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576-02638-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Finance and Tax)

A bill to be entitled

An act relating to taxation; amending s. 212.031,
F.S.; revising the tax rate applicable to the rental
or granting of a license to use real property;
providing applicability; amending s. 212.20, F.S.;
revising the distribution of proceeds from certain
taxes to specified trust funds; amending s. 624.509,
F.S.; deleting the credit against the insurance
premium tax which is based on the amount paid in
salaries to certain employees within this state;
conforming provisions to changes made by the act;
amending ss. 624.5091 and 624.51055, F.S.; conforming
provisions to changes made by the act; providing
applicability; providing effective dates.

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

Section 1. Effective January 1, 2018, paragraphs (c) and
(d) of subsection (1) of section 212.031, Florida Statutes, are
amended to read:

212.031 Tax on rental or license fee for use of real
property.—

(1)

(c) For the exercise of such privilege, a tax is levied in
an amount equal to 5 ~~6~~ percent of and on the total rent or
license fee charged for such real property by the person
charging or collecting the rental or license fee. The total rent



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28 or license fee charged for such real property shall include
29 payments for the granting of a privilege to use or occupy real
30 property for any purpose and shall include base rent, percentage
31 rents, or similar charges. Such charges shall be included in the
32 total rent or license fee subject to tax under this section
33 whether or not they can be attributed to the ability of the
34 lessor's or licensor's property as used or operated to attract
35 customers. Payments for intrinsically valuable personal property
36 such as franchises, trademarks, service marks, logos, or patents
37 are not subject to tax under this section. In the case of a
38 contractual arrangement that provides for both payments taxable
39 as total rent or license fee and payments not subject to tax,
40 the tax shall be based on a reasonable allocation of such
41 payments and shall not apply to that portion which is for the
42 nontaxable payments.

43 (d) When the rental or license fee of any such real
44 property is paid by way of property, goods, wares, merchandise,
45 services, or other thing of value, the tax shall be at the rate
46 of 5 6 percent of the value of the property, goods, wares,
47 merchandise, services, or other thing of value.

48 Section 2. The amendments made by this act to s. 212.031,
49 Florida Statutes, apply to payments due on or after January 1,
50 2018, for taxable leases and licenses to use real property. The
51 tax rate in effect at the time that the tenant or licensee
52 occupies, uses, or is entitled to the occupancy or use of the
53 real property is the tax rate applicable to a transaction
54 taxable under s. 212.031, Florida Statutes, regardless of when
55 the rent or license fee is paid. The applicable tax rate may not
56 be avoided by delaying rent or license fee payments.



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57 Section 3. Effective February 1, 2018, paragraph (d) of
58 subsection (6) of section 212.20, Florida Statutes, is amended
59 to read:

60 212.20 Funds collected, disposition; additional powers of
61 department; operational expense; refund of taxes adjudicated
62 unconstitutionally collected.—

63 (6) Distribution of all proceeds under this chapter and ss.
64 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

65 (d) The proceeds of all other taxes and fees imposed
66 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
67 and (2)(b) shall be distributed as follows:

68 1. In any fiscal year, the greater of \$500 million, minus
69 an amount equal to 4.6 percent of the proceeds of the taxes
70 collected pursuant to chapter 201, or 5.2 percent of all other
71 taxes and fees imposed pursuant to this chapter or remitted
72 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
73 monthly installments into the General Revenue Fund.

74 2. After the distribution under subparagraph 1., 9.0720
75 ~~8.9744~~ percent of the amount remitted by a sales tax dealer
76 located within a participating county pursuant to s. 218.61
77 shall be transferred into the Local Government Half-cent Sales
78 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to
79 be transferred shall be reduced by 0.1 percent, and the
80 department shall distribute this amount to the Public Employees
81 Relations Commission Trust Fund less \$5,000 each month, which
82 shall be added to the amount calculated in subparagraph 3. and
83 distributed accordingly.

84 3. After the distribution under subparagraphs 1. and 2.,
85 0.0975 ~~0.0966~~ percent shall be transferred to the Local



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86 Government Half-cent Sales Tax Clearing Trust Fund and
87 distributed pursuant to s. 218.65.

