Bill No. CS for CS for SB 320

Amendment No. ____ Barcode 985176

CHAMBER ACTION Senate House 1 2 3 4 5 6 7 8 9 10 Senators Pruitt and Burt moved the following amendment: 11 12 13 Senate Amendment (with title amendment) On page 2, between lines 25 & 26, 14 15 16 insert: 17 Section 2. Effective January 1, 2003, section 18 175.1015, Florida Statutes, is created to read: 175.1015 Determination of local premium tax situs.--19 20 (1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums 21 22 imposed under s. 175.101 shall be held harmless from any liability for taxes, interest, or penalties that would 23 24 otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if 25 26 the insurance company exercises due diligence in applying an 27 electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the 28 29 electronic database provided by the Department of Revenue or 30 that do not exercise due diligence in applying the electronic

database are subject to a 0.5-percent penalty on the portion

2

4

5 6

7

8

9

11 12

13

14 15

16 17

18

19

20

21

22

23

24

25

2627

28

2930

of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local taxing jurisdiction, not assigned to a local taxing jurisdiction when it should be assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction.

- (b) Any insurance company that is obligated to report and remit the excise tax on commercial property insurance premiums imposed under s. 175.101 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial property insurance premiums using a methodology of apportionment in a manner consistent with the remittance for the 2001 calendar year.
- (2)(a) The Department of Revenue shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter shall maintain, an electronic database that gives due and proper regard to any format that is approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address and address range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address and address range is located and the appropriate code for each such participating local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout the United States and must be in a format similar to FIPS 55-3

or other appropriate standard approved by the Federation of
Tax Administrators and the Multistate Tax Commission. Each
address or address range must be provided in standard postal
format, including the street number, street number range,
street name, and zip code. Each year after the creation of the
initial database, the Department of Revenue shall annually
create and maintain a database for the current tax year. Each
annual database must be calendar-year specific.

- (b)1. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical and feasible. The information furnished to the Department of Revenue must specify an effective date.
- 2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.
- 3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a web site by September 1 of each year. Each participating local taxing jurisdiction shall have access to this web site and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department

of Revenue shall finalize the current year's database and post it on a web site by November 1 of the tax year. If a dispute 2 3 in jurisdictional boundaries cannot be resolved so that 4 changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively 5 6 included in the current year's database and the boundaries 7 will remain the same as in the previous year's database. The finalized database must be used in assigning policies and 8 premiums to the proper local taxing jurisdiction for the 9 10 insurance premium tax return due on the following March 1. The 11 Department of Revenue shall furnish the annual database on 12 magnetic or electronic media to any insurance company or vendor that requests the database for the sole purpose of 13 assigning insurance premiums to the proper local taxing 14 15 jurisdiction for the excise tax imposed under this chapter. Information contained in the electronic database is conclusive 16 17 for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability. 18

- 4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.
- (3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.
- (b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and:

19

2021

22

23

2425

26

27

28

29

1 2

3

4

5 6

7

8

9

10

11 12

13

14 15

16

17

18 19

20

21

22

23 24

25

26 27

28

- 1. Expends reasonable resources to accurately and reliably implement such method;
- 2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and
- 3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.
- (4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed \$50,000 annually, adjusted annually by the lesser of a 5-percent increase or the percentage of growth in the total collections.
- (5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.
- (6) Any insurer that is obligated to collect and remit the tax on property insurance imposed under s. 175.101 shall be held harmless from liability, including, but not limited to, any tax, interest, or penalties, which would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before the effective date of this section, provided the insurer collects and reports this tax consistent with filings for periods before the effective date of this section. Further, any insurer that is obligated to collect and remit the tax on 31 property insurance imposed under this section shall not be

