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 General Government Appropriations Committee

BILL: CS/SB 1758

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: Surplus Lines or Premium Tax

DATE: April 1, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	DeLoach	GA	**Fav/CS**
2.			GO	
3.			WPSC	
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This bill amends the distribution of revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups, pursuant to section 627.944(3), Florida Statutes. The bill provides that all tax revenues be distributed to the General Revenue Fund. Currently, 15.74 percent of the tax proceeds is distributed to the Insurance Regulatory Trust Fund within the Department of Financial Services (department) and 84.26 percent is distributed to the General Revenue Fund. The bill redirects from the Insurance Regulatory Trust Fund to the General Revenue Fund an estimated $28.6 million to $30.9 million, from both tax sources.

This bill provides for a July 1, 2014, expiration date for the redistribution of 100 percent of the total tax proceeds to the General Revenue Fund. At that time, the distribution of tax proceeds will revert to current law, absent any additional subsequent law changes.

This bill substantially amends the following sections of the Florida Statutes: 624.523(1), 626.932(5), and 626.938(7), Florida Statutes.

II. Present Situation:

Surplus lines insurance refers to a high risk category of insurance for which there is no market available through standard insurance carriers. The insurance coverage is provided by a company that is not licensed in Florida, but is approved by the Office of Insurance Regulation (OIR) to transact insurance in the state as an "eligible" insurer. The purpose of the Surplus Lines Law (ss. 626.913 through 626.937, F.S.) is to provide consumers access to insurers when certain insurance coverage cannot be obtained from Florida-authorized insurers. In order to place a business with a surplus lines carrier, the agent must make a "diligent effort" to place the policy with a Florida-authorized insurer, which is demonstrated by having three written rejections of coverage from authorized insurers writing that type of insurance. Rates charged by a surplus lines insurer may not be lower than those in use and offered by the majority of authorized insurers writing similar coverage on similar risks in Florida. Insurance coverages available through a surplus lines insurer include homeowners' insurance in hurricane-prone areas, commercial aircraft, and some sea vessels. Florida law provides stringent qualifications for those agents who insure surplus lines, who must be registered with the department. Risk retention groups purchase liability insurance on a group basis in order to assume and spread the liability exposure of its members.

Currently, there is a five percent tax on premiums for surplus lines insurance and insurance provided by risk retention groups. The distribution percentages set forth for surplus lines insurers are also applied to insurance provided by risk retention groups. Fifteen and seventy-four-hundredths percent of the tax proceeds is distributed to the Insurance Regulatory Trust Fund within the department and 84.26 percent is distributed to the General Revenue Fund. The Insurance Regulatory Trust Fund provides partial funding to the department and the OIR for its administrative and regulatory functions.

III. Effect of Proposed Changes:

This bill amends the distribution of revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups, pursuant to s. 627.944(3), F.S. The bill provides that all tax revenues be distributed to the General Revenue Fund. The revised distribution of revenues from both tax sources to the General Revenue Fund is estimated to provide an additional $28.6 million to $30.9 million to the fund on a recurring basis, beginning Fiscal Year 2009-2010.

This bill provides for a July 1, 2014, expiration date for the redistribution of 100 percent of the total tax proceeds to the General Revenue Fund. At that time, the distribution of tax proceeds will revert to current law, absent any additional subsequent law changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Beginning Fiscal Year 2009-2010, the amended distribution for surplus lines insurance and insurance provided by risk retention groups will decrease revenues from both tax sources distributed to the Insurance Regulatory Trust Fund within the Department of Financial Services by an estimated $28.6 million to $30.9 million, and correspondingly increase tax revenues distributed to the General Revenue Fund by the same amount. These tax revenues are expected to remain relatively constant, thereby providing increased revenue to the General Revenue Fund on a recurring basis.

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.)

CS by General Government Appropriations Committee on April 1, 2009:

This committee substitute amends the distribution of revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups, pursuant to s. 627.944(3), F.S. Beginning Fiscal Year 2009-2010, the amended distribution decreases revenues from both tax sources to the Insurance Regulatory Trust Fund within the Department of Financial Services by an estimated $28.6 million to $30.9

million and correspondingly increases tax revenues distributed to the General Revenue Fund by the same amount.

B. Amendments:

None.