88 4. After the distributions under subparagraphs 1., 2., and
89 3., 2.1060 ~~2.0810~~ percent of the available proceeds shall be
90 transferred monthly to the Revenue Sharing Trust Fund for
91 Counties pursuant to s. 218.215.

92 5. After the distributions under subparagraphs 1., 2., and
93 3., 1.3810 ~~1.3653~~ percent of the available proceeds shall be
94 transferred monthly to the Revenue Sharing Trust Fund for
95 Municipalities pursuant to s. 218.215. If the total revenue to
96 be distributed pursuant to this subparagraph is at least as
97 great as the amount due from the Revenue Sharing Trust Fund for
98 Municipalities and the former Municipal Financial Assistance
99 Trust Fund in state fiscal year 1999-2000, no municipality shall
100 receive less than the amount due from the Revenue Sharing Trust
101 Fund for Municipalities and the former Municipal Financial
102 Assistance Trust Fund in state fiscal year 1999-2000. If the
103 total proceeds to be distributed are less than the amount
104 received in combination from the Revenue Sharing Trust Fund for
105 Municipalities and the former Municipal Financial Assistance
106 Trust Fund in state fiscal year 1999-2000, each municipality
107 shall receive an amount proportionate to the amount it was due
108 in state fiscal year 1999-2000.

109 6. Of the remaining proceeds:

110 a. In each fiscal year, the sum of \$29,915,500 shall be
111 divided into as many equal parts as there are counties in the
112 state, and one part shall be distributed to each county. The
113 distribution among the several counties must begin each fiscal
114 year on or before January 5th and continue monthly for a total



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115 of 4 months. If a local or special law required that any moneys
116 accruing to a county in fiscal year 1999-2000 under the then-
117 existing provisions of s. 550.135 be paid directly to the
118 district school board, special district, or a municipal
119 government, such payment must continue until the local or
120 special law is amended or repealed. The state covenants with
121 holders of bonds or other instruments of indebtedness issued by
122 local governments, special districts, or district school boards
123 before July 1, 2000, that it is not the intent of this
124 subparagraph to adversely affect the rights of those holders or
125 relieve local governments, special districts, or district school
126 boards of the duty to meet their obligations as a result of
127 previous pledges or assignments or trusts entered into which
128 obligated funds received from the distribution to county
129 governments under then-existing s. 550.135. This distribution
130 specifically is in lieu of funds distributed under s. 550.135
131 before July 1, 2000.

132 b. The department shall distribute \$166,667 monthly to each
133 applicant certified as a facility for a new or retained
134 professional sports franchise pursuant to s. 288.1162. Up to
135 \$41,667 shall be distributed monthly by the department to each
136 certified applicant as defined in s. 288.11621 for a facility
137 for a spring training franchise. However, not more than \$416,670
138 may be distributed monthly in the aggregate to all certified
139 applicants for facilities for spring training franchises.
140 Distributions begin 60 days after such certification and
141 continue for not more than 30 years, except as otherwise
142 provided in s. 288.11621. A certified applicant identified in
143 this sub-subparagraph may not receive more in distributions than



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144 expended by the applicant for the public purposes provided in s.
145 288.1162(5) or s. 288.11621(3).

146 c. Beginning 30 days after notice by the Department of
147 Economic Opportunity to the Department of Revenue that an
148 applicant has been certified as the professional golf hall of
149 fame pursuant to s. 288.1168 and is open to the public, \$166,667
150 shall be distributed monthly, for up to 300 months, to the
151 applicant.

152 d. Beginning 30 days after notice by the Department of
153 Economic Opportunity to the Department of Revenue that the
154 applicant has been certified as the International Game Fish
155 Association World Center facility pursuant to s. 288.1169, and
156 the facility is open to the public, \$83,333 shall be distributed
157 monthly, for up to 168 months, to the applicant. This
158 distribution is subject to reduction pursuant to s. 288.1169. A
159 lump sum payment of \$999,996 shall be made after certification
160 and before July 1, 2000.