subject to an examination under s. 624.316 or s. 624.3161 2 which would occur solely as a result of an assignment of an 3 insured property to an incorrect local taxing jurisdiction, 4 based on the collection and remission of such tax accruing before the effective date of this section. 5 Section 3. Effective January 1, 2003, section 185.085, 6 7 Florida Statutes, is created to read: 185.085 Determination of local premium tax situs.--8 (1)(a) Any insurance company that is obligated to 9 10 report and remit the excise tax on casualty insurance premiums 11 imposed under s. 185.08 shall be held harmless from any 12 liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an 13 insured property to an incorrect local taxing jurisdiction if 14 15 the insurance company exercises due diligence in applying an 16 electronic database provided by the Department of Revenue 17 under subsection (2). Insurance companies that do not use the 18 electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic 19 database are subject to a 0.5-percent penalty on the portion 20 21 of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local 22 taxing jurisdiction, not assigned to a local taxing 23 24 jurisdiction when it should be assigned to a local taxing jurisdiction, or assigned to a local taxing jurisdiction when 25 it should not be assigned to a local taxing jurisdiction. 26 27 (b) Any insurance company that is obligated to report 28 and remit the excise tax on commercial casualty insurance 29 premiums imposed under s. 185.08 and is unable, after due 30 diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph

(a) shall remit the excise tax on commercial casualty insurance premiums using a methodology of apportionment in a 3 manner consistent with the remittance for the 2001 calendar 4 year. 5 (2)(a) The Department of Revenue shall, subject to 6 legislative appropriation, create as soon as practical and 7 feasible, and thereafter shall maintain, an electronic database that gives due and proper regard to any format that 8 is approved by the American National Standards Institute's 9 10 Accredited Standards Committee X12 and that designates for 11 each street address and address range in the state, including 12 any multiple postal street addresses applicable to one street 13 location, the local taxing jurisdiction in which the street address and address range is located and the appropriate code 14 15 for each such participating local taxing jurisdiction, 16 identified by one nationwide standard numeric code. The 17 nationwide standard numeric code must contain the same number 18 of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout 19 the United States and must be in a format similar to FIPS 55-3 20 or other appropriate standard approved by the Federation of 21 Tax Administrators and the Multistate Tax Commission. Each 22 address or address range must be provided in standard postal 23 24 format, including the street number, street number range, 25 street name, and zip code. Each year after the creation of the initial database, the Department of Revenue shall annually 26 27 create and maintain a database for the current tax year. Each annual database must be calendar-year specific. 28 (b)1. Each participating local taxing jurisdiction 29 30 shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical

2

3

5

6 7

8

9

11

12

13

1415

16 17

18

19

20

21

22

2324

25

2627

28

2930

and feasible. The information furnished to the Department of Revenue must specify an effective date.

- 2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.
- 3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a web site by September 1 of each year. Each participating local taxing jurisdiction shall have access to this web site and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department of Revenue shall finalize the current year's database and post it on a web site by November 1 of the tax year. If a dispute in jurisdictional boundaries cannot be resolved so that changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively included in the current year's database and the boundaries will remain the same as in the previous year's database. The finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due on the following March 1. The Department of Revenue shall furnish the annual database on

magnetic or electronic media to any insurance company or vendor that requests the database for the sole purpose of assigning insurance premiums to the proper local taxing jurisdiction for the excise tax imposed under this chapter.

Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.

- 4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.
- (3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.
- (b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and:
- 1. Expends reasonable resources to accurately and reliably implement such method;
- 2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and
- 3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.
- (4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and

2

4

5 6

7

8

9

11 12

13

1415

16 17

18

19

20

21

22

2324

25

26

27

28

29

30

Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed \$50,000 annually, adjusted annually by the lesser of a 5-percent increase or the percentage of growth in the total collections.

