

1 A bill to be entitled
 2 An act relating to local occupational license taxes;
 3 amending ch. 205, F.S., consisting of ss. 205.013-
 4 205.1973, F.S.; changing the term "local occupational
 5 license tax" to "business tax"; defining the term
 6 "certificate" as it relates to business taxes; amending
 7 provisions to conform; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Section 205.013, Florida Statutes, is amended
 12 to read:

13 205.013 Short title.--This chapter shall be known and may
 14 be cited as the "Local Business ~~Occupational License~~ Tax Act."

15 Section 2. Section 205.022, Florida Statutes, is amended
 16 to read:

17 205.022 Definitions.--When used in this chapter, the
 18 following terms and phrases shall have the meanings ascribed to
 19 them in this section, except when the context clearly indicates
 20 a different meaning:

21 (1) ~~(6)~~ "Business," "profession," and "occupation" do not
 22 include the customary religious, charitable, or educational
 23 activities of nonprofit religious, nonprofit charitable, and
 24 nonprofit educational institutions in this state, which
 25 institutions are more particularly defined and limited as
 26 follows:

27 (a) "Religious institutions" means churches and
 28 ecclesiastical or denominational organizations or established

29 physical places for worship in this state at which nonprofit
 30 religious services and activities are regularly conducted and
 31 carried on, and also means church cemeteries.

32 (b) "Educational institutions" means state tax-supported
 33 or parochial, church and nonprofit private schools, colleges, or
 34 universities conducting regular classes and courses of study
 35 required for accreditation by or membership in the Southern
 36 Association of Colleges and Schools, the Department of
 37 Education, or the Florida Council of Independent Schools.
 38 Nonprofit libraries, art galleries, and museums open to the
 39 public are defined as educational institutions and eligible for
 40 exemption.

41 (c) "Charitable institutions" means only nonprofit
 42 corporations operating physical facilities in this state at
 43 which are provided charitable services, a reasonable percentage
 44 of which are without cost to those unable to pay.

45 (2) "Certificate" means the document that is issued by the
 46 local governing authority which evidences that the person in
 47 whose name the document is issued has complied with the
 48 provisions of this chapter relating to the business tax.

49 (3)~~(5)~~ "Classification" means the method by which a
 50 business or group of businesses is identified by size or type,
 51 or both.

52 (4)~~(7)~~ "Enterprise zone" means an area designated as an
 53 enterprise zone pursuant to s. 290.0065. This subsection expires
 54 on the date specified in s. 290.016 for the expiration of the
 55 Florida Enterprise Zone Act.

56 (5)~~(1)~~ "Local business tax ~~occupational license~~" means the

57 | fees charged and the method by which a local governing authority
 58 | grants the privilege of engaging in or managing any business,
 59 | profession, or occupation within its jurisdiction. It does not
 60 | mean any fees or licenses paid to any board, commission, or
 61 | officer for permits, registration, examination, or inspection.
 62 | Unless otherwise provided by law, these are deemed to be
 63 | regulatory and in addition to, but not in lieu of, any local
 64 | business tax ~~occupational license~~ imposed under the provisions
 65 | of this chapter.

66 | (6)~~(2)~~ "Local governing authority" means the governing
 67 | body of any county or incorporated municipality of this state.

68 | (7)~~(3)~~ "Person" means any individual, firm, partnership,
 69 | joint adventure, syndicate, or other group or combination acting
 70 | as a unit, association, corporation, estate, trust, business
 71 | trust, trustee, executor, administrator, receiver, or other
 72 | fiduciary, and includes the plural as well as the singular.

73 | (8)~~(4)~~ "Taxpayer" means any person liable for taxes
 74 | imposed under the provisions of this chapter; any agent required
 75 | to file and pay any taxes imposed hereunder; and the heirs,
 76 | successors, assignees, and transferees of any such person or
 77 | agent.

78 | Section 3. Section 205.023, Florida Statutes, is amended
 79 | to read:

80 | 205.023 Requirement to report status of fictitious name
 81 | registration.--As a prerequisite to receiving a local business
 82 | tax certificate ~~occupational license~~ under this chapter or
 83 | transferring a business license under s. 205.033(2) or s.
 84 | 205.043(2), the applicant or new owner must present to the

85 county or municipality that has jurisdiction to issue or
 86 transfer the certificate ~~license~~ either:

87 (1) A copy of the applicant's or new owner's current
 88 fictitious name registration, issued by the Division of
 89 Corporations of the Department of State; or

90 (2) A written statement, signed by the applicant or new
 91 owner, which sets forth the reason that the applicant or new
 92 owner need not comply with the Fictitious Name Act.

93 Section 4. Section 205.0315, Florida Statutes, is amended
 94 to read:

95 205.0315 Ordinance adoption after October 1,
 96 1995.--Beginning October 1, 1995, a county or municipality that
 97 has not adopted a business ~~an occupational license~~ tax ordinance
 98 or resolution may adopt a business ~~an occupational license~~ tax
 99 ordinance. The business ~~occupational license~~ tax rate structure
 100 and classifications in the adopted ordinance must be reasonable
 101 and based upon the rate structure and classifications prescribed
 102 in ordinances adopted by adjacent local governments that have
 103 implemented s. 205.0535. If no adjacent local government has
 104 implemented s. 205.0535, or if the governing body of the county
 105 or municipality finds that the rate structures or
 106 classifications of adjacent local governments are unreasonable,
 107 the rate structure or classifications prescribed in its
 108 ordinance may be based upon those prescribed in ordinances
 109 adopted by local governments that have implemented s. 205.0535
 110 in counties or municipalities that have a comparable population.