161 e. The department shall distribute up to \$83,333 monthly to
162 each certified applicant as defined in s. 288.11631 for a
163 facility used by a single spring training franchise, or up to
164 \$166,667 monthly to each certified applicant as defined in s.
165 288.11631 for a facility used by more than one spring training
166 franchise. Monthly distributions begin 60 days after such
167 certification or July 1, 2016, whichever is later, and continue
168 for not more than 20 years to each certified applicant as
169 defined in s. 288.11631 for a facility used by a single spring
170 training franchise or not more than 25 years to each certified
171 applicant as defined in s. 288.11631 for a facility used by more
172 than one spring training franchise. A certified applicant



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173 identified in this sub-subparagraph may not receive more in
174 distributions than expended by the applicant for the public
175 purposes provided in s. 288.11631(3).

176 f. Beginning 45 days after notice by the Department of
177 Economic Opportunity to the Department of Revenue that an
178 applicant has been approved by the Legislature and certified by
179 the Department of Economic Opportunity under s. 288.11625 or
180 upon a date specified by the Department of Economic Opportunity
181 as provided under s. 288.11625(6)(d), the department shall
182 distribute each month an amount equal to one-twelfth of the
183 annual distribution amount certified by the Department of
184 Economic Opportunity for the applicant. The department may not
185 distribute more than \$7 million in the 2014-2015 fiscal year or
186 more than \$13 million annually thereafter under this sub-
187 subparagraph.

188 g. Beginning December 1, 2015, and ending June 30, 2016,
189 the department shall distribute \$26,286 monthly to the State
190 Transportation Trust Fund. Beginning July 1, 2016, the
191 department shall distribute \$15,333 monthly to the State
192 Transportation Trust Fund.

193 7. All other proceeds must remain in the General Revenue
194 Fund.

195 Section 4. Subsections (5) through (9) of section 624.509,
196 Florida Statutes, are amended to read:

197 624.509 Premium tax; rate and computation.-

198 ~~(5)(a)1. There shall be allowed a credit against the net~~
199 ~~tax imposed by this section equal to 15 percent of the amount~~
200 ~~paid by an insurer in salaries to employees located or based~~
201 ~~within this state and who are covered by the provisions of~~



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202 ~~chapter 443.~~

203 ~~2. As an alternative to the credit allowed in subparagraph~~
204 ~~1., an affiliated group of corporations which includes at least~~
205 ~~one insurance company writing premiums in Florida may elect to~~
206 ~~take a credit against the net tax imposed by this section in an~~
207 ~~amount that may not exceed 15 percent of the salary of the~~
208 ~~employees of the affiliated group of corporations who perform~~
209 ~~insurance-related activities, are located or based within this~~
210 ~~state, and are covered by chapter 443. For purposes of this~~
211 ~~subparagraph, the term "affiliated group of corporations" means~~
212 ~~two or more corporations that are entirely owned directly or~~
213 ~~indirectly by a single corporation and that constitute an~~
214 ~~affiliated group as defined in s. 1504(a) of the Internal~~
215 ~~Revenue Code. The amount of credit allowed under this~~
216 ~~subparagraph is limited to the combined Florida salary tax~~
217 ~~credits allowed for all insurance companies that were members of~~
218 ~~the affiliated group of corporations for the tax year ending~~
219 ~~December 31, 2002, divided by the combined Florida taxable~~
220 ~~premiums written by all insurance companies that were members of~~
221 ~~the affiliated group of corporations for the tax year ending~~
222 ~~December 31, 2002, multiplied by the combined Florida taxable~~
223 ~~premiums of the affiliated group of corporations for the current~~
224 ~~year. An affiliated group of corporations electing this~~
225 ~~alternative calculation method must make such election on or~~
226 ~~before August 1, 2005. The election of this alternative~~
227 ~~calculation method is irrevocable and binding upon successors~~
228 ~~and assigns of the affiliated group of corporations electing~~
229 ~~this alternative. However, if a member of an affiliated group of~~
230 ~~corporations acquires or merges with another insurance company~~



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231 ~~after the date of the irrevocable election, the acquired or~~
232 ~~merged company is not entitled to the affiliated group election~~
233 ~~and shall only be entitled to calculate the tax credit under~~
234 ~~subparagraph 1.~~

