter on Medi-Cal managed care plans are hereby continuously appropriated as follows:

(1) A percentage of the revenues that is equal to the difference between 100 percent and the applicable federal medical assistance percentage to the State Department of Health Care Services, for purposes of the Medi-Cal program.

(2) (A) After deducting the revenues appropriated pursuant to paragraph (1), one hundred twenty-five million dollars ($125,000,000) of the revenues shall be allocated to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program, including, but not limited to, repaying the loan made under subparagraph (B), and any remaining revenue shall be allocated to the State Department of Health Care Services for purposes of funding managed care rates for health care services for children, seniors, persons with disabilities, and dual eligibles in the Medi-Cal program.

(B) Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, for the 2012–13 fiscal year, upon approval by the Department of Finance, loans not to exceed one hundred twenty-five million

dollars ($125,000,000) in total shall be made available to the Managed Risk Medical Insurance Board from the General Fund from funds not otherwise appropriated to cover the costs of the Healthy Families Program. Any loan amount shall be repaid by June 30, 2014, using the revenues described in subparagraph (A).

(c) Beginning on the effective date of this act, the Insurance Commissioner shall report the amount of revenue derived from the tax imposed on Medi-Cal managed care plans pursuant to this section to the California Health and Human Services Agency, the Joint Legislative Budget Committee, and the Department of Finance.

(d) Notwithstanding any other law, the Controller may use the funds in the Children's Health and Human Services Special Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(e) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed. A tax imposed by this section shall continue to be due and payable until the tax is paid.

SEC. 5. Section 12201 is added to the Revenue and Taxation Code, to read:

12201. (a) Every insurer doing business in this state shall annually pay to the state a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified. For purposes of the tax imposed by this chapter, "insurer" shall be deemed to include a home protection company as defined in Section 12740 of the Insurance Code.

(b) This section shall become operative on July 1, 2013.

SEC. 6. Section 12204 of the Revenue and Taxation Code is repealed.

~~12204. (a) The tax imposed on insurers by this chapter is in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property, except:~~

~~(1) Taxes upon their real estate.~~

~~(2) Any retaliatory exactions imposed by paragraph (3) of subdivision (f) of Section 28 of Article XIII of the California Constitution.~~

~~(3) The tax on ocean marine insurance.~~

~~(4) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.~~

~~(5) That each corporate or other attorney-in-fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney-in-fact.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 7. Section 12204 is added to the Revenue and Taxation Code, to read:

12204. (a) The tax imposed on insurers by this chapter is in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property, except:

(1) Taxes upon their real estate.

(2) Any retaliatory exactions imposed by paragraph (3) of subdivision (f) of Section 28 of Article XIII of the California Constitution.

(3) The tax on ocean marine insurance.

(4) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

(5) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney in fact.

(b) This section shall not apply to any Medi-Cal managed care plan and to any tax imposed on that plan by this chapter.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 8. Section 12204 is added to the Revenue and Taxation Code, to read:

12204. (a) The tax imposed on insurers by this chapter is in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property, except:

(1) Taxes upon their real estate.

(2) Any retaliatory exactions imposed by paragraph (3) of subdivision (f) of Section 28 of Article XIII of the California Constitution.

(3) The tax on ocean marine insurance.

(4) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles, or the operation thereof.

(5) That each corporate or other attorney-in-fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney-in-fact.

(b) This section shall become operative on July 1, 2013.

SEC. 9. Section 12207 is added to the Revenue and Taxation Code, to read:

12207. (a) Notwithstanding any other provision of this part, no credit shall be allowed under Section 12206, 12208, or 12209 against the tax imposed on Medi-Cal managed care plans pursuant to Section 12201.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 10. Article 4 (commencing with Section 12240) is added to Chapter 3 of Part 7 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Basis of Tax for Medi-Cal Managed Care Plans

12240. In the case of a Medi-Cal managed care plan, the basis of the tax is, in respect to each year, total operating revenue.

12241. For purposes of this article, "total operating revenue" means all amounts received by a Medi-Cal managed care plan in premium or capitation payments for the coverage or provision of all health care services, including, but not limited to, Medi-Cal services. Total operating revenue shall not include amounts received by a Medi-Cal managed care plan pursuant to a subcontract with a Medi-Cal managed care plan to provide health care services to Medi-Cal beneficiaries.

12242. This article shall be operative on July 1, 2012.

SEC. 11. Section 12251 of the Revenue and Taxation Code is repealed.

~~12251. (a) For the calendar year 1970, and each calendar year thereafter, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was five thousand dollars ($5,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that no prepayments shall be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 12. Section 12251 is added to the Revenue and Taxation Code, to read:

12251. (a) For the calendar year 1970, and each calendar year thereafter, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was five thousand dollars ($5,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that no prepayments shall be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) Medi-Cal managed care plans shall make prepayments of the tax imposed by Section 12201 for the current calendar year, except that no prepayments shall be required prior to the effective date of the act adding this subdivision, and no penalties and interest shall be imposed pursuant to Section 12261 for not making those prepayments.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 13. Section 12251 is added to the Revenue and Taxation Code, to read:

12251. (a) For the calendar year 1970, and each calendar year thereafter, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was five thousand dollars ($5,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that no prepayments shall be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) This section shall become operative on July 1, 2013.

SEC. 14. Section 12253 of the Revenue and Taxation Code is repealed.

