

Tobacco Surcharge

Section #	CS for CS for SB 1840, First Engrossed	(Title) House Offer #1
Whereas clauses	Provides several public health reasons for imposing surcharge on cigarettes and tobacco products	Same
1	Provides that the act may be cited as the "Protecting Florida's Health Act"	Same
2	Amends the definitions of "unstamped package" or "unstamped cigarettes" to include a package on which the surcharge has not been paid; amends "stamp" or "Stamps" to mean the indicia required to be placed on cigarette packages to show that the surcharge and tax have been paid	Same
3	Levies a \$1 per (standard) pack surcharge on the sale, receipt, purchase, possession, consumption, handling, distribution, and use of cigarettes in this state, to be administered, collected, and enforced in the same manner as the cigarette tax imposed under s. 210.02, F.S. Non-standard packs are subject to proportionate surcharges. Revenue produced from the surcharge is deposited into the Health Care Trust Fund in AHCA.	Same
4	Amends the section that allows manufacturers to distribute unstamped cigarettes under certain circumstances to include surcharges. (the tax and surcharge on these cigarettes are paid directly to DBPR)	Same
5	Provides conditions and requirements for mail order, Internet, and remote sales of tobacco products, including cigarettes and cigars.	Same, except exclude cigars
6	Increases penalties for possession of unstamped or counterfeit cigarettes, and creates a reward for information that results in a fine being levied and paid.	Same
7	Amends s. 210.25, F.S., the definitions section for other tobacco products to allow cigars to be subject to the surcharge	Delete (not needed if cigars exempt from surcharge)

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8	<p>Levies a surcharge on other tobacco products, including cigars, at a rate of \$1 per ounce, or \$1 per pack of 20 for small cigars. The surcharge does not apply to products exported outside the state, and is administered, collected, and enforced in the same manner as the tax imposed under s. 210.30, F.S.</p> <p>Revenue produced from the surcharge is deposited into the Health Care Trust Fund in AHCA.</p>	<p>Levy surcharge of 70% of wholesale price. Cigars excluded.</p> <p>97% of Revenue deposited into the Health Care Trust Fund; 5.5% to General Revenue</p>
9	Levies the surcharge on all inventory on July 1, 2009, allowing the surcharge to be paid in four equal installments on July 21, August 10, August 30, and September 9, 2009.	Same, except give 20% administrative cost allowance against the inventory surcharge.
10	Amends s. 210.05, F.S., to delete provision allowing sale of unstamped cigarettes to Seminole Indian Tribe.	Same
11	Creates s. 210.1801, F.S., providing surcharge-free cigarettes for consumption by members of recognized Indian tribes on reservations. The tribes will be provided a limited number of surcharge exemption coupons for cigarettes each year, equal to the number of members of the tribe times five multiplied by 365.	Same
12	Provides an effective date of July 1, 2009.	Same

Conference Committee
CS/SB 2198 (HB 7153)
TOBACCO SUPERSEDEAS (APPELLATE) BONDS

Item #	Issue Description	House Position	Senate Position	Senate Offer
1	Which cases are covered?	Engle progeny	Engle progeny	Same.
2	Which appeals are covered?	Through the U.S. Supreme Court.	Through the Florida Supreme Court.	Senate position modified to provide a cap through the appeals to the U.S. Supreme Court. Cap equal to lesser of actual judgment or 3x the cap in Florida courts. Appeal above Florida Supreme Court does not count for purposes of increasing or decreasing the security when crossing tiers.
3	What is the maximum amount of supersedeas bond(s)?	\$105 million, with all appeals sharing in one large amount.	Up to \$200 million, with each appeal having a discrete bond.	Senate position, but additional amounts may be required by 2. above.
	What is the security provided in each case?	100% of each appellant's individual liability must be posted in each case until individual cap is reached. Full cap amount of security is thereafter shared proportionately by all appellees. As each case is settled, reversed or paid, cap amount would remain posted, increasing the proportionate allocation available from security per pending case.	The bond is the lesser of the actual judgment OR \$2.5M if the number of appeals is 1-80, \$2M if 81-100, \$1.3M if 101-150, \$1M if 151-200, \$666,667 if 201-300, \$400,000 if 301-500, \$200,000 if 501-1000, \$100,000 if 1001-2000, and \$66,667 if 2001-3000 appeals at any one time.	Senate bill with a new tier. For 1-40 appeals, a \$5M bond. For 41-80 appeals, a \$2.5M bond.
	What is the maximum security to be posted by each appellant?	Each appellant provides the greater of \$5 million, or \$100M multiplied by that appellant's percentage share of payments to Florida under the settlement agreement.	No per appellant cap other than the applicable per case cap times the number of cases on appeal by that appellant.	Senate position
	When is security adjusted?	Upward until \$100 million is reached, then not until total liability for appellant decreases below security posted.	Each time a judgment is entered, settled or paid; If a boundary is crossed, total security per appeal and the total amount of security for all appeals will adjust upward or downward.	Senate position, but give appellant the choice to leave excess bonds with the Clerk or have them returned.
4	When is stay of judgment executed?	When any individual appellant provides security.	When all appellants provide security.	House position
5	Who holds supersedeas bonds?	Clerk of the Supreme Court, with fees & interest to the State Courts Revenue Trust Fund.	Clerk of the Supreme Court, with fees & interest to the State Courts Revenue Trust Fund.	Same.

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6	Effect of non-payment of final judgment	When a judgment goes unpaid 30 days , all stays against appellant are lifted AND any appellee(s) may petition for distribution of security posted by appellant among all appellees with judgment against appellant. All security of such appellant is subject to proportionate distribution to all appellees pursuing execution unless a new stay is issued under other law or rule.	When a final judgment goes unpaid 30 days , all stays are lifted OR individual plaintiff may claim the bond in their their case.	Senate position
7	What is the effective period of bill?	Becomes permanent law.	Sunsets December 31, 2012.	Senate position
8	Manner in which stay of execution of judgment is secured	Automatic stay upon provision of security.	Does not provide that the stay is automatic.	House position
9	How does bill implement the language?	Language is codified in statute , s. 569.23, F.S.	Bill provides legislative intent.	House position
10	What is the affect on current \$100M cap?	Keeps the current \$100M cap.	Do not include the current \$100M cap.	House position