111 Section 5. Section 205.032, Florida Statutes, is amended
 112 to read:

HB 1269

2006

113 205.032 Levy; counties.--The governing body of a county
 114 may levy, by appropriate resolution or ordinance, a business an
 115 ~~occupational license~~ tax for the privilege of engaging in or
 116 managing any business, profession, or occupation within its
 117 jurisdiction. However, the governing body must first give at
 118 least 14 days' public notice between the first and last reading
 119 of the resolution or ordinance by publishing a notice in a
 120 newspaper of general circulation within its jurisdiction as
 121 defined by law. The public notice must contain the proposed
 122 classifications and rates applicable to the occupational license
 123 tax.

124 Section 6. Section 205.033, Florida Statutes, is amended
 125 to read:

126 205.033 Conditions for levy; counties.--

127 (1) The following conditions are imposed on the authority
 128 of a county governing body to levy a business an~~occupational~~
 129 ~~license~~ tax:

130 (a) The tax must be based upon reasonable classifications
 131 and must be uniform throughout any class.

132 (b) Unless the county implements s. 205.0535 or adopts a
 133 new business ~~occupational license~~ tax ordinance under s.
 134 205.0315, a business ~~an occupational license~~ tax levied under
 135 this subsection may not exceed the rate provided by this chapter
 136 in effect for the year beginning October 1, 1971; however,
 137 beginning October 1, 1980, the county governing body may
 138 increase business ~~occupational license~~ taxes authorized by this
 139 chapter. The amount of the increase above the ~~license~~ tax rate
 140 levied on October 1, 1971, for ~~license~~ taxes levied at a flat

141 rate may be up to 100 percent for business ~~occupational license~~
 142 taxes that are \$100 or less; 50 percent for business
 143 ~~occupational license~~ taxes that are between \$101 and \$300; and
 144 25 percent for business ~~occupational license~~ taxes that are more
 145 than \$300. Beginning October 1, 1982, the increase may not
 146 exceed 25 percent for ~~license~~ taxes levied at graduated or per
 147 unit rates. Authority to increase business ~~occupational license~~
 148 taxes does not apply to licenses or certificates granted to any
 149 utility franchised by the county for which a franchise fee is
 150 paid.

151 (c) A certificate ~~license~~ is not valid for more than 1
 152 year, and all certificates ~~licenses~~ expire on September 30 of
 153 each year, except as otherwise provided by law.

154 (2) Any certificate ~~business license~~ may be transferred to
 155 a new owner, when there is a bona fide sale of the business,
 156 upon payment of a transfer fee of up to 10 percent of the annual
 157 business ~~license~~ tax, but not less than \$3 nor more than \$25,
 158 and presentation of the original certificate ~~license~~ and
 159 evidence of the sale.

160 (3) Upon written request and presentation of the original
 161 certificate ~~license~~, any certificate ~~license~~ may be transferred
 162 from one location to another location in the same county upon
 163 payment of a transfer fee of up to 10 percent of the annual
 164 business ~~license~~ tax, but not less than \$3 nor more than \$25.

165 (4) The revenues derived from the business ~~occupational~~
 166 ~~license~~ tax, exclusive of the costs of collection and any credit
 167 given for municipal business ~~license~~ taxes, shall be apportioned
 168 between the unincorporated area of the county and the

169 incorporated municipalities located therein by a ratio derived
 170 by dividing their respective populations by the population of
 171 the county. This subsection does not apply to counties that have
 172 established a new rate structure under s. 205.0535.

173 (5) The revenues so apportioned shall be sent to the
 174 governing authority of each municipality, according to its
 175 ratio, and to the governing authority of the county, according
 176 to the ratio of the unincorporated area, within 15 days
 177 following the month of receipt. This subsection does not apply
 178 to counties that have established a new rate structure under s.
 179 205.0535.

180 (6) (a) Each county, as defined in s. 125.011(1), or any
 181 county adjacent thereto may levy and collect, by an ordinance
 182 enacted by the governing body of the county, an additional
 183 business ~~occupational~~-license tax up to 50 percent of the
 184 appropriate business ~~license~~ tax imposed under subsection (1).

185 (b) Subsections (4) and (5) do not apply to any revenues
 186 derived from the additional tax imposed under this subsection.
 187 Proceeds from the additional business ~~license~~ tax must be placed
 188 in a separate interest-earning account, and the governing body
 189 of the county shall distribute this revenue, plus accrued
 190 interest, each fiscal year to an organization or agency
 191 designated by the governing body of the county to oversee and
 192 implement a comprehensive economic development strategy through
 193 advertising, promotional activities, and other sales and
 194 marketing techniques.

195 (c) An ordinance that levies an additional business
 196 ~~occupational~~-license tax under this subsection may not be

197 adopted after January 1, 1995.

198 (7) Notwithstanding any other provisions of this chapter,
 199 the revenue received from a county business ~~occupational license~~
 200 tax may be used for overseeing and implementing a comprehensive
 201 economic development strategy through advertising, promotional
 202 activities, and other sales and marketing techniques.

