

Bill No. CS for SB 654

Amendment No. ____ Barcode 642192

CHAMBER ACTION

Senate

House

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Senator Fasano moved the following amendment:

Senate Amendment (with title amendment)

On page 7, line 1, through
page 12, line 29, delete those lines

and insert:

Section 1. Section 185.085, Florida Statutes, is
created to read:

185.085 Determination of local premium tax situs.--

(1)(a) Any insurance company that is obligated to
report and remit the excise tax on casualty insurance premiums
imposed under s. 185.08 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

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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 casualty insurance
11 premiums imposed under s. 185.08 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 casualty
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 casualty 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

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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.

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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.

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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)(a) Notwithstanding any other law, a methodology,
 31 formula, or database that is adopted in any year after January

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1 1, 2005, may not result in a distribution to a participating
2 municipality that has a retirement plan created pursuant to
3 this chapter of an amount of excise tax which is less than the
4 amount distributed to such participating municipality for
5 calendar year 2004. However, if the total proceeds to be
6 distributed for the current year from the excise tax imposed
7 under s. 185.08 are less than the total amount distributed for
8 calendar year 2004, each participating municipality shall
9 receive a current year distribution that is proportionate to
10 its share of the total 2004 calendar year distribution. If the
11 total proceeds to be distributed for the current year from the
12 excise tax imposed under s. 185.08 are greater than or equal
13 to the total amount distributed for calendar year 2004, each
14 participating municipality shall initially be distributed a
15 minimum amount equal to the amount received for calendar year
16 2004. The remaining amount to be distributed for the current
17 year, which equals the total to be distributed for the current
18 year, less minimum distribution amount, shall be distributed
19 to those municipalities with an amount reported for the
20 current year which is greater than the amount distributed to
21 such municipality for calendar year 2004. Each municipality
22 eligible for distribution of this remaining amount shall
23 receive its proportionate share of the remaining amount based
24 upon the amount reported for that municipality, above the
25 calendar year 2004 distribution for the current year, to the
26 total amount over the calendar year 2004 distribution for all
27 municipalities with an amount reported for the current year
28 which is greater than the calendar year 2004 distribution.

29 (b) If a new municipality elects to participate under
30 this chapter during any year after January 1, 2005, such
31 municipality shall receive the total amount reported for the

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1 current- year for such municipality. All other participating
2 municipalities shall receive a current year distribution,
3 calculated as provided in this section, which is proportionate
4 to their share of the total 2004 calendar year distribution
5 after subtracting the amount paid to the new participating
6 plans.

7 (c) This subsection expires January 1, 2008.

8 (7) Any insurer that is obligated to collect and remit
9 the tax on casualty insurance imposed under s. 185.08 shall be
10 held harmless from any liability, including, but not limited
11 to, liability for taxes, interest, or penalties that would
12 otherwise be due solely as a result of an assignment of an
13 insured risk to an incorrect local taxing jurisdiction, based
14 on the collection and remission of the tax accruing before
15 January 1, 2005, if the insurer collects and reports this tax
16 consistent with filings for periods before January 1, 2005.
17 Further, any insurer that is obligated to collect and remit
18 the tax on casualty insurance imposed under this section is
19 not subject to an examination under s. 624.316 or s. 624.3161
20 which would occur solely as a result of an assignment of an
21 insured risk to an incorrect local taxing jurisdiction, based
22 on the collection and remission of such tax accruing before
23 January 1, 2005.

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, lines 14-26, delete those lines

29
30 and insert:

31 adopt rules; creating s. 185.085, F.S.;

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1 authorizing the Department of Revenue to create
2 and maintain a database for use by insurers
3 that report and remit an excise tax on casualty
4 insurers premiums; providing incentives to
5 insurers for using the database and penalties
6 for failure to use the database; requiring
7 local governments to provide information to the
8 department; appropriating funds to the
9 department for the administration of the
10 database; authorizing the department to adopt
11 rules; providing for distribution of tax
12 revenues through 2007; amending s. 175.351,

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