~~12253. (a) Each insurer required to make prepayments shall remit them on or before each of the dates of April 1st, June 1st, September 1st, and December 1st of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 15. Section 12253 is added to the Revenue and Taxation Code, to read:

12253. (a) Each insurer and Medi-Cal managed care plan required to make prepayments shall remit them on or before each of the dates of April 1, June 1, September 1, and December 1 of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 16. Section 12253 is added to the Revenue and Taxation Code, to read:

12253. (a) Each insurer required to make prepayments shall remit them on or before each of the dates of April 1, June 1, September 1, and December 1 of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.

(b) This section shall become operative on July 1, 2013.

SEC. 17. Section 12254 of the Revenue and Taxation Code is repealed.

~~12254. (a) The amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.~~

~~(b) In establishing the prepayment amount of an insurer that has acquired the business of another insurer, the amount of tax~~

~~liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.~~

~~(c) This section shall become operative on July 1, 2012.~~

SEC. 18. Section 12254 is added to the Revenue and Taxation Code, to read:

12254. (a) (1) For each insurer, the amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(2) For each Medi-Cal managed care plan, the amount of each prepayment shall be 25 percent of the amount of tax the plan estimates as the amount of tax imposed by Section 12201 with respect to the plan.

(b) In establishing the prepayment amount of an insurer that has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 19. Section 12254 is added to the Revenue and Taxation Code, to read:

12254. (a) The amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(b) In establishing the prepayment amount of an insurer that has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

(c) This section shall become operative on July 1, 2013.

SEC. 20. Section 12257 of the Revenue and Taxation Code is repealed.

~~12257. (a) If the total amount of prepayments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and, at the election of the insurer, may be credited against the amounts due and payable for the first prepayment of the following year. Any amount of the~~

~~overpayment not so credited shall be allowed as a credit or refund under Article 2 (commencing with Section 12977) of Chapter 7 of this part.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 21. Section 12257 is added to the Revenue and Taxation Code, to read:

12257. (a) If the total amount of prepayments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and, at the election of the insurer or Medi-Cal managed care plan, may be credited against the amounts due and payable for the first prepayment of the following year. Any amount of the overpayment not so credited shall be allowed as a credit or refund under Article 2 (commencing with Section 12977) of Chapter 7.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 22. Section 12257 is added to the Revenue and Taxation Code, to read:

12257. (a) If the total amount of prepayments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and, at the election of the insurer, may be credited against the amounts due and payable for the first prepayment of the following year. Any amount of the overpayment not so credited shall be allowed as a credit or refund under Article 2 (commencing with Section 12977) of Chapter 7 of this part.

(b) This section shall become operative on July 1, 2013.

SEC. 23. Section 12258 of the Revenue and Taxation Code is repealed.

~~12258. (a) Any insurer that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 24. Section 12258 is added to the Revenue and Taxation Code, to read:

12258. (a) (1) Any insurer or Medi-Cal managed care plan that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

(2) This section shall only apply, with regard to Medi-Cal managed care plans, to the failure to pay any prepayments that occur on or after the effective date of the act that added this section.

(b) Notwithstanding any other law, 100 percent of the tax due for total operating revenue, as defined by Section 12241, that a Medi-Cal managed care plan receives for the service periods from January 1, 2009, to June 30, 2013, inclusive, not previously paid, but which continue to be subject to tax, shall be paid no later than 30 days after the effective date of this section. If a Medi-Cal managed care plan subsequently receives additional amounts includable in its total operating revenue for the service periods referenced in this section, 100 percent of the tax shall continue to be due and shall be paid no later than 30 days after receipt of those amounts.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 25. Section 12258 is added to the Revenue and Taxation Code, to read:

12258. (a) Any insurer that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

(b) Notwithstanding any other law, if a Medi-Cal managed care plan, as defined in subdivision (a) of Section 12009, receives additional amounts includable in its total operating revenue, as defined in Section 12241, for the service periods from January 1, 2009, to June 30, 2013, inclusive, those amounts shall continue to be subject to the tax imposed by Section 12201, as added by Section 4 of the act adding this section, as added by Section 5 of Chapter 157 of the Statutes of 2009, as added by Section 31 of Chapter 717 of the Statutes of 2010, and as added by Section 2 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, and 100 percent of the tax continues to be due and shall be submitted to the Department of Insurance no later than 30 days after receipt of those amounts.

(c) This section shall become operative on July 1, 2013.

SEC. 26. Section 12260 of the Revenue and Taxation Code is repealed.

~~12260. (a) Notwithstanding any other provision of this article, the commissioner may relieve an insurer of its obligation to make prepayments where the insurer establishes to the satisfaction of the commissioner that either the insurer has ceased to transact insurance in this state, or the insurer's annual tax for the current year will be less than five thousand dollars ($5,000).~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 27. Section 12260 is added to the Revenue and Taxation Code, to read:

12260. (a) Notwithstanding any other provision of this article, the commissioner may relieve an insurer or Medi-Cal managed care plan of its obligation to make prepayments where the insurer or Medi-Cal managed care plan establishes to the satisfaction of the commissioner that the insurer has ceased to transact insurance in this state or the Medi-Cal managed care plan has ceased to operate a plan in this state, or the insurer's or Medi-Cal managed care plan's annual tax for the current year will be less than five thousand dollars ($5,000).

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 28. Section 12260 is added to the Revenue and Taxation Code, to read:

12260. (a) Notwithstanding any other provision of this article, the commissioner may relieve an insurer of its obligation to make prepayments where the insurer establishes to the satisfaction of the commissioner that either the insurer has ceased to transact insurance in this state, or the insurer's annual tax for the current year will be less than five thousand dollars ($5,000).

(b) This section shall become operative on July 1, 2013.

