The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SM 484

INTRODUCER: Senator Hays

SUBJECT: Discriminatory Taxes/Reinsurance

DATE: March 11, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Favorable**
2.	Frederick	DeLoach	BGA	**Favorable**
3.			BC	
4.				
5.				
6.				

I. Summary:

The Memorial urges the 112th Congress to refrain from imposing new taxation on foreign companies that sell reinsurance in the United States.

II. Present Situation:

Reinsurance:

Reinsurance is an unregulated insurance product sold to primary insurers to help cover their exposure to excessive loss. As an example, a direct writer of homeowners insurance may purchase reinsurance to cover a specified layer of losses above a certain amount. Reinsurance protects the homeowner and the primary insurance company during major events and disasters.

Proposed Federal Legislation:

In recent years Congress has introduced legislation to tax foreign reinsurance companies that sell reinsurance in the United States. In the 111th Congress, H.R. 3424 was introduced calling for a percentage based tax on gross revenues for all foreign based reinsurance companies. House Resolution 3424 and its predecessor in the 110th Congress, H.R. 6969, were both introduced but neither was heard by a House committee. The sponsor of the bills was Representative Neal of Massachusetts. During his remarks on the House Floor in July of 2009, Representative Neal had argued the tax was necessary to lessen a competitive advantage that foreign based reinsurers had over American based reinsurance companies who were currently subject to the United States tax code.[1] Opponents of the tax have argued foreign based companies are already subject to taxation by their home country and therefore no competitive advantage exists.[2]

The budgets released by the White House for Fiscal Years 2011 and 2012 have also called for a tax on offshore reinsurance companies. In 2011, the tax was estimated to collect $500 million for one year, while the tax revenues estimated in the 2012 budget calls for the collection of $2.6 billion over ten years.[3] While this is less than the estimated $2 billion per year taxed in H.R. 3424, it is important to note any taxes levied will result in Floridians paying the greatest share of the costs that the tax will impose on foreign based reinsurers.

Foreign based reinsurance in Florida:

Foreign based companies that sell reinsurance are a vital component to Florida's property insurance needs. In recent years, a number of large national property insurers have reduced the amount of Florida property risk that they are willing to insure. The gap created by this reduction has been filled to some extent by Florida domestic property insurers which are much smaller and less capitalized than the national companies. In order to manage the risk they assume, Florida domestic companies rely heavily on reinsurance, particularly reinsurance provided by foreign domiciled companies. The Office of Insurance Regulation (OIR) estimates that over 90 percent of Florida's reinsurance is insured through foreign based sources. Foreign reinsurance has allowed primary insurance companies in Florida to maintain their current level of coverage. If an additional transaction tax is imposed on foreign reinsurers, they will raise their prices to Florida's direct insurance writers and those price increases will be passed onto Florida's residents. As a result, Florida's residents are almost certain to incur a far greater portion of the additional tax burden than any other state.

III. Effect of Proposed Changes:

The Memorial would inform the 112th Congress of the affects Florida could face if a new tax were imposed on foreign reinsurance companies. Florida based property insurance policies are a major purchaser of foreign based reinsurance. Any additional costs imposed on foreign reinsurance companies by Congress will be absorbed to a large degree by Florida homeowners through higher insurance premiums.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[1] July 31, 2009 Congressional Record – Extensions of Remarks E2111- E2112
[2] July 8, 2010 The Brattle Group – The Impact on the U.S. Insurance Market of H.R. 3424 on Offshore Affiliate Reinsurance
[3] February 15, 2011Jonathan Kent; The Royal Gazette – Reinsurers face tax threat in Obama's Budget

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Office of Insurance Regulation, more than 90 percent of Florida based property insurance companies are purchasers of foreign based reinsurance. Any additional costs imposed on foreign reinsurance companies by Congress would be passed on to Florida homeowners through higher insurance premiums.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.