235

236 ~~In no event shall the salary paid to an employee by an~~
237 ~~affiliated group of corporations be claimed as a credit by more~~
238 ~~than one insurer or be counted more than once in an insurer's~~
239 ~~calculation of the credit as described in subparagraph 1. or~~
240 ~~subparagraph 2. Only the portion of an employee's salary paid~~
241 ~~for the performance of insurance-related activities may be~~
242 ~~included in the calculation of the premium tax credit in this~~
243 ~~subsection.~~

244 ~~(b) For purposes of this subsection:~~

245 ~~1. The term "salaries" does not include amounts paid as~~
246 ~~commissions.~~

247 ~~2. The term "employees" does not include independent~~
248 ~~contractors or any person whose duties require that the person~~
249 ~~hold a valid license under the Florida Insurance Code, except~~
250 ~~adjusters, managing general agents, and service representatives,~~
251 ~~as defined in s. 626.015.~~

252 ~~3. The term "net tax" means the tax imposed by this section~~
253 ~~after applying the calculations and credits set forth in~~
254 ~~subsection (4).~~

255 ~~4. An affiliated group of corporations that created a~~
256 ~~service company within its affiliated group on July 30, 2002,~~
257 ~~shall allocate the salary of each service company employee~~
258 ~~covered by contracts with affiliated group members to the~~
259 ~~companies for which the employees perform services. The salary~~



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260 ~~allocation is based on the amount of time during the tax year~~
261 ~~that the individual employee spends performing services or~~
262 ~~otherwise working for each company over the total amount of time~~
263 ~~the employee spends performing services or otherwise working for~~
264 ~~all companies. The total amount of salary allocated to an~~
265 ~~insurance company within the affiliated group shall be included~~
266 ~~as that insurer's employee salaries for purposes of this~~
267 ~~section.~~

268 ~~a. Except as provided in subparagraph (a)2., the term~~
269 ~~"affiliated group of corporations" means two or more~~
270 ~~corporations that are entirely owned by a single corporation and~~
271 ~~that constitute an affiliated group of corporations as defined~~
272 ~~in s. 1504(a) of the Internal Revenue Code.~~

273 ~~b. The term "service company" means a separate corporation~~
274 ~~within the affiliated group of corporations whose employees~~
275 ~~provide services to affiliated group members and which are~~
276 ~~treated as service company employees for reemployment assistance~~
277 ~~or unemployment compensation and common law purposes. The~~
278 ~~holding company of an affiliated group may not qualify as a~~
279 ~~service company. An insurance company may not qualify as a~~
280 ~~service company.~~

281 ~~c. If an insurance company fails to substantiate, whether~~
282 ~~by means of adequate records or otherwise, its eligibility to~~
283 ~~claim the service company exception under this section, or its~~
284 ~~salary allocation under this section, no credit shall be~~
285 ~~allowed.~~

286 ~~5. A service company that is a subsidiary of a mutual~~
287 ~~insurance holding company, which mutual insurance holding~~
288 ~~company was in existence on or before January 1, 2000, shall~~



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289 ~~allocate the salary of each service company employee covered by~~
290 ~~contracts with members of the mutual insurance holding company~~
291 ~~system to the companies for which the employees perform~~
292 ~~services. The salary allocation is based on the ratio of the~~
293 ~~amount of time during the tax year which the individual employee~~
294 ~~spends performing services or otherwise working for each company~~
295 ~~to the total amount of time the employee spends performing~~
296 ~~services or otherwise working for all companies. The total~~
297 ~~amount of salary allocated to an insurance company within the~~
298 ~~mutual insurance holding company system shall be included as~~
299 ~~that insurer's employee salaries for purposes of this section.~~
300 ~~However, this subparagraph does not apply for any tax year~~
301 ~~unless funds sufficient to offset the anticipated salary credits~~
302 ~~have been appropriated to the General Revenue Fund prior to the~~
303 ~~due date of the final return for that year.~~

304 ~~a. The term "mutual insurance holding company system" means~~
305 ~~two or more corporations that are subsidiaries of a mutual~~
306 ~~insurance holding company and in compliance with part IV of~~
307 ~~chapter 628.~~