SEC. 29. Section 12301 of the Revenue and Taxation Code is repealed.

~~12301. (a) The taxes imposed upon insurers by Section 28 of Article XIII of the California Constitution and this part, except with respect to taxes on ocean marine insurance and retaliatory taxes, are due and payable annually on or before April 1st of the year following the calendar year in which the insurer engaged in the business of insurance or transacted insurance in this state. The taxes imposed with respect to ocean marine insurance are due and payable on or before June 15th of that year.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 30. Section 12301 is added to the Revenue and Taxation Code, to read:

12301. (a) The taxes imposed upon insurers by Section 28 of Article XIII of the California Constitution and this part, except with respect to taxes on ocean marine insurance and retaliatory taxes, are due and payable annually on or before April 1 of the year following the calendar year in which the insurer engaged in the business of insurance or transacted insurance in this state. The taxes imposed with respect to ocean marine insurance are due and payable on or before June 15 of that year.

(b) With respect to Medi-Cal managed care plans, the taxes imposed by Section 12201 shall be due and payable on or before April 1 of the year following the calendar year in which the plan contracted with the State Department of Health Care Services as described in Section 12009.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed. A tax imposed by Section 28 of the California Constitution and this part shall continue to be due and payable until the tax is paid.

SEC. 31. Section 12301 is added to the Revenue and Taxation Code, to read:

12301. (a) The taxes imposed upon insurers by Section 28 of Article XIII of the California Constitution and this part, except with respect to taxes on ocean marine insurance and retaliatory taxes, are due and payable annually on or before April 1 of the year following the calendar year in which the insurer engaged in the business of insurance or transacted insurance in this state. The taxes imposed with respect to ocean marine insurance are due and payable on or before June 15 of that year.

(b) This section shall become operative on July 1, 2013.

SEC. 32. Section 12302 of the Revenue and Taxation Code is repealed.

~~12302. (a) On or before April 1st (or June 15th with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, an insurance tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:~~

~~(1) Life insurance (or life insurance and disability insurance).~~

~~(2) Ocean marine insurance.~~

~~(3) Title insurance.~~

~~(4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 33. Section 12302 is added to the Revenue and Taxation Code, to read:

12302. (a) On or before April 1 (or June 15 with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, a tax return with the commissioner in the

form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business, or in the case of a Medi-Cal managed care plan, pertaining to contracts for providing services as described in Section 12009, in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201), the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

(1) Life insurance (or life insurance and disability insurance).

(2) Ocean marine insurance.

(3) Title insurance.

(4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 34. Section 12302 is added to the Revenue and Taxation Code, to read:

12302. (a) On or before April 1 (or June 15 with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, an insurance tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

(1) Life insurance (or life insurance and disability insurance).

(2) Ocean marine insurance.

(3) Title insurance.

(4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.

(b) This section shall become operative on July 1, 2013.

SEC. 35. Section 12303 of the Revenue and Taxation Code is repealed.

~~12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or an executive officer of the insurer and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 36. Section 12303 is added to the Revenue and Taxation Code, to read:

12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or Medi-Cal managed care plan or an executive officer of the insurer or plan and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 37. Section 12303 is added to the Revenue and Taxation Code, to read:

12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or an executive officer of the insurer and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.

(b) This section shall become operative on July 1, 2013.

SEC. 38. Section 12304 of the Revenue and Taxation Code is repealed.

~~12304. (a) Blank forms of returns shall be furnished by the commissioner on application, but failure to secure the form shall not relieve any insurer from making or filing a timely return.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 39. Section 12304 is added to the Revenue and Taxation Code, to read:

12304. (a) Blank forms of returns shall be furnished by the commissioner on application, but failure to secure the form shall not relieve any insurer or Medi-Cal managed care plan from making or filing a timely return.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 40. Section 12304 is added to the Revenue and Taxation Code, to read:

12304. (a) Blank forms of returns shall be furnished by the commissioner on application, but failure to secure the form shall not relieve any insurer from making or filing a timely return.

(b) This section shall become operative on July 1, 2013.

SEC. 41. Section 12305 of the Revenue and Taxation Code is repealed.

~~12305. (a) The insurer required to file a return shall deliver the return in duplicate, together with a remittance payable to the Controller, for the amount of tax computed and shown thereon, less any prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, to the office of the commissioner.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 42. Section 12305 is added to the Revenue and Taxation Code, to read:

12305. (a) The insurer or Medi-Cal managed care plan required to file a return shall deliver the return in duplicate, together with a remittance payable to the Controller, for the amount of tax computed and shown thereon, less any prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3, to the office of the commissioner.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 43. Section 12305 is added to the Revenue and Taxation Code, to read:

12305. (a) The insurer required to file a return shall deliver the return in duplicate, together with a remittance payable to the Controller, for the amount of tax computed and shown thereon, less any prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, to the office of the commissioner.

(b) This section shall become operative on July 1, 2013.

SEC. 44. Section 12307 of the Revenue and Taxation Code is repealed.

~~12307. (a) Any insurer that is granted an extension shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1st until the date of payment.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 45. Section 12307 is added to the Revenue and Taxation Code, to read:

12307. (a) Any insurer or Medi-Cal managed care plan to which an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1 until the date of payment.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 46. Section 12307 is added to the Revenue and Taxation Code, to read:

12307. (a) Any insurer that is granted an extension shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1 until the date of payment.

(b) This section shall become operative on July 1, 2013.

SEC. 47. Section 12412 of the Revenue and Taxation Code is repealed.

