

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 939 Bail Bond Premiums

**SPONSOR(S):** Finance & Tax Subcommittee; Stewart and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1390

| REFERENCE                           | ACTION              | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|-------------------------------------|---------------------|---------|------------------------------------------|
| 1) Finance & Tax Subcommittee       | 14 Y, 2 N, As<br>CS | Pewitt  | Langston                                 |
| 2) Insurance & Banking Subcommittee | 11 Y, 1 N           | Bauer   | Cooper                                   |
| 3) Appropriations Committee         |                     |         |                                          |

### SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums, assessments, and various credits. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums excluding any portion of the premium retained by bail bond agents or managing general agents. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

The Revenue Estimating Conference met on March 7, 2014 and estimated this bill would have a cash and recurring impact of -\$0.7 million to general revenue beginning in fiscal year 2014-2015.

The bill provides an effective date of January 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### ***Insurance Premiums Tax***

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.<sup>1</sup> This tax applies to life, health, property and casualty, surety, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums and assessments.<sup>2</sup> It applies to self-insurance funds at a rate of 1.6%.<sup>3</sup> It applies to annuities at a rate of 1%.<sup>4</sup> It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.<sup>5</sup>

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.<sup>6</sup>
- 15% of salaries paid by the company to its Florida-based employees.<sup>7</sup>
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.<sup>8</sup>
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.<sup>9</sup>

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.<sup>10</sup>

##### ***Retaliatory Tax***

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.<sup>11</sup> Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

##### ***Bail Bonds***

When a person is charged with a crime in this state, they may seek pre-trial release. One method of seeking release is by applying for bail.<sup>12</sup> After a bail determination hearing, the court may grant the defendant monetary bail. Such bail can be satisfied by a surety bond presented by a qualified individual, group of individuals, or a bail bond agent licensed under chapter 648, F.S.<sup>13</sup> Such surety bonds serve as a guarantee by the surety that the defendant will appear at all necessary hearings.<sup>14</sup>

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<sup>1</sup> Section 624.509, F.S.

<sup>2</sup> Section 624.509(1)(a), F.S.

<sup>3</sup> Section 624.4625(4), F.S.

<sup>4</sup> Section 624.509(1)(b), F.S.

<sup>5</sup> Section 624.510, F.S.

<sup>6</sup> Section 624.509(4), F.S.

<sup>7</sup> Section 624.509(5), F.S.

<sup>8</sup> Section 624.5105, F.S.

<sup>9</sup> Section 624.51055, F.S.

<sup>10</sup> Section 624.509(6)(a), F.S.

<sup>11</sup> Section 624.5091, F.S.

<sup>12</sup> Section 903.035, F.S.

<sup>13</sup> Section 903.045, F.S.

<sup>14</sup> Section 624.606, F.S.

Licensed bail bond agents are required to charge a premium in exchange for granting the surety bond.<sup>15</sup> Bail bond agents are subject to Section I of the Insurance Code contained in chapter 627, F.S., which requires that their rates be filed with and approved by the Office of Insurance Regulation (OIR).

Licensed bail bond agents or licensed managing general agents retain up to 93.5% of the premium, and the insurance company retains the remainder.<sup>16</sup> Unlike other types of insurance companies, domestic bail bond providers file their required financial reports to the OIR, based on premiums collected *net* of any amounts retained by agents.<sup>17</sup> However, current law requires that the reporting and payment of insurance premium taxes and related excise taxes under ss. 624.509, 624.5091, and 624.5092, F.S., is calculated using *gross* bail bond premiums.<sup>18</sup>

### **Proposed Changes**

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of net bail bond premiums (i.e., excluding any portion of the premium retained by bail bond agents or managing general agents), as reported to the OIR. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

Additionally, it removes language from s. 624.4094(5), F.S., relating to calculation of insurance premiums tax on gross bail bond premiums, to conform to the changes detailed above.

#### **B. SECTION DIRECTORY:**

Section 1. Amends section 624.4094, F.S., repealing the provision that insurance premium taxes on bail bond premiums shall not be calculated based on premiums collected but excluding any portion of the premium retained by a bail bond agent.

Section 2. Amends section 624.509, F.S., to provide that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums but excluding any portion of the premium retained by a bail bond agent or managing general agent.

Section 3. Provides an effective date of January 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The Revenue Estimating Conference met on March 7, 2014, and estimated that the bill would have a cash and recurring impact of -\$0.7 million to general revenue beginning in fiscal year 2014-2015.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None,

##### **2. Expenditures:**

None.

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<sup>15</sup> Section 648.33(2), F.S.

<sup>16</sup> Section 624.4094(1), F.S.

<sup>17</sup> Section 624.4094, F.S.

<sup>18</sup> Section 624.4094(5), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would reduce the insurance premiums tax levied on companies that provide bail bond insurance.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 20, 2014, the Finance & Tax Subcommittee adopted a strike-all amendment to the bill. The amendment applied the exemption to both foreign and domestic companies, and changed the effective date to January 1, 2015. The analysis has been updated to reflect these changes.