203 Section 7. Section 205.042, Florida Statutes, is amended
 204 to read:

205 205.042 Levy; municipalities.--The governing body of an
 206 incorporated municipality may levy, by appropriate resolution or
 207 ordinance, a business ~~an occupational license~~ tax for the
 208 privilege of engaging in or managing any business, profession,
 209 or occupation within its jurisdiction. However, the governing
 210 body must first give at least 14 days' public notice between the
 211 first and last reading of the resolution or ordinance by
 212 publishing the notice in a newspaper of general circulation
 213 within its jurisdiction as defined by law. The notice must
 214 contain the proposed classifications and rates applicable to the
 215 business ~~occupational license~~ tax. The business ~~occupational~~
 216 ~~license~~ tax may be levied on:

217 (1) Any person who maintains a permanent business location
 218 or branch office within the municipality, for the privilege of
 219 engaging in or managing any business within its jurisdiction.

220 (2) Any person who maintains a permanent business location
 221 or branch office within the municipality, for the privilege of
 222 engaging in or managing any profession or occupation within its
 223 jurisdiction.

224 (3) Any person who does not qualify under subsection (1)

225 or subsection (2) and who transacts any business or engages in
 226 any occupation or profession in interstate commerce, if the
 227 business license tax is not prohibited by s. 8, Art. I of the
 228 United States Constitution.

229 Section 8. Section 205.043, Florida Statutes, is amended
 230 to read:

231 205.043 Conditions for levy; municipalities.--

232 (1) The following conditions are imposed on the authority
 233 of a municipal governing body to levy a business ~~an occupational~~
 234 ~~license~~ tax:

235 (a) The tax must be based upon reasonable classifications
 236 and must be uniform throughout any class.

237 (b) Unless the municipality implements s. 205.0535 or
 238 adopts a new business ~~occupational license~~ tax ordinance under
 239 s. 205.0315, a business ~~an occupational license~~ tax levied under
 240 this subsection may not exceed the rate in effect in the
 241 municipality for the year beginning October 1, 1971; however,
 242 beginning October 1, 1980, the municipal governing body may
 243 increase business ~~occupational license~~ taxes authorized by this
 244 chapter. The amount of the increase above the ~~license~~ tax rate
 245 levied on October 1, 1971, for ~~license~~ taxes levied at a flat
 246 rate may be up to 100 percent for business ~~occupational license~~
 247 taxes that are \$100 or less; 50 percent for business
 248 ~~occupational license~~ taxes that are between \$101 and \$300; and
 249 25 percent for business ~~occupational license~~ taxes that are more
 250 than \$300. Beginning October 1, 1982, an increase may not exceed
 251 25 percent for ~~license~~ taxes levied at graduated or per unit
 252 rates. Authority to increase business ~~occupational license~~ taxes

253 does not apply to certificates or licenses granted to any
 254 utility franchised by the municipality for which a franchise fee
 255 is paid.

256 (c) A certificate ~~license~~ is not valid for more than 1
 257 year and all certificates ~~licenses~~ expire on September 30 of
 258 each year, except as otherwise provided by law.

259 (2) Any business certificate ~~license~~ may be transferred to
 260 a new owner, when there is a bona fide sale of the business,
 261 upon payment of a transfer fee of up to 10 percent of the annual
 262 ~~license~~ tax, but not less than \$3 nor more than \$25, and
 263 presentation of the original certificate ~~license~~ and evidence of
 264 the sale.

265 (3) Upon written request and presentation of the original
 266 certificate ~~license~~, any certificate ~~license~~ may be transferred
 267 from one location to another location in the same municipality
 268 upon payment of a transfer fee of up to 10 percent of the annual
 269 ~~license~~ tax, but not less than \$3 nor more than \$25.

270 (4) If the governing body of the county in which the
 271 municipality is located has levied a business ~~an occupational~~
 272 ~~license~~ tax or subsequently levies such a tax, the collector of
 273 the county tax may issue the certificate ~~license~~ and collect the
 274 tax thereon.

275 Section 9. Section 205.045, Florida Statutes, is amended
 276 to read:

277 205.045 Transfer of administrative duties.--The governing
 278 body of a municipality that levies a business ~~an occupational~~
 279 ~~license~~ tax may request that the county in which the
 280 municipality is located issue the municipal certificate ~~license~~

281 and collect the tax thereon. The governing body of a county that
 282 levies a business ~~an occupational license~~ tax may request that
 283 municipalities within the county issue the county certificate
 284 ~~license~~ and collect the tax thereon. Before any local government
 285 may issue certificates ~~occupational licenses~~ on behalf of
 286 another local government, appropriate agreements must be entered
 287 into by the affected local governments.

288 Section 10. Section 205.053, Florida Statutes, is amended
 289 to read:

290 205.053 Business tax certificates ~~Occupational licenses~~;
 291 dates due and delinquent; penalties.--

292 (1) All business tax certificates ~~licenses~~ shall be sold
 293 by the appropriate tax collector beginning August 1 of each
 294 year, are due and payable on or before September 30 of each
 295 year, and expire on September 30 of the succeeding year. If
 296 September 30 falls on a weekend or holiday, the tax is due and
 297 payable on or before the first working day following September
 298 30. Provisions for partial certificates ~~licenses~~ may be made in
 299 the resolution or ordinance authorizing such certificates
 300 ~~licenses~~. Certificates ~~Licenses~~ that are not renewed when due
 301 and payable are delinquent and subject to a delinquency penalty
 302 of 10 percent for the month of October, plus an additional 5
 303 percent penalty for each subsequent month of delinquency until
 304 paid. However, the total delinquency penalty may not exceed 25
 305 percent of the business ~~occupational license~~ tax for the
 306 delinquent establishment.