~~12412. (a) Upon receipt of the duplicate copy of the return of an insurer the board shall initially assess the tax in accordance with the data as reported by the insurer on the return.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 48. Section 12412 is added to the Revenue and Taxation Code, to read:

12412. (a) Upon receipt of the duplicate copy of the return of an insurer or Medi-Cal managed care plan the board shall initially assess the tax in accordance with the data as reported by the insurer or Medi-Cal managed care plan on the return.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 49. Section 12412 is added to the Revenue and Taxation Code, to read:

12412. (a) Upon receipt of the duplicate copy of the return of an insurer the board shall initially assess the tax in accordance with the data as reported by the insurer on the return.

(b) This section shall become operative on July 1, 2013.

SEC. 50. Section 12413 of the Revenue and Taxation Code is repealed.

~~12413. (a) The board shall promptly transmit notice of its initial assessment to the commissioner and the Controller, and if the initial assessment differs from the amount computed by the insurer, notice shall also be given to the insurer.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 51. Section 12413 is added to the Revenue and Taxation Code, to read:

12413. (a) The board shall promptly transmit notice of its initial assessment to the commissioner and the Controller, and if the initial assessment differs from the amount computed by the insurer or Medi-Cal managed care plan, notice shall also be given to the insurer or Medi-Cal managed care plan.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 52. Section 12413 is added to the Revenue and Taxation Code, to read:

12413. (a) The board shall promptly transmit notice of its initial assessment to the commissioner and the Controller, and if

the initial assessment differs from the amount computed by the insurer, notice shall also be given to the insurer.

(b) This section shall become operative on July 1, 2013.

SEC. 53. Section 12421 of the Revenue and Taxation Code is repealed.

~~12421. (a) As soon as practicable after an insurer's or surplus line broker's return is filed, the commissioner shall examine it, together with any information within his or her possession or that may come into his or her possession, and he or she shall determine the correct amount of tax of the insurer or surplus line broker.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 54. Section 12421 is added to the Revenue and Taxation Code, to read:

12421. (a) As soon as practicable after an insurer's, surplus line broker's, or Medi-Cal managed care plan's return is filed, the commissioner shall examine it, together with any information within his or her possession or that may come into his or her possession, and he or she shall determine the correct amount of tax of the insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 55. Section 12421 is added to the Revenue and Taxation Code, to read:

12421. (a) As soon as practicable after an insurer's or surplus line broker's return is filed, the commissioner shall examine it, together with any information within his or her possession or that may come into his or her possession, and he or she shall determine the correct amount of tax of the insurer or surplus line broker.

(b) This section shall become operative on July 1, 2013.

SEC. 56. Section 12422 of the Revenue and Taxation Code is repealed.

~~12422. (a) If the commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the board is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.~~

~~(b) If the commissioner determines that the amount of tax disclosed by the surplus line broker's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.~~

~~(c) This section shall become operative on July 1, 2012.~~

SEC. 57. Section 12422 is added to the Revenue and Taxation Code, to read:

12422. (a) If the commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the board is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(b) If the commissioner determines that the amount of tax disclosed by the surplus line broker's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(c) If the commissioner determines that the amount of tax disclosed by the Medi-Cal managed care plan's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(d) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 58. Section 12422 is added to the Revenue and Taxation Code, to read:

12422. (a) If the commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the board is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(b) If the commissioner determines that the amount of tax disclosed by the surplus line broker's tax return is less than the

amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(c) This section shall become operative on July 1, 2013.

SEC. 59. Section 12423 of the Revenue and Taxation Code is repealed.

~~12423. (a) If an insurer or surplus line broker fails to file a return, the commissioner may require a return by mailing notice to the insurer or surplus line broker to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer or surplus line broker failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 60. Section 12423 is added to the Revenue and Taxation Code, to read:

12423. (a) If an insurer, surplus line broker, or Medi-Cal managed care plan fails to file a return, the commissioner may require a return by mailing notice to the insurer, surplus line broker, or Medi-Cal managed care plan to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer, surplus line broker, or Medi-Cal managed care plan failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 61. Section 12423 is added to the Revenue and Taxation Code, to read:

12423. (a) If an insurer or surplus line broker fails to file a return, the commissioner may require a return by mailing notice to the insurer or surplus line broker to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer or surplus line broker failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall become operative on July 1, 2013.

SEC. 62. Section 12427 of the Revenue and Taxation Code is repealed.

~~12427. (a) The board shall promptly notify the insurer or surplus line broker of a deficiency assessment made against the insurer or surplus line broker.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 63. Section 12427 is added to the Revenue and Taxation Code, to read:

12427. (a) The board shall promptly notify the insurer, surplus line broker, or Medi-Cal managed care plan of a deficiency assessment made against the insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 64. Section 12427 is added to the Revenue and Taxation Code, to read:

12427. (a) The board shall promptly notify the insurer or surplus line broker of a deficiency assessment made against the insurer or surplus line broker.

(b) This section shall become operative on July 1, 2013.

SEC. 65. Section 12428 of the Revenue and Taxation Code is repealed.