- (5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.
- (6)(a) Notwithstanding any other provision of law, no methodology, formula, or database that is adopted in any year after the effective date of this section may result in a distribution to a participating municipality that has a retirement plan created pursuant to this chapter of an amount of excise tax which is less than the amount distributed to such participating municipality for calendar year 2002. However, if the total proceeds to be distributed for the current year from the excise tax imposed under s. 185.08 are less than the total amount distributed for calendar year 2002, each participating municipality shall receive a current year distribution that is proportionate to its share of the total 2002 calendar year distribution. If the total proceeds to be distributed for the current year from the excise tax imposed under s. 185.08 are greater than or equal to the total amount distributed for calendar year 2002, each participating municipality shall initially be distributed a minimum amount equal to the amount received for calendar year 2002. The remaining amount to be distributed for the current year, which equals the total to be distributed for the current year less minimum distribution amount shall be distributed to those municipalities with a current-year reported amount that is greater than the amount distributed to such municipality for

calendar year 2002. Each municipality eligible for distribution of this remaining amount shall receive its proportionate share of the remaining amount based upon the amount reported for that municipality, above the calendar year 2002 distribution for the current year, to the total amount over the calendar year 2002 distribution for all municipalities with a current year reported amount that is greater than the calendar year 2002 distribution.

- (b) If a new municipality elects to participate under this chapter during any year after the effective date of this section, such municipality shall receive the total amount reported for the current year for such municipality. All other participating municipalities shall receive a current year distribution, calculated as provided in this section, which is proportionate to their share of the total 2002 calendar year distribution after subtracting the amount paid to the new participating plans.
 - (c) This subsection expires January 1, 2006.
- (7) Any insurer that is obligated to collect and remit the tax on casualty insurance imposed under s. 185.08 shall be held harmless from liability, including, but not limited to, any tax, interest, or penalties, which would otherwise be due solely as a result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before the effective date of this section, provided the insurer collects and reports this tax consistent with filings for periods before the effective date of this section. Further, any insurer that is obligated to collect and remit the tax on casualty insurance imposed under this section shall not be subject to an examination under s. 624.316 or s. 624.3161 which would occur solely as a

2

3 4

5

6

7

8

9 10

11

12

13

14

15

16

17

18

19

20 21

22

23 24

25

26 27

28

29 30 result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of such tax accruing before the effective date of this section.

Section 4. Subsection (18) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.--For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(18) "Supplemental plan municipality" means any local law municipality in which there existed a supplemental plan, of any type or nature, as of December 1, 2000 January 1, 1997.

Section 5. Subsection (1) and paragraph (b) of subsection (3) of section 175.351, Florida Statutes, are amended to read:

175.351 Municipalities and special fire control districts having their own pension plans for firefighters. -- For any municipality, special fire control district, local law municipality, local law special fire control district, or local law plan under this chapter, in order for municipalities and special fire control districts with their own pension plans for firefighters, or for firefighters and police officers, where included, to participate in the distribution of the tax fund established pursuant to s. 175.101, local law plans must meet the minimum benefits and minimum standards set forth in this chapter.

(1) PREMIUM TAX INCOME. -- If a municipality has a pension plan for firefighters, or a pension plan for 31 | firefighters and police officers, where included, which in the

opinion of the division meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan, as approved by a majority of firefighters of the municipality, may:

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

14 15 16

17

18

19

20 21

22

23 24

25

26 27

28

29 30

2

3

4

5

6

7

8

9 10

11 12

13

The premium tax provided by this chapter shall in all cases be used in its entirety to provide extra benefits to firefighters, or to firefighters and police officers, where included. However, local law plans in effect on October 1, 1998, shall be required to comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 175.162(2)(a). When a plan is in compliance with such minimum benefit provisions, as subsequent additional premium tax revenues become available, they shall be used to provide extra benefits. For the purpose of this chapter, "additional premium tax revenues" means revenues received by a municipality or special fire control district pursuant to s. 175.121 that exceed that amount received for calendar year 1997 and the 31 | term "extra benefits" means benefits in addition to or greater

2

3

4

5

6

7

8 9

10

11

12

13

14

15

16

17

18

19 20

21

22

23 24

25

26 27

28

29 30 than those provided to general employees of the municipality, and in addition to those in existence for firefighters on March 12, 1999. Local law plans created by special act before May 23, 1939, shall be deemed to comply with this chapter.