307 (2) Any person who engages in or manages any business,
 308 occupation, or profession without first obtaining a local

HB 1269

2006

309 certificate ~~occupational license~~, if required, is subject to a
 310 penalty of 25 percent of the tax ~~license~~ due, in addition to any
 311 other penalty provided by law or ordinance.

312 (3) Any person who engages in any business, occupation, or
 313 profession covered by this chapter, who does not pay the
 314 required business ~~occupational license~~ tax within 150 days after
 315 the initial notice of tax due, and who does not obtain the
 316 required certificate ~~occupational license~~ is subject to civil
 317 actions and penalties, including court costs, reasonable
 318 attorneys' fees, additional administrative costs incurred as a
 319 result of collection efforts, and a penalty of up to \$250.

320 Section 11. Section 205.0532, Florida Statutes, is amended
 321 to read:

322 205.0532 Revocation or refusal to renew; doing business
 323 with Cuba.--Any local governing authority issuing a business tax
 324 certificate ~~an occupational license~~ to any individual, business,
 325 or entity under this chapter may revoke or refuse to renew such
 326 certificate ~~license~~ if the individual, business, or entity, or
 327 parent company of such individual, business, or entity, is doing
 328 business with Cuba.

329 Section 12. Section 205.0535, Florida Statutes, is amended
 330 to read:

331 205.0535 Reclassification and rate structure revisions.--

332 (1) By October 1, 1995, any municipality or county may, by
 333 ordinance, reclassify businesses, professions, and occupations
 334 and may establish new rate structures, if the conditions
 335 specified in subsections (2) and (3) are met. A person who is
 336 engaged in the business of providing local exchange telephone

337 service or a pay telephone service in a municipality or in the
 338 unincorporated area of a county and who pays the business
 339 ~~occupational license~~ tax under the category designated for
 340 telephone companies or a pay telephone service provider
 341 certified pursuant to s. 364.3375 is deemed to have but one
 342 place of business or business location in each municipality or
 343 unincorporated area of a county. Pay telephone service providers
 344 may not be assessed a business ~~an occupational license~~ tax on a
 345 per-instrument basis.

346 (2) Before adopting a reclassification and revision
 347 ordinance, the municipality or county must establish an equity
 348 study commission and appoint its members. Each member of the
 349 study commission must be a representative of the business
 350 community within the local government's jurisdiction. Each
 351 equity study commission shall recommend to the appropriate local
 352 government a classification system and rate structure for
 353 business ~~local occupational license~~ taxes.

354 (3)(a) After the reclassification and rate structure
 355 revisions have been transmitted to and considered by the
 356 appropriate local governing body, it may adopt by majority vote
 357 a new business ~~occupational license~~ tax ordinance. Except that a
 358 minimum ~~license~~ tax of up to \$25 is permitted, the
 359 reclassification may ~~shall~~ not increase the ~~occupational license~~
 360 tax by more than the following: for certificates ~~licenses~~
 361 costing \$150 or less, 200 percent; for certificates ~~licenses~~
 362 costing more than \$150 but not more than \$500, 100 percent; for
 363 certificates ~~licenses~~ costing more than \$500 but not more than
 364 \$2,500, 75 percent; for certificates ~~licenses~~ costing more than

365 \$2,500 but not more than \$10,000, 50 percent; and for
 366 certificates ~~licenses~~ costing more than \$10,000, 10 percent;
 367 however, in no case may the tax on any certificate ~~license~~ be
 368 increased more than \$5,000.

369 (b) The total annual revenue generated by the new rate
 370 structure for the fiscal year following the fiscal year during
 371 which the rate structure is adopted may not exceed:

372 1. For municipalities, the sum of the revenue base and 10
 373 percent of that revenue base. The revenue base is the sum of the
 374 business ~~occupational~~ ~~license~~ tax revenue generated by
 375 certificates ~~licenses~~ issued for the most recently completed
 376 local fiscal year or the amount of revenue that would have been
 377 generated from the authorized increases under s. 205.043(1)(b),
 378 whichever is greater, plus any revenue received from the county
 379 under s. 205.033(4).

380 2. For counties, the sum of the revenue base, 10 percent
 381 of that revenue base, and the amount of revenue distributed by
 382 the county to the municipalities under s. 205.033(4) during the
 383 most recently completed local fiscal year. The revenue base is
 384 the business ~~occupational~~ ~~license~~ tax revenue generated by
 385 certificates ~~licenses~~ issued for the most recently completed
 386 local fiscal year or the amount of revenue that would have been
 387 generated from the authorized increases under s. 205.033(1)(b),
 388 whichever is greater, but may not include any revenues
 389 distributed to municipalities under s. 205.033(4).

390 (c) In addition to the revenue increases authorized by
 391 paragraph (b), revenue increases attributed to the increases in
 392 the number of certificates ~~licenses~~ issued are authorized.

393 (4) After the conditions specified in subsections (2) and
 394 (3) are met, municipalities and counties may, every other year
 395 thereafter, increase by ordinance the rates of business local
 396 ~~occupational license~~ taxes by up to 5 percent. The increase,
 397 however, may not be enacted by less than a majority plus one
 398 vote of the governing body.