~~12428. (a) An insurer or surplus line broker against which a deficiency assessment is made under Section 12424 or 12425 may petition for redetermination of the deficiency assessment within 30 days after service upon the insurer or surplus line broker of the notice thereof, by filing with the board a written petition setting forth the grounds of objection to the deficiency assessment and the correction sought. At the time the petition is filed with the board, a copy of the petition shall be filed with the commissioner.~~

~~If a petition for redetermination is not filed within the period prescribed by this section, the deficiency assessment becomes final and due and payable at the expiration of that period.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 66. Section 12428 is added to the Revenue and Taxation Code, to read:

12428. (a) An insurer, surplus line broker, or Medi-Cal managed care plan against which a deficiency assessment is made under Section 12424 or 12425 may petition for redetermination of the deficiency assessment within 30 days after service upon the insurer, surplus line broker, or Medi-Cal managed care plan of the notice thereof, by filing with the board a written petition setting forth the grounds of objection to the deficiency assessment and the correction sought. At the time the petition is filed with the board, a copy of the petition shall be filed with the commissioner.

If a petition for redetermination is not filed within the period prescribed by this section, the deficiency assessment becomes final and due and payable at the expiration of that period.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 67. Section 12428 is added to the Revenue and Taxation Code, to read:

12428. (a) An insurer or surplus line broker against which a deficiency assessment is made under Section 12424 or 12425 may petition for redetermination of the deficiency assessment within 30 days after service upon the insurer or surplus line broker of the notice thereof, by filing with the board a written petition setting forth the grounds of objection to the deficiency assessment and

the correction sought. At the time the petition is filed with the board, a copy of the petition shall be filed with the commissioner.

If a petition for redetermination is not filed within the period prescribed by this section, the deficiency assessment becomes final and due and payable at the expiration of that period.

(b) This section shall become operative on July 1, 2013.

SEC. 68. Section 12429 of the Revenue and Taxation Code is repealed.

~~12429. (a) If a petition for redetermination of a deficiency assessment is filed within the time allowed under Section 12428, the board shall reconsider the deficiency assessment and, if the insurer or surplus line broker has so requested in the petition, shall grant an oral hearing for the presentation of evidence and argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 69. Section 12429 is added to the Revenue and Taxation Code, to read:

12429. (a) If a petition for redetermination of a deficiency assessment is filed within the time allowed under Section 12428, the board shall reconsider the deficiency assessment and, if the insurer, surplus line broker, or Medi-Cal managed care plan has so requested in the petition, shall grant an oral hearing for the presentation of evidence and argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 70. Section 12429 is added to the Revenue and Taxation Code, to read:

12429. (a) If a petition for redetermination of a deficiency assessment is filed within the time allowed under Section 12428, the board shall reconsider the deficiency assessment and, if the insurer or surplus line broker has so requested in the petition, shall grant an oral hearing for the presentation of evidence and

argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.

(b) This section shall become operative on July 1, 2013.

SEC. 71. Section 12431 of the Revenue and Taxation Code is repealed.

~~12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer or surplus line broker of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 72. Section 12431 is added to the Revenue and Taxation Code, to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer, surplus line broker, or Medi-Cal managed care plan of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 73. Section 12431 is added to the Revenue and Taxation Code, to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer or surplus line broker of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall become operative on July 1, 2013.

SEC. 74. Section 12433 of the Revenue and Taxation Code is repealed.

~~12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer or surplus line broker has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so~~

~~agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 75. Section 12433 is added to the Revenue and Taxation Code, to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer, surplus line broker, or Medi-Cal managed care plan has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 76. Section 12433 is added to the Revenue and Taxation Code, to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer or surplus line broker has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall become operative on July 1, 2013.

SEC. 77. Section 12434 of the Revenue and Taxation Code is repealed.

~~12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer or surplus line broker at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person~~

~~designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 78. Section 12434 is added to the Revenue and Taxation Code, to read:

12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer, surplus line broker, or Medi-Cal managed care plan at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 79. Section 12434 is added to the Revenue and Taxation Code, to read:

12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer or surplus line broker at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(b) This section shall become operative on July 1, 2013.

SEC. 80. Section 12491 of the Revenue and Taxation Code is repealed.

~~12491. (a) Every tax levied upon an insurer under the provisions of Article XIII of the California Constitution and of this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.~~

~~(b) (1) Every tax levied upon a surplus line broker under the provisions of Part 7.5 (commencing with Section 13201) of Division 2 is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.~~

~~(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.~~

~~(c) This section shall become operative on July 1, 2012.~~

SEC. 81. Section 12491 is added to the Revenue and Taxation Code, to read:

12491. (a) Every tax levied upon an insurer under Article XIII of the California Constitution and this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

(b) (1) Every tax levied upon a surplus line broker under Part 7.5 (commencing with Section 13201) of Division 2 is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.

(c) (1) Every tax levied upon a Medi-Cal managed care plan under Chapter 1 (commencing with Section 12001) is a lien upon all property and franchises of every kind and nature belonging to the Medi-Cal managed care plan, and has the effect of a judgment against the Medi-Cal managed care plan.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the Medi-Cal managed care plan.

(d) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 82. Section 12491 is added to the Revenue and Taxation Code, to read:

12491. (a) Every tax levied upon an insurer under the provisions of Article XIII of the California Constitution and of this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

(b) (1) Every tax levied upon a surplus line broker under the provisions of Part 7.5 (commencing with Section 13201) of Division 2 is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.

(c) This section shall become operative on July 1, 2013.

SEC. 83. Section 12493 of the Revenue and Taxation Code is repealed.

~~12493. (a) Every lien has the effect of an execution duly levied against all property of a delinquent insurer or surplus line broker.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 84. Section 12493 is added to the Revenue and Taxation Code, to read:

12493. (a) Every lien has the effect of an execution duly levied against all property of a delinquent insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 85. Section 12493 is added to the Revenue and Taxation Code, to read:

12493. (a) Every lien has the effect of an execution duly levied against all property of a delinquent insurer or surplus line broker.

