

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1560

SPONSOR: Committee on Banking and Insurance and Senator Horne

SUBJECT: Bail Bond Premiums

DATE: March 14, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

Chapter 648, F.S., provides for the licensure of bail bond agents and for the regulation of the business of issuing bail bonds by the Department of Insurance. The term, direct written premium, for the purpose of filing financial reports only with the department by surety insurers which underwrite the bail bonds is defined to mean *net* of any amounts retained by licensed bail bond agents or licensed managing general agents. However, this *net* direct written premiums for bail bonds cannot be less than 6.5 percent of the total consideration received by the agent for all bail bonds written by the agent.

The use of the term, direct written premiums, net of any amounts retained by the agents, would apply to any determination of compliance with s. 624.4095, F.S., which establishes the maximum amount of premium that can be written based upon the surplus of the insurer. Therefore, the effect of the bill would be to increase the bail bond premium writing capacity of the insurer.

The committee substitute also specifies that the reporting or payment of insurance premium taxes under ss. 624.509, 624.5091, and 624.5092, F.S. and the insurance premium tax and related excise taxes would continue to be calculated using gross bail bond premiums and provides for an October 1, 2000, effective date that would apply to premiums written for calendar year 2000 and thereafter. The committee substitute would also require domestic insurers writing premiums for bail bonds to disclose additional premium information, specifically, the amount of bail bond premiums included on the surety line of the annual statement, in the notes to the financial statement of the insurer's annual statement filed with the department.

This bill creates section 624.4094, Florida Statutes.

II. Present Situation:

Chapter 648, F.S., provides for the licensure of bail bond agents and for the regulation of the business of issuing bail bonds by the Department of Insurance. A bail bond serves as a pledge by a

bail bond agent or surety company that a defendant will appear at all scheduled proceedings before a court.

Under the provisions of s. 648.295, F.S., insurers and bail bond agents must keep and make available to the department books, accounts, and records as necessary to enable the department to determine whether such licensee is complying with the provisions of ch. 648, F.S. In addition, each insurer and each bail bond agent who writes bail bonds in Florida is required to report to the department, when requested, a statistical report regarding Florida-based business which includes the amount of commissions paid, number of, and the total dollar amount of bonds executed.

Section 624.4095, F.S., prohibits an insurer's ratio of actual or projected annual written premiums to current or projected surplus as to policyholders from exceeding 10 to 1 for *gross* written premiums or 4 to 1 for net written premiums. "Gross premiums written" are defined to mean direct premiums written and reinsurance assumed. Although "net written premium," is not defined, the department interprets its meaning as allowing for a deduction of reinsurance premiums ceded (paid) to a reinsurer. It does not, however, allow for deduction of commissions paid to agents.

Florida domestic bail bond insurers have been at a competitive disadvantage compared to some other states. Currently, a Florida insurer may report higher premiums than other insurers writing the same business. Florida insurers report premiums on a gross basis while foreign insurers in at some other states are permitted to report premiums net of commissions retained by the bail bond agent.

According to individuals representing the bail bond industry, the commission on the premium typically is in the range of 90 - 93 percent; therefore, the actual premium dollars received by the insurer is approximately in the range of 7 - 10 percent of the premium written. The insurer is required by s. 624.4095, F.S., to maintain a ratio of written premiums to surplus *not exceeding* 4 to 1 for net direct premiums written. Although only 7 - 10 percent of the total net direct premiums written are actually received by the insurer, the insurer must recognize the total amount for purposes of determining compliance with the premiums to surplus ratio. The use of net direct premiums written (including commissions) for purposes of calculating the ratio limits the premium capacity and potential market share of a domestic insurer and places the domestic insurer at a competitive disadvantage with foreign insurers whose state of domicile allows for deduction of commissions.

An authorized insurer is required to file an annual statement with the Department of Insurance on or before March 1 for the preceding calendar year. The filing includes Florida specific information regarding direct premiums written by line of insurance written. Quarterly statements covering for the periods ending March 31, June 30, and September 30 must be filed within 45 days after each date. In addition, each authorized insurer is required to submit an audit report on the financial statements on or before June 1 for the preceding year.

Each insurer is required annually to pay to the Department of Revenue a tax on insurance premiums in an amount equal to 1.75 percent of the *gross* amount of such receipts received during the preceding calendar year, pursuant to the provisions of s. 624.509, F.S. An insurer's

annual statement submitted to the Department of Insurance is used by the Department of Revenue to determine the amount of insurance premium tax liability.

III. Effect of Proposed Changes:

Section 1. Creates s. 624.4094, F.S., relating to the reporting of bail bond premiums, to authorize surety insurers, for the purpose of reporting financial statements with the Department of Insurance, to report direct written premiums, net of any amounts retained by licensed bail bond agents or licensed managing general agents. However, this net direct written premium cannot be less than 6.5 percent of the total consideration received by the agent for all bail bonds written by the agent. Premiums assumed by a domestic insurer would be calculated in the manner for purposes of filing financial statements with the department. Insurers writing bail bonds would also be authorized to use direct written premiums, net of commissions, for the purpose of calculating compliance with the premiums written to surplus ratio. Therefore, the effect of the bill would be to increase the bail bond premium writing capacity of the insurer.

Each domestic bail bond insurer would also be required to maintain complete and accurate records of the total consideration paid for all bail bonds written by such insurer. Such insurer would also be required to disclose the following information in the notes to the financial statements in the insurer's annual statement filed with the department: 1) the gross bail bond premiums written in each state by agents for the company; 2) the amount of premium taxes incurred by the company in each state; 3) the total consideration withheld by agents and not reported as an expense by the insurer in financial statements filed with the department; and 4) the amount of bail bond premium included on the surety line of the annual statement filed with the department.

The section also specifies that the reporting or payment of insurance premium taxes under ss. 624.509, 624.5091, and 624.5092, F.S. and the insurance premium tax and related excise taxes would continue to be calculated using gross bail bond premiums.

Section 2. Provides that the act would be effective on October 1, 2000, and would apply to premiums written for calendar year 2000 and thereafter.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

By allowing bail bond insurers to use direct written premiums for the purpose of reporting financial statements, an insurer would be able to increase its bail bond premium writing capacity in Florida.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.