399 (5) A certificate may not ~~No license shall~~ be issued
 400 unless the federal employer identification number or social
 401 security number is obtained from the person to be taxed
 402 ~~licensed~~.

403 Section 13. Section 205.0536, Florida Statutes, is amended
 404 to read:

405 205.0536 Distribution of county revenues.--A county that
 406 establishes a new rate structure under s. 205.0535 shall retain
 407 all business ~~occupational license~~ tax revenues collected from
 408 businesses, professions, or occupations whose places of business
 409 are located within the unincorporated portions of the county.
 410 Any business ~~occupational license~~ tax revenues collected by a
 411 county that establishes a new rate structure under s. 205.0535
 412 from businesses, professions, or occupations whose places of
 413 business are located within a municipality, exclusive of the
 414 costs of collection, must be apportioned between the
 415 unincorporated area of the county and the incorporated
 416 municipalities located therein by a ratio derived by dividing
 417 their respective populations by the population of the county. As
 418 used in this section, the term "population" means the latest
 419 official state estimate of population certified under s.
 420 186.901. The revenues so apportioned shall be sent to the

HB 1269

2006

421 governing authority of each municipality, according to its
 422 ratio, and to the governing authority of the county, according
 423 to the ratio of the unincorporated area, within 15 days after
 424 the month of receipt.

425 Section 14. Section 205.0537, Florida Statutes, is amended
 426 to read:

427 205.0537 Vending and amusement machines.--The business
 428 premises where a coin-operated or token-operated vending machine
 429 that dispenses products, merchandise, or services or where an
 430 amusement or game machine is operated must assure that any
 431 required municipal or county business tax certificate
 432 ~~occupational license~~ for the machine is secured. The term
 433 "vending machine" does not include coin-operated telephone sets
 434 owned by persons who are in the business of providing local
 435 exchange telephone service and who pay the business tax
 436 ~~occupational license~~ under the category designated for telephone
 437 companies in the municipality or county or a pay telephone
 438 service provider certified pursuant to s. 364.3375. The business
 439 ~~license~~ tax for vending and amusement machines must be assessed
 440 based on the highest number of machines located on the business
 441 premises on any single day during the previous certification
 442 ~~licensing~~ year or, in the case of new businesses, be based on an
 443 estimate for the current year. Replacement of one vending
 444 machine with another machine during a certification ~~licensing~~
 445 year does not affect the tax assessment for that year, unless
 446 the replacement machine belongs to a business ~~an occupational~~
 447 ~~license~~ tax classification that requires a higher tax rate. For
 448 the first year in which a municipality or county assesses a a

449 business ~~an occupational license~~ tax on vending machines, each
 450 business owning machines located in the municipality or county
 451 must notify the municipality or county, upon request, of the
 452 location of such machines. Each business owning machines must
 453 provide notice of the provisions of this section to each
 454 affected business premises where the machines are located. The
 455 business premises must secure the certificate ~~license~~ if it is
 456 not otherwise secured.

457 Section 15. Section 205.054, Florida Statutes, is amended
 458 to read:

459 205.054 Business ~~Occupational license~~ tax; partial
 460 exemption for engaging in business or occupation in enterprise
 461 zone.--

462 (1) Notwithstanding the provisions of s. 205.033(1)(a) or
 463 s. 205.043(1)(a), the governing body of a county or municipality
 464 may authorize by appropriate resolution or ordinance, adopted
 465 pursuant to the procedure established in s. 205.032 or s.
 466 205.042, the exemption of 50 percent of the business
 467 ~~occupational license~~ tax levied for the privilege of engaging in
 468 or managing any business, profession, or occupation in the
 469 respective jurisdiction of the county or municipality when such
 470 privilege is exercised at a permanent business location or
 471 branch office located in an enterprise zone.

472 (2) Such exemption applies to each classification for
 473 which a business tax certificate ~~an occupational license~~ is
 474 required in the jurisdiction. Classifications shall be the same
 475 in an enterprise zone as elsewhere in the jurisdiction. Each
 476 county or municipal business tax certificate ~~occupational~~

477 ~~license~~ issued with the exemption authorized in this section
 478 shall be in the same general form as the other county or
 479 municipal business tax certificates ~~occupational licenses~~ and
 480 shall expire at the same time as those other certificates
 481 ~~licenses~~ expire as fixed by law. Any certificate ~~license~~ issued
 482 with the exemption authorized in this section is
 483 nontransferable. The exemption authorized in this section does
 484 not apply to any penalty authorized in s. 205.053.

485 (3) Each tax collecting authority of a county or
 486 municipality which provides the exemption authorized in this
 487 section shall issue to each person who may be entitled to the
 488 exemption a certificate ~~license~~ pursuant to the provisions
 489 contained in this section. Before a certificate ~~license~~ with
 490 such exemption is issued to an applicant, the tax collecting
 491 authority must, in each case, be provided proof that the
 492 applicant is entitled to such exemption. Such proof shall be
 493 made by means of a statement filed under oath with the tax
 494 collecting authority, which statement indicates that the
 495 permanent business location or branch office of the applicant is
 496 located in an enterprise zone of a jurisdiction which has
 497 authorized the exemption permitted in this section.