(b) This section shall become operative on July 1, 2013.

SEC. 86. Section 12494 of the Revenue and Taxation Code is repealed.

~~12494. (a) No judgment is satisfied nor lien removed until either:~~

~~(1) The taxes, interest, penalties, and costs are paid.~~

~~(2) The insurer's or surplus line broker's property is sold for the payment thereof.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 87. Section 12494 is added to the Revenue and Taxation Code, to read:

12494. (a) No judgment is satisfied nor lien removed until either:

(1) The taxes, interest, penalties, and costs are paid.

(2) The insurer's, surplus line broker's, or Medi-Cal managed care plan's property is sold for the payment thereof.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 88. Section 12494 is added to the Revenue and Taxation Code, to read:

12494. (a) No judgment is satisfied nor lien removed until either:

(1) The taxes, interest, penalties, and costs are paid.

(2) The insurer's or surplus line broker's property is sold for the payment thereof.

(b) This section shall become operative on July 1, 2013.

SEC. 89. Section 12601 of the Revenue and Taxation Code is repealed.

~~12601. (a) Amounts of taxes, interest, and penalties not remitted to the commissioner with the original return of the insurer shall be payable to the Controller.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 90. Section 12601 is added to the Revenue and Taxation Code, to read:

12601. (a) Amounts of taxes, interest, and penalties not remitted to the commissioner with the original return of the insurer or Medi-Cal managed care plan shall be payable to the Controller.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 91. Section 12601 is added to the Revenue and Taxation Code, to read:

12601. (a) Amounts of taxes, interest, and penalties not remitted to the commissioner with the original return of the insurer shall be payable to the Controller.

(b) This section shall become operative on July 1, 2013.

SEC. 92. Section 12602 of the Revenue and Taxation Code is repealed.

~~12602. (a) On and after January 1, 1994, and before January 1, 1995, each insurer whose annual taxes exceed fifty thousand dollars ($50,000) shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. On and after January 1, 1995, each insurer whose annual taxes exceed twenty thousand dollars ($20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.~~

~~(b) Payment shall be deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment shall be deemed to occur on the date settlement occurs.~~

~~(c) (1) Any insurer required to remit taxes by electronic funds transfer pursuant to this section that remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.~~

~~(2) If the Department of Insurance finds that an insurer's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer shall be relieved of the penalty provided in paragraph (1).~~

~~(3) Any insurer seeking to be relieved of the penalty provided in paragraph (1) shall file with the Department of Insurance a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.~~

~~(d) This section shall become operative on July 1, 2012.~~

SEC. 93. Section 12602 is added to the Revenue and Taxation Code, to read:

12602. (a) (1) On and after January 1, 1994, and before January 1, 1995, each insurer whose annual taxes exceed fifty thousand dollars ($50,000) shall make payment by electronic funds

transfer, as defined by Section 45 of the Insurance Code. On and after January 1, 1995, each insurer whose annual taxes exceed twenty thousand dollars ($20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(2) Each Medi-Cal managed care plan shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. The plan shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(b) Payment shall be deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment shall be deemed to occur on the date settlement occurs.

(c) (1) Any insurer or Medi-Cal managed care plan required to remit taxes by electronic funds transfer pursuant to this section that remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the Department of Insurance finds that an insurer's or Medi-Cal managed care plan's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's or Medi-Cal managed care plan's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer or Medi-Cal managed care plan shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer or Medi-Cal managed care plan seeking to be relieved of the penalty provided in paragraph (1) shall file with the Department of Insurance a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(d) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 94. Section 12602 is added to the Revenue and Taxation Code, to read:

12602. (a) On and after January 1, 1994, and before January 1, 1995, each insurer whose annual taxes exceed fifty thousand dollars ($50,000) shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. On and after January 1, 1995, each insurer whose annual taxes exceed twenty thousand dollars ($20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(b) Payment shall be deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment shall be deemed to occur on the date settlement occurs.

(c) (1) Any insurer required to remit taxes by electronic funds transfer pursuant to this section that remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the Department of Insurance finds that an insurer's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer seeking to be relieved of the penalty provided in paragraph (1) shall file with the Department of Insurance a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(d) This section shall become operative on July 1, 2013.

SEC. 95. Section 12631 of the Revenue and Taxation Code is repealed.

~~12631. (a) Any insurer that fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate~~

~~per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 96. Section 12631 is added to the Revenue and Taxation Code, to read:

12631. (a) Any insurer or Medi-Cal managed care plan that fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 97. Section 12631 is added to the Revenue and Taxation Code, to read:

12631. (a) Any insurer that fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.

(b) This section shall become operative on July 1, 2013.

SEC. 98. Section 12632 of the Revenue and Taxation Code is repealed.

~~12632. (a) An insurer that fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 99. Section 12632 is added to the Revenue and Taxation Code, to read:

12632. (a) An insurer or Medi-Cal managed care plan that fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 100. Section 12632 is added to the Revenue and Taxation Code, to read:

12632. (a) An insurer that fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

(b) This section shall become operative on July 1, 2013.

SEC. 101. Section 12636 of the Revenue and Taxation Code is repealed.

~~12636. (a) If the board finds that an insurer's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer may be relieved of the penalty provided by Section 12258, 12282, 12287, 12631, 12632, or 12633.~~

~~Any insurer seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 102. Section 12636 is added to the Revenue and Taxation Code, to read:

12636. (a) If the board finds that an insurer's or Medi-Cal managed care plan's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's or Medi-Cal managed care plan's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer or Medi-Cal managed care plan may be relieved of the penalty provided by Section 12258, 12282, 12287, 12631, 12632, or 12633.

