



CHAMBER ACTION

The Committee on Insurance recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to firefighter and municipal police pensions; creating ss. 175.1015 and 185.085, F.S.; requiring the Department of Revenue to create and maintain a database for use by insurers for certain purposes; providing insurers with incentives for using the database; providing penalties for failure to use the database; requiring local governments to provide information to the department; appropriating funds to the department for the administration of the database; authorizing the department to adopt rules; providing for distribution of certain tax revenues through 2007; providing for basing future distributions of excise tax revenues to certain municipalities and special fire control districts upon calendar year 2003 distributions; providing for future repeal; amending ss. 175.351 and 185.35, F.S.; revising the term "extra benefits" with respect to pension plans for firefighters and pension plans for municipal police



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28 officers; providing an appropriation; providing an
29 effective date.
30

31 Be It Enacted by the Legislature of the State of Florida:
32

33 Section 1. Section 175.1015, Florida Statutes, is created
34 to read:

35 175.1015 Determination of local premium tax situs.--

36 (1)(a) Any insurance company that is obligated to report
37 and remit the excise tax on property insurance premiums imposed
38 under s. 175.101 shall be held harmless from any liability for
39 taxes, interest, or penalties that would otherwise be due solely
40 as a result of an assignment of an insured property to an
41 incorrect local taxing jurisdiction if the insurance company
42 exercises due diligence in applying an electronic database
43 provided by the Department of Revenue under subsection (2).
44 Insurance companies that do not use the electronic database
45 provided by the Department of Revenue or that do not exercise
46 due diligence in applying the electronic database are subject to
47 a 0.5-percent penalty on the portion of the premium pertaining
48 to any insured risk that is improperly assigned, whether
49 assigned to an improper local taxing jurisdiction, not assigned
50 to a local taxing jurisdiction when it should be assigned to a
51 local taxing jurisdiction, or assigned to a local taxing
52 jurisdiction when it should not be assigned to a local taxing
53 jurisdiction.

54 (b) Any insurance company that is obligated to report and
55 remit the excise tax on commercial property insurance premiums



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56 imposed under s. 175.101 and is unable, after due diligence, to
57 assign an insured property to a specific local taxing
58 jurisdiction for purposes of complying with paragraph (a) shall
59 remit the excise tax on commercial property insurance premiums
60 using a methodology of apportionment in a manner consistent with
61 the remittance for the 2002 calendar year.

62 (2)(a) The Department of Revenue shall, subject to
63 legislative appropriation, create as soon as practical and
64 feasible, and thereafter shall maintain, an electronic database
65 that gives due and proper regard to any format that is approved
66 by the American National Standards Institute's Accredited
67 Standards Committee X12 and that designates for each street
68 address and address range in the state, including any multiple
69 postal street addresses applicable to one street location, the
70 local taxing jurisdiction in which the street address and
71 address range is located and the appropriate code for each such
72 participating local taxing jurisdiction, identified by one
73 nationwide standard numeric code. The nationwide standard
74 numeric code must contain the same number of numeric digits, and
75 each digit or combination of digits must refer to the same level
76 of taxing jurisdiction throughout the United States and must be
77 in a format similar to FIPS 55-3 or other appropriate standard
78 approved by the Federation of Tax Administrators and the
79 Multistate Tax Commission. Each address or address range must be
80 provided in standard postal format, including the street number,
81 street number range, street name, and zip code. Each year after
82 the creation of the initial database, the Department of Revenue



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83 shall annually create and maintain a database for the current
84 tax year. Each annual database must be calendar-year specific.

85 (b)1. Each participating local taxing jurisdiction shall
86 furnish to the Department of Revenue all information needed to
87 create the electronic database as soon as practical and
88 feasible. The information furnished to the Department of Revenue
89 must specify an effective date.

90 2. Each participating local taxing jurisdiction shall
91 furnish to the Department of Revenue all information needed to
92 create and update the current year's database, including changes
93 in annexations, incorporations, and reorganizations and any
94 other changes in jurisdictional boundaries, as well as changes
95 in eligibility to participate in the excise tax imposed under
96 this chapter. The information must specify an effective date and
97 must be furnished to the Department of Revenue by July 1 of the
98 current year.

