

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

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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	20 Y, 0 N, w/CS	Levin	Kelly
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### 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 insurance premium tax rate on premiums for title insurance from 1.75 percent to 0.6.

The preliminary estimate of the fiscal impact of the bill is a negative (\$4.2 million) in state revenues in FY 2006-07, a negative (\$8.4 million) in state revenues in FY 2007-08.

## 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 other insurance covering 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 1.75 percent.

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 a 0.6 percent tax on title insurance is due on the premium paid for title insurance on property located in Florida.

The bill further provides that for purposes of the premium tax, the term "premium" has the same meaning as provided in s. 627.7711(2), F.S., which provides:

'Premium' means the charge, as specified by rule of the commission, that is made by a title insurer for a title insurance policy, including the charge for performance of primary title services by a title insurer or title insurance agent or agency, and incurring the risks incident to such policy, under the several classifications of title insurance contracts and forms, and upon which charge a premium tax is paid under s. 624.509. As used in this part or in any other law, with respect to title insurance, the word 'premium' does not include a commission.

C. SECTION DIRECTORY:

Section 1 amends s. 624.509, F.S., to lower the tax rate on title insurance premiums from the 1.75 percent to .6 percent. The word "premiums" is given the same meaning as in s. 627.7711 (2), F.S.

Section 2 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 has not formally considered the fiscal impact of the bill as amended. The preliminary estimate is:

	<u><b>FY 2006-2007</b></u>	<u><b>FY 2007-2008</b></u>
General Revenue	(\$4.2 million)	(\$8.46 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:

**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**

On April 21, 2006, the Fiscal Council adopted two related amendments. Rather than reduce the percentage of the premium subject to taxation and change the definition of premium in s. 627.7711(2), F.S., the amendments reduced the rate of the title insurance premium tax from 1.75 percent to .06 percent and retained the definition of premium as it currently exists in s. 627.7711(2), F.S.