498 (4) Any certificate ~~license~~ obtained with the exemption
 499 authorized in this subsection by the commission of fraud upon
 500 the issuing authority ~~is shall be deemed null and~~ void. Any
 501 person who has fraudulently obtained such exemption and
 502 thereafter engages, under color of the certificate ~~license~~, in
 503 any business, profession, or occupation requiring the
 504 certificate ~~license~~ is subject to prosecution for engaging in a

505 business, profession, or occupation without having the required
 506 certificate ~~license~~ under the laws of the state.

507 (5) If ~~In the event~~ an area nominated as an enterprise
 508 zone pursuant to s. 290.0055 has not yet been designated
 509 pursuant to s. 290.0065, the governing body of a county or
 510 municipality may enact the appropriate ordinance or resolution
 511 authorizing the exemption permitted in this section; however,
 512 such ordinance or resolution will not be effective until such
 513 area is designated pursuant to s. 290.0065.

514 (6) This section expires on the date specified in s.
 515 290.016 for the expiration of the Florida Enterprise Zone Act;
 516 and a certificate may not ~~no license shall~~ be issued with the
 517 exemption authorized in this section for any period beginning on
 518 or after that date.

519 Section 16. Section 205.063, Florida Statutes, is amended
 520 to read:

521 205.063 Exemptions; motor vehicles.--Vehicles used by any
 522 person certified ~~licensed~~ under this chapter for the sale and
 523 delivery of tangible personal property at ~~either~~ wholesale or
 524 retail from his or her place of business on which a business tax
 525 ~~license~~ is paid may ~~shall~~ not be construed to be separate places
 526 of business, and a business tax ~~no license~~ may not be levied on
 527 such vehicles or the operators thereof as salespersons or
 528 otherwise by a county or incorporated municipality, any other
 529 law to the contrary notwithstanding.

530 Section 17. Section 205.064, Florida Statutes, is amended
 531 to read:

532 205.064 Farm, aquacultural, grove, horticultural,

HB 1269

2006

533 floricultural, tropical piscicultural, and tropical fish farm
 534 products; certain exemptions.--

535 (1) A ~~No~~ local business tax certificate is not
 536 ~~occupational license shall be~~ required of any natural person for
 537 the privilege of engaging in the selling of farm, aquacultural,
 538 grove, horticultural, floricultural, tropical piscicultural, or
 539 tropical fish farm products, or products manufactured therefrom,
 540 except intoxicating liquors, wine, or beer, when such products
 541 were grown or produced by such natural person in the state.

542 (2) A wholesale farmers' produce market may ~~shall have the~~
 543 ~~right to~~ pay a tax of not more than \$200 for a certificate
 544 ~~license~~ that will entitle the market's stall tenants to engage
 545 in the selling of agricultural and horticultural products
 546 therein, in lieu of such tenants being required to obtain
 547 individual local certificates ~~occupational licenses~~ to so
 548 engage.

549 Section 18. Section 205.065, Florida Statutes, is amended
 550 to read:

551 205.065 Exemption; nonresident persons regulated by the
 552 Department of Business and Professional Regulation.--If any
 553 person engaging in or managing a business, profession, or
 554 occupation regulated by the Department of Business and
 555 Professional Regulation has paid a business ~~an occupational~~
 556 ~~license~~ tax for the current year to the county or municipality
 557 in the state where the person's permanent business location or
 558 branch office is maintained, no other local governing authority
 559 may levy a business ~~an occupational license~~ tax, or any
 560 registration or regulatory fee equivalent to the business

561 ~~occupational license~~ tax, on the person for performing work or
 562 services on a temporary or transitory basis in another
 563 municipality or county. ~~In no event shall any~~ Work or services
 564 performed in a place other than the county or municipality where
 565 the permanent business location or branch office is maintained
 566 may not be construed as creating a separate business location or
 567 branch office of that person for the purposes of this chapter.
 568 Any properly licensed contractor asserting an exemption under
 569 this section who is unlawfully required by the local governing
 570 authority to pay a business ~~an occupational license~~ tax, or any
 571 registration or regulatory fee equivalent to a business ~~the~~
 572 ~~occupational license~~ tax, has ~~shall have~~ standing to challenge
 573 the propriety of the local government's actions, and the
 574 prevailing party in such a challenge is entitled to recover a
 575 reasonable attorney's fee.

576 Section 19. Section 205.162, Florida Statutes, is amended
 577 to read:

578 205.162 Exemption allowed certain disabled persons, the
 579 aged, and widows with minor dependents.--

580 (1) All disabled persons physically incapable of manual
 581 labor, widows with minor dependents, and persons 65 years of age
 582 or older, with not more than one employee or helper, and who use
 583 their own capital only, not in excess of \$1,000, may ~~shall be~~
 584 ~~allowed to~~ engage in any business or occupation in counties in
 585 which they live without being required to pay for a business tax
 586 certificate license. The exemption provided by this section
 587 shall be allowed only upon the certificate of the county
 588 physician, or other reputable physician, that the applicant

HB 1269

2006

589 claiming the exemption is disabled, the nature and extent of the
 590 disability being specified therein, and in case the exemption is
 591 claimed by a widow with minor dependents, or a person over 65
 592 years of age, proof of the right to the exemption shall be made.
 593 Any person entitled to the exemption provided by this section
 594 shall, upon application and furnishing of the necessary proof as
 595 aforesaid, be issued a certificate license which shall have
 596 plainly stamped or written across the face thereof the fact that
 597 it is issued under this section, and the reason for the
 598 exemption shall be written thereon.