99 3. The Department of Revenue shall create and update the
100 current year's database in accordance with the information
101 furnished by participating local taxing jurisdictions under
102 subparagraph 1. or subparagraph 2., as appropriate. To the
103 extent practicable, the Department of Revenue shall post each
104 new annual database on a web site by September 1 of each year.
105 Each participating local taxing jurisdiction shall have access
106 to this web site and, within 30 days thereafter, shall provide
107 any corrections to the Department of Revenue. The Department of
108 Revenue shall finalize the current year's database and post it
109 on a web site by November 1 of the tax year. If a dispute in
110 jurisdictional boundaries cannot be resolved so that changes in



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111 boundaries may be included, as appropriate, in the database by
112 November 1, the changes may not be retroactively included in the
113 current year's database and the boundaries will remain the same
114 as in the previous year's database. The finalized database must
115 be used in assigning policies and premiums to the proper local
116 taxing jurisdiction for the insurance premium tax return due on
117 the following March 1. The Department of Revenue shall furnish
118 the annual database on magnetic or electronic media to any
119 insurance company or vendor that requests the database for the
120 sole purpose of assigning insurance premiums to the proper local
121 taxing jurisdiction for the excise tax imposed under this
122 chapter. Information contained in the electronic database is
123 conclusive for purposes of this chapter. The electronic database
124 is not an order, a rule, or a policy of general applicability.

125 4. Each annual database must identify the additions,
126 deletions, and other changes to the preceding version of the
127 database.

128 (3)(a) As used in this section, the term "due diligence"
129 means the care and attention that is expected from and is
130 ordinarily exercised by a reasonable and prudent person under
131 the circumstances.

132 (b) Notwithstanding any law to the contrary, an insurance
133 company is exercising due diligence if the insurance company
134 complies with the provisions of paragraph (1)(b) or if the
135 insurance company assigns an insured's premium to local taxing
136 jurisdictions in accordance with the Department of Revenue's
137 annual database and:



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138 1. Expends reasonable resources to accurately and reliably
139 implement such method;

140 2. Maintains adequate internal controls to correctly
141 include in its database of policyholders the location of the
142 property insured, in the proper address format, so that matching
143 with the department's database is accurate; and

144 3. Corrects errors in the assignment of addresses to local
145 taxing jurisdictions within 120 days after the insurance company
146 discovers the errors.

147 (4) There is annually appropriated from the moneys
148 collected under this chapter and deposited in the Police and
149 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
150 the expenses of the Department of Revenue in administering this
151 section, but not to exceed \$50,000 annually, adjusted annually
152 by the lesser of a 5-percent increase or the percentage of
153 growth in the total collections.

154 (5) The Department of Revenue shall adopt rules necessary
155 to administer this section, including rules establishing
156 procedures and forms.

157 (6) Any insurer that is obligated to collect and remit the
158 tax on property insurance imposed under s. 175.101 shall be held
159 harmless from liability, including, but not limited to, any tax,
160 interest, or penalties, which would otherwise be due solely as a
161 result of an assignment of an insured property to an incorrect
162 local taxing jurisdiction, based on the collection and remission
163 of the tax accruing before January 1, 2004, provided the insurer
164 collects and reports this tax consistent with filings for
165 periods before January 1, 2004. Further, any insurer that is



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166 obligated to collect and remit the tax on property insurance
167 imposed under this section shall not be subject to an
168 examination under s. 624.316 or s. 624.3161 which would occur
169 solely as a result of an assignment of an insured property to an
170 incorrect local taxing jurisdiction, based on the collection and
171 remission of such tax accruing before January 1, 2004.

