HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 877 Title Insurer and Title Insurance
SPONSOR(S): Patterson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1802

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)		Cheek	Schulte
2) Insurance			
3) Finance & Tax			
4)			
5)			

SUMMARY ANALYSIS

On or before January 30 of each calendar year, each title insurer is to pay the Department of Financial Services (DFS) $200 for each licensed title insurance agency appointed by the title insurer and for each retail office of the insurer on January 1 of that calendar year. The law requiring the administrative surcharge provides that it may be used solely to defray the cost to the department in its examinations or audits of title insurance agencies and retail offices of title insurers to gather title insurance data for statistical purposes in its regulation of title insurance.

The bill removes the requirement that a licensed title insurance agency remit to DFS an administrative surcharge of $200.

According to DFS, there is a projected 2003-04 negative fiscal impact of $821,925 to the Insurance Regulatory Trust Fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[]	No[]	N/A[x]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Title Insurance Overview

Title insurance insures "owners of real property against loss by encumbrance, defective titles, invalidity, or adverse claim to title" (s. 624.608, F.S.). Title insurance is different than traditional property and casualty (P&C) insurance in several ways, including the kind of risk insured and the relationship between losses and expenses.

In traditional P&C insurance, the insurer accepts responsibility for certain risks that are out of its control and may occur in the future -- e.g., hurricanes, floods, and car accidents. In title insurance, the insurer insures against whether a past event has clouded the ownership interest or lien interest in real property that the insured believes to exist when the title insurance policy is issued. In many instances, the existence of the past event can, and should, be discovered by the title agent through careful review of the public records.

Because of the difference in the type of risk insured, the relationship between losses and expenses in title insurance is also different than in traditional P&C insurance. In P&C insurance, insurers might ordinarily expend the bulk of their revenues to pay for losses and loss adjustment while title insurers are likely to expend only a small portion of their revenues to pay for losses and loss adjustment. Conversely, P&C insurers might spend a small portion of revenues on non-loss expenses, while title insurers might expend the bulk of its revenues on non-loss expenses.

This disparity is due to the fact that there are more activities performed by agents in title insurance than in P&C insurance. The activities of title insurance agents include most of the same activities as P&C insurance agents, such as marketing and producing policies; however, title insurance agents also perform other activities, such as conducting title searches and examinations, reviewing public documents, handling funds in escrow, preparing closing documents, and conducting closings.

Title Insurance Agents

A title insurer's primary function is to reduce the likelihood of loss by increasing the level of knowledge of potential defects in the title prior to issuing the policy. In order to gain this knowledge, title insurers must have access to a variety of local public documents, such as deeds, mortgages, and court judgments. This need for local information, in addition to the expanded activities discussed above, can require title insurance agents to play a more active role than traditional P&C insurance agents.

Title Insurance and Title Insurance Agency Administrative Surcharge

On or before January 30 of each calendar year, each title insurer is to pay the department $200 for each licensed title insurance agency appointed by the title insurer and for each retail office of the insurer on January 1 of that calendar year. The administrative surcharge may be used solely to defray the cost to the department in its examinations or audits of title insurance agencies and retail offices of title insurers to gather title insurance data for statistical purposes in its regulation of title insurance.

Changes to Current Law

The bill removes the requirement that a licensed title insurance agency must remit to the Department of Financial Services an annual administrative surcharge of $200 to be placed in the Insurance Regulatory Trust Fund.

C. SECTION DIRECTORY:

Section 1: Amends section 624.501, F.S. – *Filing, license, appointment, and miscellaneous fees.*

Section 2: Provides that the act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There is a projected 2003-04 negative fiscal impact of $821,925 to the Insurance Regulatory Trust Fund.

2. Expenditures:

   The administrative surcharge currently is used solely to defray the cost to the department in its examinations or audits of title insurance agencies and retail offices of title insurers to gather title insurance data for statistical purposes in its regulation of title insurance.

   Other types and classes of licensees may be required to fund the regulation of the title insurance industry in order to absorb this cost.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Title insurers and title insurance agencies that were required to pay an annual $200 surcharge to defray the cost of the department's examinations will no longer be required to do so.

D. FISCAL COMMENTS:

None.

According to the Department of Financial Services, seven full-time employees are currently assigned to the Title Section to perform examinations and audits of title agencies and retail offices of title insurers and to gather statistical data to assist in the review of title rates every third year.

Revenue generated by the collection of the title surcharge for three fiscal years are as follows: 1999 - 2000 = $489,000; 2000 - 2001 = $539,400; 2001 - 2002 = $747,205. The significant increase in fees collected in fiscal year 2001-02 over the fees collected in 2000-01 is attributed to a 32-percent increase in the title agent and agency licensee population and the collection of approximately $45,200 in fees that were billed and due in fiscal year 2000-01. Therefore, a more realistic projection of fees for fiscal year 2001-02 is estimated to be in the amount of $702,205. A 10-percent growth will generate approximately $821,925 in surcharge fees in fiscal year 2002-03.

Costs - Direct and Indirect:

A program is now in place to capture direct costs associated with the title program; however, it did not exist in previous years. Therefore, while some direct costs can now be specifically identified, some must still be estimated. Direct costs for 2001-02 were approximately $463,215 and will increase to at least $563,215 in fiscal year 2002-03 to accommodate for the cost of statistical research for use in reviewing title rates.

Indirect costs for the title program are tied to the support services the program receives from a majority of the DFS's divisions. These divisions and offices include: Document Processing; Training; Administration, including Financial Services, Budgeting, General Services and Personnel; Information Technology; Agent & Agency Services' Licensing and Investigations; Insurer Services; Consumer Services; Division of Fraud; Legislative Affairs; Legal Services and the Communications Office. The budget for these divisions and offices for fiscal year 2002-03 is approximately $86,449,020. Title agents and agencies represent approximately 2.29 percent of DFS's total license population. (Total licensees with at least one appointment = 217,591; total title agents & agencies = 4,995.) Using this percentage, the indirect costs of DFS for the title program are estimated to be approximately $197,968 for fiscal year 2002-03. This figure ($197,968), combined with the estimated direct costs ($563,215) for fiscal year 2002-03, will total approximately $787,906 of direct and indirect costs associated with the title program.

Projected Revenue - 2002-03	$821,925
Direct & Indirect Costs - 2002-03	$761,183
Estimated over Costs	$ 60,742

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require cities or counties to expend funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.