(b) Any insurer or Medi-Cal managed care plan seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 103. Section 12636 is added to the Revenue and Taxation Code, to read:

12636. (a) If the board finds that an insurer's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer may be relieved of the penalty provided by Section 12258, 12282, 12287, 12631, 12632, or 12633.

Any insurer seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(b) This section shall become operative on July 1, 2013.

SEC. 104. Section 12636.5 of the Revenue and Taxation Code is repealed.

~~12636.5. (a) Every payment on an insurer's or surplus line broker's delinquent annual tax shall be applied as follows:~~

~~(1) First, to any interest due on the tax.~~

~~(2) Second, to any penalty imposed by this part.~~

~~(3) The balance, if any, to the tax itself.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 105. Section 12636.5 is added to the Revenue and Taxation Code, to read:

12636.5. (a) Every payment on an insurer's, surplus line broker's, or Medi-Cal managed care plan's delinquent annual tax shall be applied as follows:

(1) First, to any interest due on the tax.

(2) Second, to any penalty imposed by this part.

(3) The balance, if any, to the tax itself.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 106. Section 12636.5 is added to the Revenue and Taxation Code, to read:

12636.5. (a) Every payment on an insurer's or surplus line broker's delinquent annual tax shall be applied as follows:

(1) First, to any interest due on the tax.

(2) Second, to any penalty imposed by this part.

(3) The balance, if any, to the tax itself.

(b) This section shall become operative on July 1, 2013.

SEC. 107. Section 12679 of the Revenue and Taxation Code is repealed.

~~12679. (a) If an insurer's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer, and these persons are the agents of the insurer for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors may defend the action.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 108. Section 12679 is added to the Revenue and Taxation Code, to read:

12679. (a) If an insurer's or Medi-Cal managed care plan's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer or Medi-Cal managed care plan, and these persons are the agents of the insurer or Medi-Cal managed care plan for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors may defend the action.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 109. Section 12679 is added to the Revenue and Taxation Code, to read:

12679. (a) If an insurer's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer, and these persons are the agents of the insurer for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors may defend the action.

(b) This section shall become operative on July 1, 2013.

SEC. 110. Section 12681 of the Revenue and Taxation Code is repealed.

~~12681. (a) In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer is prima facie evidence of:~~

~~(1) The assessment of the taxes.~~

~~(2) The delinquency.~~

~~(3) The amount of the taxes, interest, and penalties due and unpaid to the state.~~

~~(4) That the insurer is indebted to the state in the amount of taxes, interest, and penalties appearing unpaid.~~

~~(5) That there has been compliance with all the requirements of law in relation to the assessment of the taxes.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 111. Section 12681 is added to the Revenue and Taxation Code, to read:

12681. (a) In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer or Medi-Cal managed care plan is prima facie evidence of:

(1) The assessment of the taxes.

(2) The delinquency.

(3) The amount of the taxes, interest, and penalties due and unpaid to the state.

(4) That the insurer or Medi-Cal managed care plan is indebted to the state in the amount of taxes, interest, and penalties appearing unpaid.

(5) That there has been compliance with all the requirements of law in relation to the assessment of the taxes.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 112. Section 12681 is added to the Revenue and Taxation Code, to read:

12681. (a) In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer is prima facie evidence of:

(1) The assessment of the taxes.

(2) The delinquency.

(3) The amount of the taxes, interest, and penalties due and unpaid to the state.

(4) That the insurer is indebted to the state in the amount of taxes, interest, and penalties appearing unpaid.

(5) That there has been compliance with all the requirements of law in relation to the assessment of the taxes.

(b) This section shall become operative on July 1, 2013.

SEC. 113. Section 12801 of the Revenue and Taxation Code is repealed.

~~12801. (a) Annually, between December 10th and 15th, the Controller shall transmit to the commissioner a statement showing the names of all insurers that failed to pay on or before December 10th the whole or any portion of the tax that became delinquent in the preceding June or which has been unpaid for more than 30 days from the date it became due and payable as a deficiency assessment under this part or the whole or any part of the interest or penalties due with respect to the tax. The statement shall show the amount of the tax, interest, and penalties due from each insurer.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 114. Section 12801 is added to the Revenue and Taxation Code, to read:

12801. (a) Annually, between December 10 and 15, the Controller shall transmit to the commissioner a statement showing the names of all insurers and Medi-Cal managed care plans that failed to pay on or before December 10 the whole or any portion of the tax that became delinquent in the preceding June or which has been unpaid for more than 30 days from the date it became due and payable as a deficiency assessment under this part or the

whole or any part of the interest or penalties due with respect to the tax. The statement shall show the amount of the tax, interest, and penalties due from each insurer or Medi-Cal managed care plan.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 115. Section 12801 is added to the Revenue and Taxation Code, to read:

12801. (a) Annually, between December 10th and 15th, the Controller shall transmit to the commissioner a statement showing the names of all insurers that failed to pay on or before December 10th the whole or any portion of the tax that became delinquent in the preceding June or which has been unpaid for more than 30 days from the date it became due and payable as a deficiency assessment under this part or the whole or any part of the interest or penalties due with respect to the tax. The statement shall show the amount of the tax, interest, and penalties due from each insurer.

(b) This section shall become operative on July 1, 2013.

SEC. 116. Section 12951 of the Revenue and Taxation Code is repealed.