172 (7)(a) Notwithstanding any other provision of law, no
173 methodology, formula, or database that is adopted in any year
174 after January 1, 2004, may result in a distribution to a
175 participating municipality or special fire control district that
176 has a retirement plan created pursuant to this chapter of an
177 amount of excise tax which is less than the amount distributed
178 to such participating municipality or special fire control
179 district for calendar year 2003. However, if the total proceeds
180 to be distributed for the current year from the excise tax
181 imposed under s. 175.101 are less than the total amount
182 distributed for calendar year 2003, each participating
183 municipality shall receive a current year distribution that is
184 proportionate to its share of the total 2003 calendar year
185 distribution. If the total proceeds to be distributed for the
186 current year from the excise tax imposed under s. 175.101 is
187 greater than or equal to the total amount distributed for
188 calendar year 2003, each participating municipality and special
189 fire control district shall initially be distributed a minimum
190 amount equal to the amount received for calendar year 2003. The
191 remaining amount to be distributed for the current year, less
192 the minimum distribution amount, shall be distributed to those
193 municipalities and special fire control districts with a



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194 current-year reported amount that is greater than the amount
195 distributed to such municipality or special fire control
196 district for calendar year 2003. Each municipality and special
197 fire control district eligible for distribution of this
198 remaining amount shall receive its proportionate share of the
199 remaining amount based upon the amount reported for that
200 municipality or special fire control district, greater than the
201 calendar year 2003 distribution for the current year, to the
202 total amount over the calendar year 2003 distribution for all
203 municipalities and special fire control districts with a current
204 year reported amount that is greater than the calendar year 2003
205 distribution.

206 (b) If a new municipality or special fire control district
207 elects to participate under this chapter during any year after
208 January 1, 2004, such municipality or special fire control
209 district shall receive the total amount reported for the current
210 year for such municipality or special fire control district. All
211 other participating municipalities and special fire control
212 districts shall receive a current year distribution, calculated
213 as provided in this subsection, which is proportionate to their
214 share of the total 2003 calendar year distribution after
215 subtracting the amount paid to the new participating plans.

216 (c) This subsection expires January 1, 2007.

217 Section 2. Subsection (1) of section 175.351, Florida
218 Statutes, is amended to read:

219 175.351 Municipalities and special fire control districts
220 having their own pension plans for firefighters.--For any
221 municipality, special fire control district, local law



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222 municipality, local law special fire control district, or local
 223 law plan under this chapter, in order for municipalities and
 224 special fire control districts with their own pension plans for
 225 firefighters, or for firefighters and police officers, where
 226 included, to participate in the distribution of the tax fund
 227 established pursuant to s. 175.101, local law plans must meet
 228 the minimum benefits and minimum standards set forth in this
 229 chapter.

230 (1) PREMIUM TAX INCOME.--If a municipality has a pension
 231 plan for firefighters, or a pension plan for firefighters and
 232 police officers, where included, which in the opinion of the
 233 division meets the minimum benefits and minimum standards set
 234 forth in this chapter, the board of trustees of the pension
 235 plan, as approved by a majority of firefighters of the
 236 municipality, may:

237 (a) Place the income from the premium tax in s. 175.101 in
 238 such pension plan for the sole and exclusive use of its
 239 firefighters, or for firefighters and police officers, where
 240 included, where it shall become an integral part of that pension
 241 plan and shall be used to pay extra benefits to the firefighters
 242 included in that pension plan; or

243 (b) Place the income from the premium tax in s. 175.101 in
 244 a separate supplemental plan to pay extra benefits to
 245 firefighters, or to firefighters and police officers where
 246 included, participating in such separate supplemental plan.

247
 248 The premium tax provided by this chapter shall in all cases be
 249 used in its entirety to provide extra benefits to firefighters,



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250 or to firefighters and police officers, where included. However,
251 local law plans in effect on October 1, 1998, shall be required
252 to comply with the minimum benefit provisions of this chapter
253 only to the extent that additional premium tax revenues become
254 available to incrementally fund the cost of such compliance as
255 provided in s. 175.162(2)(a). When a plan is in compliance with
256 such minimum benefit provisions, as subsequent additional
257 premium tax revenues become available, they shall be used to
258 provide extra benefits. For the purpose of this chapter,
259 "additional premium tax revenues" means revenues received by a
260 municipality or special fire control district pursuant to s.
261 175.121 that exceed that amount received for calendar year 1997
262 and the term "extra benefits" means benefits in addition to or
263 greater than those provided to general employees of the
264 municipality and in addition to those in existence for
265 firefighters on March 12, 1999. Local law plans created by
266 special act before May 23, 1939, shall be deemed to comply with
267 this chapter.