599 (2) Neither ~~In no event under this nor~~ or any other law
 600 exempts ~~shall~~ any person, ~~veteran or otherwise,~~ ~~be allowed any~~
 601 ~~exemption whatsoever~~ from the payment of any amount required by
 602 law for the issuance of a license to sell intoxicating liquors
 603 or malt and vinous beverages.

604 Section 20. Section 205.171, Florida Statutes, is amended
 605 to read:

606 205.171 Exemptions allowed disabled veterans of any war or
 607 their unremarried spouses.--

608 (1) Any bona fide, permanent resident elector of the state
 609 who served as an officer or enlisted person during any of the
 610 periods specified in s. 1.01(14) in the Armed Forces of the
 611 United States, National Guard, or United States Coast Guard or
 612 Coast Guard Reserve, or any temporary member thereof, who has
 613 actually been, or may hereafter be, reassigned by the air force,
 614 army, navy, coast guard, or marines to active duty during any
 615 war, declared or undeclared, armed conflicts, crises, etc., who
 616 was honorably discharged from the service of the United States,

617 and who at the time of his or her application for a business tax
 618 certificate is ~~license as hereinafter mentioned shall be~~
 619 disabled from performing manual labor shall, upon sufficient
 620 identification, proof of being a permanent resident elector in
 621 the state, and production of an honorable discharge from the
 622 service of the United States:

623 (a) Be granted a certificate ~~license~~ to engage in any
 624 business or occupation in the state which may be carried on
 625 mainly through the personal efforts of the certificateholder
 626 ~~licensee~~ as a means of livelihood and for which the state
 627 license or₇ county₇ or municipal certificate ~~license~~ does not
 628 exceed the sum of \$50 for each without payment of any business
 629 ~~license~~ tax otherwise provided for by law; or

630 (b) Be entitled to an exemption to the extent of \$50 on
 631 any certificate ~~license~~ to engage in any business or occupation
 632 in the state which may be carried on mainly through the personal
 633 efforts of the certificateholder ~~licensee~~ as a means of
 634 livelihood when the state license or₇ county₇ or municipal
 635 certificate ~~license~~ for such business or occupation is ~~shall be~~
 636 more than \$50. The exemption ~~heretofore referred to~~ shall extend
 637 to and include the right of the certificateholder ~~licensee~~ to
 638 operate an automobile-for-hire of not exceeding five-passenger
 639 capacity, including the driver, when ~~it shall be made to appear~~
 640 ~~that~~ such automobile is ~~bona fide~~ owned or contracted to be
 641 purchased by the certificateholder ~~licensee~~ and is being
 642 operated by him or her as a means of livelihood and that the
 643 proper business ~~license~~ tax for the operation of such motor
 644 vehicle for private use has been applied for and attached to the

645 ~~said~~ motor vehicle and the proper fees ~~therefor~~ paid by the
 646 certificateholder licensee.

647 (2) When ~~any~~ such person applies ~~shall apply~~ for a
 648 certificate license to conduct any business or occupation for
 649 which ~~either~~ the county or municipal business license tax
 650 exceeds as fixed by law ~~shall exceed the sum of~~ \$50, the
 651 remainder of such license tax in excess of \$50 shall be paid in
 652 cash.

653 (3) Each ~~and every~~ tax collecting authority of this state
 654 and of each county ~~thereof~~ and each municipality ~~therein~~ shall
 655 issue to such persons as may be entitled hereunder a certificate
 656 license pursuant to the foregoing provision and subject to the
 657 conditions thereof. Such certificate license when issued shall
 658 be marked across the face ~~thereof~~ "Veterans Exempt
 659 License"--"Not Transferable." Before issuing the certificate
 660 ~~same~~, proof shall be duly made ~~in each case~~ that the applicant
 661 is entitled under ~~the conditions of~~ this law to receive the
 662 exemption ~~herein provided for~~. The proof may be made by
 663 establishing to the satisfaction of such tax collecting
 664 authority by means of certificate of honorable discharge or
 665 certified copy thereof that the applicant is a veteran within
 666 the purview of this section and by exhibiting:

667 (a) A certificate of government-rated disability to an
 668 extent of 10 percent or more;

669 (b) The affidavit or testimony of a reputable physician
 670 who personally knows the applicant and who makes oath that the
 671 applicant is disabled from performing manual labor as a means of
 672 livelihood;

673 (c) The certificate of the veteran's service officer of
 674 the county in which applicant lives, duly executed under the
 675 hand and seal of the chief officer and secretary thereof,
 676 attesting the fact that the applicant is disabled and entitled
 677 to receive a certificate license within the meaning and intent
 678 of this section;

679 (d) A pension certificate issued to him or her by the
 680 United States by reason of such disability; or

681 (e) Such other reasonable proof as may be required by the
 682 tax collecting authority to establish the fact that such
 683 applicant is ~~se~~ disabled.

684
 685 All certificates licenses issued under this section shall be in
 686 the same general form as other state, county, and municipal
 687 licenses and shall expire at the same time as such other
 688 licenses are fixed by law to expire.

