

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 1390

INTRODUCER: Banking and Insurance Committee and Senator Brandes

SUBJECT: Bail Bond Premiums

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1390 reduces the insurance premium tax on bail bond premiums by excluding any amounts retained by licensed bail bond agents or licensed managing general agents from the amount of direct written premiums for bail bonds that is subject to tax.

The fiscal impact of this bill has been estimated to be -\$0.7 million to the General Revenue Fund on a recurring basis.

II. Present Situation:

Bail Bonds

The state requires that a bond for which fees or premiums are charged in connection with the pretrial or appellate release of a criminal defendant must be executed by a licensed bail bond agent.¹ An agent issuing such a bond is obligated to ensure that the defendant appears at all subsequent criminal proceedings.

Bail Bond Premiums

Under s. 624.4094(1), F.S., the direct written premium retained by a bail bond insurer may not be less than 6.5 percent of the total payment for the bail bond; licensed bail bond agents or licensed

¹ Bail bond agents are regulated under ch. 648, F.S., and bail bond rates are subject to the provisions of part 1 of ch. 627, F.S.

managing general agents retain up to 93.5 percent of the premium. Section 624.4094(5), F.S., provides that the reporting and payment of insurance premium taxes and related excise taxes under ss. 624.509, 624.5091, and 624.5092, F.S., is calculated using gross bail bond premiums and that insurance premium tax and related excise taxes are calculated using gross bail bond premiums.

Premium Tax

Section 624.509, F.S., requires insurers to pay a premium tax on premiums received during the preceding calendar year. The tax is 1.75 percent of the gross amount of premium.² Sections 624.509(4)-(7), F.S., provide various credits and deductions that reduce the premium tax.

Section 642.5091, F.S., provides for a **retaliatory tax** on a foreign insurer—an insurer based in another state or country—if the foreign insurer’s home state or country levies certain taxes or fees, including insurance premium tax, on Florida insurers in excess of the taxes and fees levied by Florida on the foreign insurer. The retaliatory tax ensures that foreign insurers are taxed using the same tax and fee structure that a similar Florida insurer operating in their respective home state or country would face.

III. Effect of Proposed Changes:

The bill excludes the portion of bail bond premium retained by bail bond agents from the premium tax in s. 624.509, F.S., and amends s. 624.4094, F.S., to delete the provision that the insurance premium tax and related taxes are calculated using gross bail bond premiums.

Effective Date:

This act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² See s. 624.509(1)(a), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has estimated the fiscal impact of CS/SB 1390 to be a recurring \$0.7 million reduction in General Revenue. This reduction is the net effect of a decrease in premium tax of \$1,357,249 and an increase in retaliatory tax of \$621,848.

B. Private Sector Impact:

Bail bond insurers should see a substantial reduction in their premium tax payable to the state. Additionally, many Florida-domiciled bail bond insurers will pay lower taxes under the retaliatory premium taxes levied by other states. The reduction in premium tax is offset to some extent by an increase in retaliatory tax for some foreign insurers, since the tax on bail bonds in their home state or country is higher than the tax imposed in Florida.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If the home states or countries of foreign insurers doing business in Florida enact similar changes to their premium tax on bail bonds, Florida will experience a loss of retaliatory tax revenue, potentially doubling the impact of the bill.

The Department of Revenue analysis of the bill noted that because insurance premium tax is reported and paid on a calendar year basis, difficulties for taxpayers and the department may be created by the mid-tax-year change in the taxability of bail bond premiums.

VIII. Statutes Affected:

This bill substantially amends sections the following sections of the Florida Statutes: 624.4094 and 624.509

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 19, 2014:

CS/SB 1390 provides technical, clarifying changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
