HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 793 Retaliatory Insurance Financial Exactions
SPONSOR(S): Mahon
TIED BILLS: **IDEN./SIM. BILLS:** SB 2484

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	8Y, 0N	Cheek	Schulte
2) Insurance		Cheek	Schulte
3) Finance & Tax			
4) Commerce&Local Affairs Appropriations (sub)			
5) Appropriations			

SUMMARY ANALYSIS

Florida's retaliatory tax statute (s. 624.5091, F.S.) authorizes the imposition of a tax against insurers from other states in the amount by which their state of domicile would tax Florida insurers in excess of Florida's comparable tax. To calculate the retaliatory tax, the Department of Revenue compares the taxes a Florida insurer would pay in another state to the comparable taxes an out-of-state insurer would pay in Florida. If the taxes are higher in the other state, Florida imposes a retaliatory tax on insurers from the other state in an amount equal to the difference. The purpose of the retaliatory tax is to promote the interstate business of Florida insurers by deterring other states from enacting discriminatory or excessive taxes.

The bill exempts 100% of the salary tax credit when calculating Florida retaliatory taxes rather than 80%.

According to the Revenue Estimating Conference, recalculating 1999 tax returns exempting 100% of the salary credit from retaliatory tax reduces retaliatory tax by $3.9 million. This implies a 2001 tax return impact of $4.0 million annualized. An additional impact for the May and June 2002 estimated payment reductions of $2.1 million, results in a total cash impact of $6.1 million for FY 2001-02.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[x]	No[]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Retaliatory Tax

Florida's retaliatory tax statute (s. 624.5091, F.S.) authorizes the imposition of a tax against insurers from other states in the amount by which their state of domicile would tax Florida insurers in excess of Florida's comparable tax. To calculate the retaliatory tax, the Department of Revenue compares the taxes a Florida insurer would pay in another state to the comparable taxes an out-of-state insurer would pay in Florida. If the taxes are higher in the other state, Florida imposes a retaliatory tax on insurers from the other state in an amount equal to the difference. The purpose of the retaliatory tax is to promote the interstate business of Florida insurers by deterring other states from enacting discriminatory or excessive taxes.

During the 1987 Legislative session, the Florida Insurance Premium Tax was substantially revised. The impetus was twofold. States with tax laws which discriminated against foreign companies were forced to change their laws after the Metropolitan Life v. Ward case. Most observers concluded that the Florida tax base was at risk unless the law which favored domestic and "regional home office" insurers was changed. The 1987 premium tax law eliminated the tax credit for retaliatory taxes, thus allowing 100% of the salary credit to be ignored when calculating retaliatory taxes.

In 1989, Chapter 89-167, L.O.F. limited the portion of retaliatory taxes paid into the insurance Commissioner's Regulatory Trust Fund at 5.2 million for 1989, adjusted annually thereafter for growths in retaliatory tax collections or ten percent, whichever is less. The law was also changed to say that, for purposes of calculating retaliatory taxes to be paid by an out-of-state insurer, ***80%*** of the salary credit shall be ignored. This credit was reduced in an effort to raise revenue.

Changes from Current Law

The bill restores language, for purposes of calculating retaliatory taxes to be paid by an out-of-state insurer, to exempt ***100%*** of the salary credit rather than 80%.

C. SECTION DIRECTORY:

Section 1: Amends section 624.5091, F.S. – *Retaliatory provision, insurers*.

Section 2: Provides an effective date of January 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   According to the Revenue Estimating Conference, recalculating 1999 tax returns exempting 100% of the salary credit from retaliatory tax reduces retaliatory tax by $3.9 million. This implies a 2001 tax return impact of $4.0 million annualized. An additional impact for the May and June 2002 estimated payment reductions of $2.1 million, results in a total cash impact of $6.1 million for FY 2001-02.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill restores the original language of ignoring 100% of the salary credit when calculating Florida retaliatory taxes.

D. FISCAL COMMENTS:

According to the Revenue Estimating Conference, recalculating 1999 tax returns exempting 100% of the salary credit from retaliatory tax reduces retaliatory tax by $3.9 million. This implies a 2001 tax return impact of $4.0 million annualized. An additional impact for the May and June 2002 estimated payment reductions of $2.1 million, results in a total cash impact of $6.1 million for FY 2001-02.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require cities or counties to expend funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.