268 Section 3. Section 185.085, Florida Statutes, is created
269 to read:

270 185.085 Determination of local premium tax situs.--

271 (1)(a) Any insurance company that is obligated to report
272 and remit the excise tax on casualty insurance premiums imposed
273 under s. 185.08 shall be held harmless from any liability for
274 taxes, interest, or penalties that would otherwise be due solely
275 as a result of an assignment of an insured property to an
276 incorrect local taxing jurisdiction if the insurance company
277 exercises due diligence in applying an electronic database



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278 provided by the Department of Revenue under subsection (2).
279 Insurance companies that do not use the electronic database
280 provided by the Department of Revenue or that do not exercise
281 due diligence in applying the electronic database are subject to
282 a 0.5-percent penalty on the portion of the premium pertaining
283 to any insured risk that is improperly assigned, whether
284 assigned to an improper local taxing jurisdiction, not assigned
285 to a local taxing jurisdiction when it should be assigned to a
286 local taxing jurisdiction, or assigned to a local taxing
287 jurisdiction when it should not be assigned to a local taxing
288 jurisdiction.

289 (b) Any insurance company that is obligated to report and
290 remit the excise tax on commercial casualty insurance premiums
291 imposed under s. 185.08 and is unable, after due diligence, to
292 assign an insured property to a specific local taxing
293 jurisdiction for purposes of complying with paragraph (a) shall
294 remit the excise tax on commercial casualty insurance premiums
295 using a methodology of apportionment in a manner consistent with
296 the remittance for the 2002 calendar year.

297 (2)(a) The Department of Revenue shall, subject to
298 legislative appropriation, create as soon as practical and
299 feasible, and thereafter shall maintain, an electronic database
300 that gives due and proper regard to any format that is approved
301 by the American National Standards Institute's Accredited
302 Standards Committee X12 and that designates for each street
303 address and address range in the state, including any multiple
304 postal street addresses applicable to one street location, the
305 local taxing jurisdiction in which the street address and



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306 address range is located and the appropriate code for each such
307 participating local taxing jurisdiction, identified by one
308 nationwide standard numeric code. The nationwide standard
309 numeric code must contain the same number of numeric digits, and
310 each digit or combination of digits must refer to the same level
311 of taxing jurisdiction throughout the United States and must be
312 in a format similar to FIPS 55-3 or other appropriate standard
313 approved by the Federation of Tax Administrators and the
314 Multistate Tax Commission. Each address or address range must be
315 provided in standard postal format, including the street number,
316 street number range, street name, and zip code. Each year after
317 the creation of the initial database, the Department of Revenue
318 shall annually create and maintain a database for the current
319 tax year. Each annual database must be calendar-year specific.

320 (b)1. Each participating local taxing jurisdiction shall
321 furnish to the Department of Revenue all information needed to
322 create the electronic database as soon as practical and
323 feasible. The information furnished to the Department of Revenue
324 must specify an effective date.

325 2. Each participating local taxing jurisdiction shall
326 furnish to the Department of Revenue all information needed to
327 create and update the current year's database, including changes
328 in annexations, incorporations, and reorganizations and any
329 other changes in jurisdictional boundaries, as well as changes
330 in eligibility to participate in the excise tax imposed under
331 this chapter. The information must specify an effective date and
332 must be furnished to the Department of Revenue by July 1 of the
333 current year.