- (3) Notwithstanding any other provision, with respect to any supplemental plan municipality:
- (b) Section 175.061(1)(b) shall not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000 January 1, 1997.

Section 6. Subsection (16) of section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.--For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:

"Supplemental plan municipality" means any local law municipality in which there existed a supplemental plan as of December 1, 2000 January 1, 1997.

Section 7. Subsection (1) and paragraph (b) of subsection (3) of section 185.35, Florida Statutes, are amended to read:

185.35 Municipalities having their own pension plans for police officers. -- For any municipality, chapter plan, local law municipality, or local law plan under this chapter, in order for municipalities with their own pension plans for police officers, or for police officers and firefighters where 31 | included, to participate in the distribution of the tax fund

established pursuant to s. 185.08, local law plans must meet the minimum benefits and minimum standards set forth in this chapter:

- PREMIUM TAX INCOME. -- If a municipality has a pension plan for police officers, or for police officers and firefighters where included, which, in the opinion of the division, meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan, as approved by a majority of police officers of the municipality, may:
- (a) Place the income from the premium tax in s. 185.08 in such pension plan for the sole and exclusive use of its police officers, or its police officers and firefighters where included, where it shall become an integral part of that pension plan and shall be used to pay extra benefits to the police officers included in that pension plan; or
- (b) May place the income from the premium tax in s. 185.08 in a separate supplemental plan to pay extra benefits to the police officers, or police officers and firefighters where included, participating in such separate supplemental plan.

21 22 23

24

25

26 27

28

29 30

2

3

4

5

6

7

8

9 10

11 12

13

14

15

16

17

18

19 20

The premium tax provided by this chapter shall in all cases be used in its entirety to provide extra benefits to police officers, or to police officers and firefighters, where included. However, local law plans in effect on October 1, 1998, shall be required to comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 185.16(2). When 31 a plan is in compliance with such minimum benefit provisions,

as subsequent additional tax revenues become available, they shall be used to provide extra benefits. For the purpose of this chapter, "additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 that exceed the amount received for calendar year 1997 and the term "extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for police officers on March 12, 1999. Local law plans created by special act before May 23, 1939, shall be deemed to comply with this chapter.

- (3) Notwithstanding any other provision, with respect to any supplemental plan municipality:
- (b) Section 185.05(1)(b) shall not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000
 January 1, 1997.

Section 8. The sum of \$300,000 is appropriated from the General Revenue Fund to the Department of Revenue for the one-time expense of creating the original database called for by sections 6 and 7 of this act, and to begin the implementation process for use of the database. It is the intent of the Legislature in providing this appropriation that the database for sections 6 and 7 of this act be available for use in determining the allocation of premiums to the various municipalities and special fire control districts for the 2003 insurance premium tax return that is due by March 1, 2004.

(Redesignate subsequent sections.)

----- T I T L E A M E N D M E N T -----

And the title is amended as follows:

On page 1, line 6, after the semicolon

345

6

7

8

10

11 12

13

14

15

16

17

18

19 20

21

22

2324

2526

27

28

29

30

31

1

2

insert:

creating s. 175.1015, F.S.; authorizing the Department of Revenue to create and maintain a database for use by insurers; 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; creating s. 185.085, F.S.; authorizing the Department of Revenue to create and maintain a database for use by insurers; providing incentives to insurers for using the database and 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 tax revenues through 2006; amending s. 175.032, F.S.; providing an extended time period for the recognition of supplemental firefighter pension plans; amending s. 175.351, F.S.; defining the term "extra benefits" with respect to pension plans for firefighters; providing an extended time

period for the recognition of supplemental firefighter pension plans; amending s. 185.02, F.S.; providing an extended time period for the recognition of supplemental municipal police officer pension plans; amending s. 185.35, F.S.; providing for the meaning of the term "extra benefits" with respect to pension plans for municipal police officers; providing an extended time period for the recognition of supplemental municipal police officer pension plans; providing an appropriation to the Department of Revenue.