308 ~~b. The term "service company" means a separate corporation~~
309 ~~within the mutual insurance holding company system whose~~
310 ~~employees provide services to other members of the mutual~~
311 ~~insurance holding company system and are treated as service~~
312 ~~company employees for reemployment assistance or unemployment~~
313 ~~compensation and common-law purposes. The mutual insurance~~
314 ~~holding company may not qualify as a service company.~~

315 ~~e. If an insurance company fails to substantiate, whether~~
316 ~~by means of adequate records or otherwise, its eligibility to~~
317 ~~claim the service company exception under this section, or its~~



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318 ~~salary allocation under this section, no credit shall be~~
319 ~~allowed.~~

320 ~~(c) The department may adopt rules pursuant to ss.~~
321 ~~120.536(1) and 120.54 to administer this subsection.~~

322 ~~(5)(6)(a) The total of the credit granted for the taxes~~
323 ~~paid by the insurer under chapter 220 and the credit granted by~~
324 ~~subsection (5) may not exceed 65 percent of the tax due under~~
325 ~~subsection (1) after deducting therefrom the taxes paid by the~~
326 ~~insurer under ss. 175.101 and 185.08 and any assessments~~
327 ~~pursuant to s. 440.51.~~

328 ~~(b) To the extent that any credits granted by subsection~~
329 ~~(5) remain as a result of the limitation set forth in paragraph~~
330 ~~(a), such excess credits related to salaries and wages of~~
331 ~~employees whose place of employment is located within an~~
332 ~~enterprise zone created pursuant to chapter 290 may be~~
333 ~~transferred, in an aggregate amount not to exceed 25 percent of~~
334 ~~such excess salary credits, to any insurer that is a member of~~
335 ~~an affiliated group of corporations, as defined in sub-~~
336 ~~subparagraph (5)(b)4.a., that includes the original insurer~~
337 ~~qualifying for the credits under subsection (5). The amount of~~
338 ~~such excess credits to be transferred shall be calculated by~~
339 ~~multiplying the amount of such excess credits by a fraction, the~~
340 ~~numerator of which is the sum of the salaries qualifying for the~~
341 ~~credit allowed by subsection (5) of employees whose place of~~
342 ~~employment is located in an enterprise zone and the denominator~~
343 ~~of which is the sum of the salaries qualifying for the credit~~
344 ~~allowed by subsection (5). Any such transferred credits shall be~~
345 ~~subject to the same provisions and limitations set forth within~~
346 ~~part IV of this chapter. The provisions of this paragraph do not~~



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347 ~~apply to an affiliated group of corporations that participate in~~
348 ~~a common paymaster arrangement as defined in s. 443.1216.~~

349 (6)~~(7)~~ Credits and deductions against the tax imposed by
350 this section shall be taken in the following order: deductions
351 for assessments made pursuant to s. 440.51; credits for taxes
352 paid under ss. 175.101 and 185.08; credits for income taxes paid
353 under chapter 220 ~~and the credit allowed under subsection (5),~~
354 as these credits are limited by subsection (5) ~~(6)~~; and all
355 other available credits and deductions.

356 (7)~~(8)~~ The premium tax authorized by this section may not
357 be imposed on:

358 (a) Any portion of the title insurance premium, as defined
359 in s. 627.7711, retained by a title insurance agent or agency.
360 It is the intent of the Legislature that this exemption be
361 contingent on title insurers adding employees to their payroll.
362 This paragraph expires December 31, 2017, unless the Department
363 of Economic Opportunity determines that title insurers holding a
364 valid certificate of authority as of July 1, 2014, have added,
365 in aggregate, at least 600 Florida-based full-time equivalent
366 positions above those existing on July 1, 2014, including
367 positions obtained from a temporary employment agency or
368 employee leasing company or through a union agreement or
369 coemployment under a professional employer organization
370 agreement by July 1, 2017. For purposes of this paragraph, the
371 term "full-time equivalent position" means a position in which
372 the employee works an average of at least 36 hours per week each
373 month.

374 1. The Department of Economic Opportunity may verify
375 information provided by title insurers concerning additional



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376 positions created with any appropriate agency or authority,
377 including the Department of Revenue.

378 2. To facilitate verification of additional positions
379 created by title insurers, the Department of Economic
380 Opportunity may provide a list of employees holding additional
381 positions created by title insurers to any appropriate agency or
382 authority, including the Department of Revenue.