334 3. The Department of Revenue shall create and update the
335 current year's database in accordance with the information
336 furnished by participating local taxing jurisdictions under
337 subparagraph 1. or subparagraph 2., as appropriate. To the
338 extent practicable, the Department of Revenue shall post each
339 new annual database on a web site by September 1 of each year.
340 Each participating local taxing jurisdiction shall have access
341 to this web site and, within 30 days thereafter, shall provide
342 any corrections to the Department of Revenue. The Department of
343 Revenue shall finalize the current year's database and post it
344 on a web site by November 1 of the tax year. If a dispute in
345 jurisdictional boundaries cannot be resolved so that changes in
346 boundaries may be included, as appropriate, in the database by
347 November 1, the changes may not be retroactively included in the
348 current year's database and the boundaries will remain the same
349 as in the previous year's database. The finalized database must
350 be used in assigning policies and premiums to the proper local
351 taxing jurisdiction for the insurance premium tax return due on
352 the following March 1. The Department of Revenue shall furnish
353 the annual database on magnetic or electronic media to any
354 insurance company or vendor that requests the database for the
355 sole purpose of assigning insurance premiums to the proper local
356 taxing jurisdiction for the excise tax imposed under this
357 chapter. Information contained in the electronic database is
358 conclusive for purposes of this chapter. The electronic database
359 is not an order, a rule, or a policy of general applicability.



360 4. Each annual database must identify the additions,
 361 deletions, and other changes to the preceding version of the
 362 database.

363 (3)(a) As used in this section, the term "due diligence"
 364 means the care and attention that is expected from and is
 365 ordinarily exercised by a reasonable and prudent person under
 366 the circumstances.

367 (b) Notwithstanding any law to the contrary, an insurance
 368 company is exercising due diligence if the insurance company
 369 complies with the provisions of paragraph (1)(b) or if the
 370 insurance company assigns an insured's premium to local taxing
 371 jurisdictions in accordance with the Department of Revenue's
 372 annual database and:

373 1. Expends reasonable resources to accurately and reliably
 374 implement such method;

375 2. Maintains adequate internal controls to correctly
 376 include in its database of policyholders the location of the
 377 property insured, in the proper address format, so that matching
 378 with the department's database is accurate; and

379 3. Corrects errors in the assignment of addresses to local
 380 taxing jurisdictions within 120 days after the insurance company
 381 discovers the errors.

382 (4) There is annually appropriated from the moneys
 383 collected under this chapter and deposited in the Police and
 384 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
 385 the expenses of the Department of Revenue in administering this
 386 section, but not to exceed \$50,000 annually, adjusted annually



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387 by the lesser of a 5-percent increase or the percentage of
388 growth in the total collections.

389 (5) The Department of Revenue shall adopt rules necessary
390 to administer this section, including rules establishing
391 procedures and forms.

392 (6)(a) Notwithstanding any other provision of law, no
393 methodology, formula, or database that is adopted in any year
394 after January 1, 2004, may result in a distribution to a
395 participating municipality that has a retirement plan created
396 pursuant to this chapter of an amount of excise tax which is
397 less than the amount distributed to such participating
398 municipality for calendar year 2003. However, if the total
399 proceeds to be distributed for the current year from the excise
400 tax imposed under s. 185.08 are less than the total amount
401 distributed for calendar year 2003, each participating
402 municipality shall receive a current year distribution that is
403 proportionate to its share of the total 2003 calendar year
404 distribution. If the total proceeds to be distributed for the
405 current year from the excise tax imposed under s. 185.08 are
406 greater than or equal to the total amount distributed for
407 calendar year 2003, each participating municipality shall
408 initially be distributed a minimum amount equal to the amount
409 received for calendar year 2003. The remaining amount to be
410 distributed for the current year, which equals the total to be
411 distributed for the current year less minimum distribution
412 amount shall be distributed to those municipalities with a
413 current-year reported amount that is greater than the amount
414 distributed to such municipality for calendar year 2003. Each



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415 municipality eligible for distribution of this remaining amount
416 shall receive its proportionate share of the remaining amount
417 based upon the amount reported for that municipality, above the
418 calendar year 2003 distribution for the current year, to the
419 total amount over the calendar year 2003 distribution for all
420 municipalities with a current year reported amount that is
421 greater than the calendar year 2003 distribution.

422 (b) If a new municipality elects to participate under this
423 chapter during any year after January 1, 2004, such municipality
424 shall receive the total amount reported for the current year for
425 such municipality. All other participating municipalities shall
426 receive a current year distribution, calculated as provided in
427 this section, which is proportionate to their share of the total
428 2003 calendar year distribution after subtracting the amount
429 paid to the new participating plans.

