

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 657 Tax on Insurance Premiums

SPONSOR(S): Davis

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	12 Y, 6 N, As CS	Pewitt	Langston
2) Appropriations Committee			

SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of \$5.4 million beginning in fiscal year 2014-2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Insurance Premiums Tax

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.¹ This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments.² It applies to self-insurance funds at a rate of 1.6%.³ It applies to annuities at a rate of 1%.⁴ It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.⁵

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.⁶
- 15% of salaries paid by the company to its Florida-based employees.⁷
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.⁸
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.⁹

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.¹⁰

Retaliatory Tax

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.¹¹ Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

Title Insurance

Title insurance companies insure owners of real property and others with an interest in real property against loss due to encumbrance, defective titles, invalidity, or adverse claim to title.¹² The Financial Services Commission, consisting of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture and Consumer Services,¹³ must adopt a rule setting the rates charged by title insurance companies and determining the minimum portion of those premiums retained by the title

¹ Section 624.509, F.S.

² Section 624.509(1)(a), F.S.

³ Section 624.4625(4), F.S.

⁴ Section 624.509(1)(b), F.S.

⁵ Section 624.510, F.S.

⁶ Section 624.509(4), F.S.

⁷ Section 624.509(5), F.S.

⁸ Section 624.5105, F.S.

⁹ Section 624.51055, F.S.

¹⁰ Section 624.509(6)(a), F.S.

¹¹ Section 524.5091, F.S.

¹² Section 624.608, F.S.

¹³ Section 20.121(3), F.S.

insurer.¹⁴ This percentage varies depending on the total coverage of the policy, and ranges from 30% to 40%.¹⁵ The portion not retained by the title insurer goes to the title insurance agent.

Proposed Changes

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

B. SECTION DIRECTORY:

Section 1. Amends s. 264.509, F.S., providing that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency.

Section 2. Amends s. 627.7711, F.S., to remove language in order to clarify that the exemption provided in section 1 does not impact promulgation of title insurance rates.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of \$5.4 million beginning in fiscal year 2014-2015.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would reduce the amount of insurance premiums tax paid by title insurance companies.

D. FISCAL COMMENTS:

III. COMMENTS

¹⁴ Section 627.782, F.S.

¹⁵ Rule 69O-186, F.A.C.

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2014, the Finance & Tax Subcommittee adopted an amendment to this bill. The amendment removed language that moved some provisions related to wet marine and transportation insurance to a different place in statute. It also repeals some language to make clear that the tax exemptions in the bill do not impact the promulgation of title insurance rates.

This analysis reflects the above amendment.