383 3. The Department of Economic Opportunity shall submit such
384 determination to the President of the Senate, the Speaker of the
385 House of Representatives, and the Department of Revenue by
386 October 1, 2017.

387 (b) Receipts of annuity premiums or considerations paid by
388 holders in this state if the tax savings derived are credited to
389 the annuity holders. Upon request by the Department of Revenue,
390 an insurer availing itself of this provision shall submit to the
391 department evidence that establishes that the tax savings
392 derived have been credited to annuity holders. As used in this
393 paragraph, the term "holders" includes employers contributing to
394 an employee's pension, annuity, or profit-sharing plan.

395 (8)~~(9)~~ As used in this section, "insurer" includes any
396 entity subject to the tax imposed by this section.

397 Section 5. Subsection (1) of section 624.5091, Florida
398 Statutes, is amended to read:

399 624.5091 Retaliatory provision, insurers.—

400 (1)~~(a)~~ When by or pursuant to the laws of any other state
401 or foreign country any taxes, licenses, and other fees, in the
402 aggregate, and any fines, penalties, deposit requirements, or
403 other material obligations, prohibitions, or restrictions are or
404 would be imposed upon Florida insurers or upon the agents or



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405 representatives of such insurers, which are in excess of such
406 taxes, licenses, and other fees, in the aggregate, or which are
407 in excess of the fines, penalties, deposit requirements, or
408 other obligations, prohibitions, or restrictions directly
409 imposed upon similar insurers, or upon the agents or
410 representatives of such insurers, of such other state or country
411 under the statutes of this state, so long as such laws of such
412 other state or country continue in force or are so applied, the
413 same taxes, licenses, and other fees, in the aggregate, or
414 fines, penalties, deposit requirements, or other material
415 obligations, prohibitions, or restrictions of whatever kind
416 shall be imposed by the Department of Revenue upon the insurers,
417 or upon the agents or representatives of such insurers, of such
418 other state or country doing business or seeking to do business
419 in this state. ~~In determining the taxes to be imposed under this~~
420 ~~section, 80 percent and a portion of the remaining 20 percent as~~
421 ~~provided in paragraph (b) of the credit provided by s.~~
422 ~~624.509(5), as limited by s. 624.509(6) and further determined~~
423 ~~by s. 624.509(7), shall not be taken into consideration.~~

424 ~~(b) As used in this subsection, the term "portion of the~~
425 ~~remaining 20 percent" shall be calculated by multiplying the~~
426 ~~remaining 20 percent by a fraction, the numerator of which is~~
427 ~~the sum of the salaries qualifying for the credit allowed by s.~~
428 ~~624.509(5) of employees whose place of employment is located in~~
429 ~~an enterprise zone created pursuant to chapter 290 and the~~
430 ~~denominator of which is the sum of the salaries qualifying for~~
431 ~~the credit allowed by s. 624.509(5).~~

432 Section 6. Subsection (1) of section 624.51055, Florida
433 Statutes, is amended to read:



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434 624.51055 Credit for contributions to eligible nonprofit
435 scholarship-funding organizations.—

436 (1) There is allowed a credit of 100 percent of an eligible
437 contribution made to an eligible nonprofit scholarship-funding
438 organization under s. 1002.395 against any tax due for a taxable
439 year under s. 624.509(1) after deducting from such tax
440 deductions for assessments made pursuant to s. 440.51; credits
441 for taxes paid under ss. 175.101 and 185.08; and credits for
442 income taxes paid under chapter 220; ~~and the credit allowed~~
443 ~~under s. 624.509(5), as such credit is limited by s. 624.509(5)~~
444 ~~s. 624.509(6)~~. An insurer claiming a credit against premium tax
445 liability under this section shall not be required to pay any
446 additional retaliatory tax levied pursuant to s. 624.5091 as a
447 result of claiming such credit. Section 624.5091 does not limit
448 such credit in any manner.

449 Section 7. The amendments made by this act to ss. 624.509,
450 624.5091, and 624.51055, Florida Statutes, apply to the tax
451 imposed on premiums received after December 31, 2016.

452 Section 8. Except as otherwise expressly provided in this
453 act, this act shall take effect upon becoming a law.