430 (c) This subsection expires January 1, 2007.

431 (7) Any insurer that is obligated to collect and remit the
432 tax on casualty insurance imposed under s. 185.08 shall be held
433 harmless from liability, including, but not limited to, any tax,
434 interest, or penalties, which would otherwise be due solely as a
435 result of an assignment of an insured risk to an incorrect local
436 taxing jurisdiction, based on the collection and remission of
437 the tax accruing before January 1, 2004, provided the insurer
438 collects and reports this tax consistent with filings for
439 periods before January 1, 2004. Further, any insurer that is
440 obligated to collect and remit the tax on casualty insurance
441 imposed under this section shall not be subject to an
442 examination under s. 624.316 or s. 624.3161 which would occur



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443 solely as a result of an assignment of an insured risk to an
444 incorrect local taxing jurisdiction, based on the collection and
445 remission of such tax accruing before January 1, 2004.

446 Section 4. Subsection (1) of section 185.35, Florida
447 Statutes, is amended to read:

448 185.35 Municipalities having their own pension plans for
449 police officers.--For any municipality, chapter plan, local law
450 municipality, or local law plan under this chapter, in order for
451 municipalities with their own pension plans for police officers,
452 or for police officers and firefighters where included, to
453 participate in the distribution of the tax fund established
454 pursuant to s. 185.08, local law plans must meet the minimum
455 benefits and minimum standards set forth in this chapter:

456 (1) PREMIUM TAX INCOME.--If a municipality has a pension
457 plan for police officers, or for police officers and
458 firefighters where included, which, in the opinion of the
459 division, meets the minimum benefits and minimum standards set
460 forth in this chapter, the board of trustees of the pension
461 plan, as approved by a majority of police officers of the
462 municipality, may:

463 (a) Place the income from the premium tax in s. 185.08 in
464 such pension plan for the sole and exclusive use of its police
465 officers, or its police officers and firefighters where
466 included, where it shall become an integral part of that pension
467 plan and shall be used to pay extra benefits to the police
468 officers included in that pension plan; or

469 (b) May place the income from the premium tax in s. 185.08
470 in a separate supplemental plan to pay extra benefits to the



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471 | police officers, or police officers and firefighters where
472 | included, participating in such separate supplemental plan.

473 |
474 | The premium tax provided by this chapter shall in all cases be
475 | used in its entirety to provide extra benefits to police
476 | officers, or to police officers and firefighters, where
477 | included. However, local law plans in effect on October 1, 1998,
478 | shall be required to comply with the minimum benefit provisions
479 | of this chapter only to the extent that additional premium tax
480 | revenues become available to incrementally fund the cost of such
481 | compliance as provided in s. 185.16(2). When a plan is in
482 | compliance with such minimum benefit provisions, as subsequent
483 | additional tax revenues become available, they shall be used to
484 | provide extra benefits. For the purpose of this chapter,
485 | "additional premium tax revenues" means revenues received by a
486 | municipality pursuant to s. 185.10 that exceed the amount
487 | received for calendar year 1997 and the term "extra benefits"
488 | means benefits in addition to or greater than those provided to
489 | general employees of the municipality and in addition to those
490 | in existence for police officers on March 12, 1999. Local law
491 | plans created by special act before May 23, 1939, shall be
492 | deemed to comply with this chapter.

493 | Section 5. The sum of \$300,000 is appropriated from the
494 | General Revenue Fund to the Department of Revenue for the one-
495 | time expense of creating the original database called for by ss.
496 | 175.1015 and 185.085, Florida Statutes, as created by this act,
497 | and to begin the implementation process for use of the database.
498 | It is the intent of the Legislature in providing this



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499 appropriation that the database for ss. 175.1015 and 185.085,
500 Florida Statutes, as created by this act, be available for use
501 in determining the allocation of premiums to the various
502 municipalities and special fire control districts for the 2004
503 insurance premium tax return that is due by March 1, 2005.

504 Section 6. This act shall take effect January 1, 2004.