~~12951. (a) If any amount has been illegally assessed, the board shall set forth that fact in its records, certify the amount determined to be assessed in excess of the amount legally assessed and the insurer or surplus line broker against which the assessment was made, and authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer or surplus line broker of any cancellation authorized. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 117. Section 12951 is added to the Revenue and Taxation Code, to read:

12951. (a) If any amount has been illegally assessed, the board shall set forth that fact in its records, certify the amount determined to be assessed in excess of the amount legally assessed and the insurer, surplus line broker, or Medi-Cal managed care plan against which the assessment was made, and authorize the

cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer, surplus line broker, or Medi-Cal managed care plan of any cancellation authorized. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 118. Section 12951 is added to the Revenue and Taxation Code, to read:

12951. (a) If any amount has been illegally assessed, the board shall set forth that fact in its records, certify the amount determined to be assessed in excess of the amount legally assessed and the insurer or surplus line broker against which the assessment was made, and authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer or surplus line broker of any cancellation authorized. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) This section shall become operative on July 1, 2013.

SEC. 119. Section 12977 of the Revenue and Taxation Code is repealed.

~~12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board, certify the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid, and certify the excess to the Controller for credit or refund.~~

~~(b) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer or surplus line broker under this part and refund the balance.~~

~~(c) Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars~~

~~($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.~~

~~(d) This section shall become operative on July 1, 2012.~~

SEC. 120. Section 12977 is added to the Revenue and Taxation Code, to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board, certify the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid, and certify the excess to the Controller for credit or refund.

(b) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer, surplus line broker, or Medi-Cal managed care plan under this part and refund the balance.

(c) Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(d) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 121. Section 12977 is added to the Revenue and Taxation Code, to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board, certify the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid, and certify the excess to the Controller for credit or refund.

(b) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer or surplus line broker under this part and refund the balance.

(c) Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(d) This section shall become operative on July 1, 2013.

SEC. 122. Section 12983 of the Revenue and Taxation Code is repealed.

~~12983. (a) Interest shall be allowed upon the amount of any overpayment of tax by an insurer pursuant to this part at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.~~

~~The interest shall be paid as follows:~~

~~(1) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.~~

~~(2) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 123. Section 12983 is added to the Revenue and Taxation Code, to read:

12983. (a) Interest shall be allowed upon the amount of any overpayment of tax by an insurer or Medi-Cal managed care plan pursuant to this part at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

(b) The interest shall be paid as follows:

(1) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(2) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 124. Section 12983 is added to the Revenue and Taxation Code, to read:

12983. (a) Interest shall be allowed upon the amount of any overpayment of tax by an insurer pursuant to this part at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

(b) The interest shall be paid as follows:

(1) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(2) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

(c) This section shall become operative on July 1, 2013.

SEC. 125. Section 12984 of the Revenue and Taxation Code is repealed.

~~12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer or surplus line broker to be imposed by law, no interest shall be allowed on the overpayment.~~

~~(b) If any insurer or surplus line broker which has filed a claim for refund requests the board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer or surplus line broker requests the board to defer action on the claim.~~

~~(c) This section shall become operative on July 1, 2012.~~

SEC. 126. Section 12984 is added to the Revenue and Taxation Code, to read:

12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer, surplus line broker, or Medi-Cal managed care plan to be imposed by law, no interest shall be allowed on the overpayment.

(b) If any insurer, surplus line broker, or Medi-Cal managed care plan that has filed a claim for refund requests the board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer, surplus line broker, or Medi-Cal managed care plan requests the board to defer action on the claim.

(c) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 127. Section 12984 is added to the Revenue and Taxation Code, to read:

12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer or surplus line broker to be imposed by law, no interest shall be allowed on the overpayment.

(b) If any insurer or surplus line broker which has filed a claim for refund requests the board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer or surplus line broker requests the board to defer action on the claim.

(c) This section shall become operative on July 1, 2013.

SEC. 128. Section 13108 of the Revenue and Taxation Code is repealed.

~~13108. (a) A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an assignee of the insurer paying the tax, interest, or penalties, or by any person other than the insurer that has paid the tax, interest, or penalties.~~

~~(b) This section shall become operative on July 1, 2012.~~

SEC. 129. Section 13108 is added to the Revenue and Taxation Code, to read:

13108. (a) A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an

assignee of the insurer or Medi-Cal managed care plan paying the tax, interest, or penalties, or by any person other than the insurer or Medi-Cal managed care plan that has paid the tax, interest, or penalties.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 130. Section 13108 is added to the Revenue and Taxation Code, to read:

13108. (a) A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an assignee of the insurer paying the tax, interest, or penalties, or by any person other than the insurer that has paid the tax, interest, or penalties.

(b) This section shall become operative on July 1, 2013.

SEC. 131. Section 14301.11 is added to the Welfare and Institutions Code, to read:

14301.11. (a) The department shall use funds attributable to the tax on Medi-Cal managed care plans imposed by Section 12201 of the Revenue and Taxation Code for the purpose specified in subdivision (b) of Section 12201 of the Revenue and Taxation Code.

(b) This section shall be operative on July 1, 2012, and become inoperative on July 1, 2013. As of January 1, 2015, this section shall be repealed.

SEC. 132. There is hereby appropriated to the Managed Risk Medical Insurance Board for the purposes of the Healthy Families Program, to be available for expenditure in the 2012–13 fiscal year, the sum of two hundred forty-five million dollars ($245,000,000) from the Federal Trust Fund.

SEC. 133. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 134. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make funding available to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program for the 2012—13 fiscal year, it is necessary that this act go into effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.~~

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