

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 857 Insurance Premium Tax
SPONSOR(S): Mahon
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1714

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 0 N	Levin	Diez-Arguelles
2) Civil Justice Committee	7 Y, 0 N	Blalock	Bond
3) Fiscal Council		Levin	Kelly
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Title insurance is sold as part of the initial purchase or refinance of real property, and the purchaser of the title insurance pays a premium for the insurance coverage.

This bill reduces the amount of the premiums for title insurance subject to the 1.75 percent tax. The 1.75 percent tax on title insurance is due only on that portion of the title insurance premium that is not paid as a commission to a title insurance agent. This change is implemented over a three year period, with 80 percent of the total premium subject to the tax in 2007, 55 percent in 2008, and up to 30 percent in 2009 and subsequent years.

This bill also amends the definition of "premium" by removing the reference to the 1.75 percent tax, in conformity to the other changes in the bill.

The fiscal impact of the bill is a negative (\$2.6 million) in state revenues in FY 2006-07, a negative (\$7.6 million) in state revenues in FY 2007-08, and a negative (\$11.3 million) in state revenues in FY 2008-09.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensures lower taxes -- This bill will decrease premium taxes paid on title insurance policies.

B. EFFECT OF PROPOSED CHANGES:

Background

Part III, chapter 624, F.S., a portion of the Florida Insurance Code, contains the general requirements an insurer must follow to receive a certificate of authority to transact business in Florida. The Department of Financial Services (DFS) regulates the insurance industry in Florida.

Section 624.509, F.S., imposes a tax of 1.75 percent on the gross amount of premiums on title insurance.

The tax is due for all insurance premiums, including title insurance, health, life, property, and insurance to cover property, subjects, or risks located or to be performed within Florida. The law also taxes premiums for wet marine and transportation insurance and for annuity policies, but at a rate lower than the 1.75-percent of gross receipts due for all other policies.

Insurers remit taxes quarterly to the Department of Revenue (DOR). Section 624.509, F.S., specifies that the insurance premium taxes are to be deposited into the state's General Revenue Fund pursuant to rules of DOR.

Title Insurance

Chapter 627, F.S., regulates insurance rates and contracts; part XIII of that chapter, which encompasses ss. 627.7711 through 627.798, F.S., governs title insurance contracts specifically.

Title insurance is sold as part of the initial purchase or refinance of real property. A title search is conducted by an attorney or other qualified person. A title search examines ownership of a parcel of property through its years of ownership. The primary goal of a title search is to establish that all previous liens have been satisfied, that property boundaries are clear and unobstructed, and that any easements are well-defined and included in the description of the property.

Section 627.7711, F.S., contains definitions relating to the regulation of title insurance. As part of the definitions, the word "premium" means the charge made by a title insurer for a title insurance policy, including the charge related to title services, and the assumption of the risks associated with such a policy. The definition indicates that the word "premium" as used throughout part XIII of the law governing title insurance does not include commission. As a practical matter, the definition of premium with respect to title insurance includes the gross amount collected for title insurance, without consideration for any portion of the premium that is paid to the insurance carrier, agent, or agency as a commission. Staff of DFS report that commissions paid to title insurance agents frequently constitute 70 percent or more of the total price paid for such insurance. This definition of the word premium as the gross receipts for a policy, without an allowance for a commission, is standard throughout the Florida Insurance Code and the regulation of the different types of insurance policies.

Effect of Bill

This bill amends s. 624.509, F.S., to provide that the 1.75 percent tax on title insurance is due only on that portion of a title insurance premium that is not paid as a commission to an insurance agent. The bill specifies that the commission, and thus the portion of the title insurance premium that is exempt from

the premium tax, may not exceed 20 percent of the total price paid for the title insurance in 2007; 45 percent in 2008; and 70 percent for 2009 and subsequent years.

This bill amends the definition for title insurance premium in s. 627.7711, F.S., to delete a cross-reference to section 624.509, F.S. This change conforms to the other changes proposed by the bill regarding the 1.75 percent.

C. SECTION DIRECTORY:

Section 1 amends s. 624.509, F.S., to exempt up to 70 percent of the gross receipts resulting from title insurance premiums from the 1.75 percent tax due on all insurance premiums, except annuity policies and contracts.

Section 2 amends s. 627.7711, F.S., the definitions that apply to title insurance contracts. This bill deletes a cross-reference to s. 624.509, F.S., to conform to the change made by Section 1.

Section 3 provides an effective date of January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference considered the fiscal impact of this bill at its meeting on February 24, 2006.

	<u>FY 2006-2007</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Revenue	(\$2.6 million)	(\$7.6 million)	(\$11.3 million)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

When fully implemented, the fiscal impact of this bill will be negative (\$11.3 million) recurring in state revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.