

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

CHAMBER ACTION

Senate

House

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Senator Fasano moved the following amendment:

Senate Amendment (with title amendment)

On page 2, line 12, through
page 6, line 30, delete those lines

and insert:

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

175.1015 Determination of local premium tax situs.--

(1)(a) Any insurance company that is obligated to
report and remit the excise tax on property insurance premiums
imposed under s. 175.101 shall be held harmless from any
liability, including, but not limited to, liability for taxes,
interest, or penalties that would otherwise be due solely as a
result of an assignment of an insured property to an incorrect
local taxing jurisdiction if the insurance company exercises
due diligence in applying an electronic database provided by
the Department of Revenue under subsection (2). Insurance
companies that do not use the electronic database provided by
the Department of Revenue or that do not exercise due

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

1 diligence in applying the electronic database for tax years on
2 or after January 1, 2006, are subject to a 0.5 percent penalty
3 on the portion of the premium pertaining to any insured risk
4 that is improperly assigned, whether assigned to an improper
5 local taxing jurisdiction, not assigned to a local taxing
6 jurisdiction when it should be assigned to a local taxing
7 jurisdiction, or assigned to a local taxing jurisdiction when
8 it should not be assigned to a local taxing jurisdiction.

9 (b) Any insurance company that is obligated to report
10 and remit the excise tax on commercial property insurance
11 premiums imposed under s. 175.101 and is unable, after due
12 diligence, to assign an insured property to a specific local
13 taxing jurisdiction for purposes of complying with
14 paragraph(a) shall remit the excise tax on commercial property
15 insurance premiums using a methodology of apportionment in a
16 manner consistent with the remittance for the 2004 calendar
17 year. An insurance company which makes two contacts with the
18 agent responsible for a commercial property insurance
19 application for the purpose of verifying information on the
20 application necessary for the assignment to the appropriate
21 taxing jurisdiction, shall be considered to have exercised due
22 diligence. Any insurance company which complies with the
23 provisions of this paragraph shall not be subject to the
24 penalty provided in paragraph (a).

25 (2)(a) The Department of Revenue shall, subject to
26 legislative appropriation, create as soon as practical and
27 feasible, and thereafter shall maintain, an electronic
28 database that conforms to any format approved by the American
29 National Standards Institute's Accredited Standards Committee
30 X12 and that designates for each street address and address
31 range in the state, including any multiple postal street

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

1 addresses applicable to one street location, the local taxing
2 jurisdiction in which the street address and address range is
3 located, and the appropriate code for each such participating
4 local taxing jurisdiction, identified by one nationwide
5 standard numeric code. The nationwide standard numeric code
6 must contain the same number of numeric digits, and each digit
7 or combination of digits must refer to the same level of
8 taxing jurisdiction throughout the United States and must be
9 in a format similar to FIPS 55-3 or other appropriate standard
10 approved by the Federation of Tax Administrators and the
11 Multistate Tax Commission. Each address or address range must
12 be provided in standard postal format, including the street
13 number, street number range, street name, and zip code. Each
14 year after the creation of the initial database, the
15 Department of Revenue shall annually create and maintain a
16 database for the current tax year. Each annual database must
17 be calendar-year specific.

18 (b)1. Each participating local taxing jurisdiction
19 shall furnish to the Department of Revenue all information
20 needed to create the electronic database as soon as practical
21 and feasible. The information furnished to the Department of
22 Revenue must specify an effective date.

23 2. Each participating local taxing jurisdiction shall
24 furnish to the Department of Revenue all information needed to
25 create and update the current year's database, including
26 changes in annexations, incorporations, and reorganizations
27 and any other changes in jurisdictional boundaries, as well as
28 changes in eligibility to participate in the excise tax
29 imposed under this chapter. The information must specify an
30 effective date and must be furnished to the Department of
31 Revenue by July 1 of the current year.

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

1 3. The Department of Revenue shall create and update
2 the current year's database in accordance with the information
3 furnished by participating local taxing jurisdictions under
4 subparagraph 1. or subparagraph 2., as appropriate. To the
5 extent practicable, the Department of Revenue shall post each
6 new annual database on a web site by September 1 of each year.
7 Each participating local taxing jurisdiction shall have access
8 to this web site and, within 30 days thereafter, shall provide
9 any corrections to the Department of Revenue. The Department
10 of Revenue shall finalize the current year's database and post
11 it on a web site by November 1 of the current year. If a
12 dispute in jurisdictional boundaries cannot be resolved so
13 that changes in boundaries may be included, as appropriate, in
14 the database by November 1, the changes may not be
15 retroactively included in the current year's database and the
16 boundaries will remain the same as in the previous year's
17 database. The finalized database must be used in assigning
18 policies and premiums to the proper local taxing jurisdiction
19 for the insurance premium tax return due on the following
20 March 1 for the tax year 2005. For subsequent tax years, the
21 finalized database must be used in assigning policies and
22 premiums to the proper local taxing jurisdiction for the
23 insurance premium tax return due for the tax year beginning on
24 or after the January 1 following the website posting of the
25 database. Information contained in the electronic database is
26 conclusive for purposes of this chapter. The electronic
27 database is not an order, a rule, or a policy of general
28 applicability.

29 4. Each annual database must identify the additions,
30 deletions, and other changes to the preceding version of the
31 database.

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

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

5 (b) Notwithstanding any law to the contrary, an
6 insurance company is exercising due diligence if the insurance
7 company complies with the provisions of paragraph (1)(b) or if
8 the insurance company assigns an insured's premium to local
9 taxing jurisdictions in accordance with the Department of
10 Revenue's annual database and with respect to such database:

11 1. Expends reasonable resources to accurately and
12 reliably implement such method;

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

17 3. Corrects errors in the assignment of addresses to
18 local taxing jurisdictions within 120 days after the insurance
19 company discovers the errors.

20 (4) There is annually appropriated from the moneys
21 collected under this chapter and deposited in the Police and
22 Firefighter's Premium Tax Trust Fund an amount sufficient to
23 pay the expenses of the Department of Revenue in administering
24 this section, but not to exceed \$50,000 annually, adjusted
25 annually by the lesser of a 5 percent increase or the
26 percentage of growth in the total collections.

27 (5) The Department of Revenue shall adopt rules
28 necessary to administer this section, including rules
29 establishing procedures and forms.

30 (6) Any insurer that is obligated to collect and remit
31 the tax on property insurance imposed under s. 175.101 shall

Bill No. CS for SB 654

Amendment No. ____ Barcode 334042

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department; appropriating funds to the
department for the administration of the
database; authorizing the department to adopt
rules; creating s. 185.085, F.S.;