689 (4) Certificates ~~All licenses~~ obtained ~~under the~~
 690 ~~provisions of this section~~ by the commission of fraud upon any
 691 issuing authority are ~~shall be deemed null and~~ void. Any person
 692 who has fraudulently obtained a certificate ~~any such license~~, or
 693 who has fraudulently received any transfer of a certificate
 694 ~~license~~ issued to another, and has thereafter engaged in any
 695 business or occupation requiring a certificate license under
 696 color thereof is ~~shall be~~ subject to prosecution ~~as~~ for engaging
 697 in a business or occupation without having the required
 698 certificate license under the laws of the state. Such
 699 certificate may ~~license shall~~ not be issued in any county other
 700 than the county where the ~~wherein said~~ veteran is a ~~bona fide~~

HB 1269

2006

701 resident citizen elector, unless such veteran produces ~~applying~~
 702 ~~therefor shall produce to the tax collecting authority in such~~
 703 ~~county~~ a certificate of the tax collector of his or her home
 704 county to the effect that no exemption from certification
 705 ~~license~~ has been granted to such veteran in his or her home
 706 county under ~~the authority of~~ this section.

707 (5) Neither ~~In no event, under this~~ nor ~~or~~ any other law
 708 ~~exempts, shall~~ any person, ~~veteran or otherwise, be allowed any~~
 709 ~~exemption whatsoever~~ from the payment of any amount required by
 710 law for the issuance of a license to sell intoxicating liquors
 711 or malt and vinous beverages.

712 (6) The unremarried spouse of a ~~the~~ deceased disabled
 713 veteran of any war in which the United States Armed Forces
 714 participated is ~~will be~~ entitled to the same exemptions as the
 715 disabled veteran.

716 Section 21. Section 205.191, Florida Statutes, is amended
 717 to read:

718 205.191 Religious tenets; exemption.--~~Nothing in~~ This
 719 chapter does not ~~shall be construed to~~ require a business tax
 720 certificate ~~license~~ for practicing the religious tenets of any
 721 church.

722 Section 22. Section 205.192, Florida Statutes, is amended
 723 to read:

724 205.192 Charitable, etc., organizations; occasional sales,
 725 fundraising; exemption.--A business tax certificate is not ~~No~~
 726 ~~occupational license shall be~~ required of any charitable,
 727 religious, fraternal, youth, civic, service, or other similar
 728 ~~such organization that when the organization~~ makes occasional

HB 1269

2006

729 sales or engages in fundraising projects that ~~when the projects~~
 730 are performed exclusively by the members, ~~thereof~~ and ~~when~~ the
 731 proceeds derived from the activities are used exclusively in the
 732 charitable, religious, fraternal, youth, civic, and service
 733 activities of the organization.

734 Section 23. Section 205.193, Florida Statutes, is amended
 735 to read:

736 205.193 Mobile home setup operations; local business tax
 737 certificate ~~license~~ prohibited; exception.--A ~~No~~ county,
 738 municipality, or other unit of local government may not require
 739 a ~~duly~~ licensed mobile home dealer or a ~~duly~~ licensed mobile
 740 home manufacturer, or an employee of a ~~such~~ dealer or
 741 manufacturer, who performs setup operations as defined in s.
 742 320.822 to be a certificateholder ~~licensed~~ to engage in such
 743 operations. However, such dealer or manufacturer must ~~shall be~~
 744 ~~required to~~ obtain a local certificate ~~occupational license~~ for
 745 his or her permanent business location or branch office, which
 746 certificate ~~license~~ shall not require for its issuance any
 747 conditions other than those required by chapter 320.

748 Section 24. Section 205.194, Florida Statutes, is amended
 749 to read:

750 205.194 Prohibition of local business tax certificate
 751 ~~occupational licensure~~ without exhibition of state license or
 752 registration.--

753 (1) Any person applying for or renewing a local business
 754 tax certificate ~~occupational license~~ for the ~~licensing~~ period
 755 beginning October 1, 1985, to practice any profession regulated
 756 by the Department of Business and Professional Regulation, or

HB 1269

2006

757 any board or commission thereof, must exhibit an active state
 758 certificate, registration, or license, or proof of copy of the
 759 same, before such local certificate ~~occupational license~~ may be
 760 issued. Thereafter, only persons applying for the first time for
 761 a certificate ~~local occupational license~~ must exhibit such
 762 certification, registration, or license.

763 (2) The Department of Business and Professional Regulation
 764 shall, by August 1 of each year, supply to the local official
 765 who issues local certificates ~~occupational licenses~~ a current
 766 list of professions it regulates and information regarding those
 767 persons for whom certificates ~~local occupational licenses~~ should
 768 not be renewed due to the suspension, revocation, or
 769 inactivation of such person's state license, certificate, or
 770 registration. The official who issues local certificates
 771 ~~occupational licenses~~ shall not renew such license unless such
 772 person can exhibit an active state certificate, registration, or
 773 license.

774 (3) This section shall not apply to s. 489.113, s.
 775 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
 776 489.521, or s. 489.537.

777 Section 25. Section 205.196, Florida Statutes, is amended
 778 to read:

779 205.196 Pharmacies and pharmacists.--~~A~~ ~~No~~ state, county,
 780 or municipal licensing agency may not ~~shall~~ issue a business tax
 781 certificate ~~an occupational license~~ to operate a pharmacy unless
 782 the applicant produces ~~shall first exhibit~~ a current permit
 783 issued by the Board of Pharmacy; however, no such certificate is
 784 ~~occupational license~~ shall be required in order to practice the

HB 1269

2006

785 | profession of pharmacy.

786 | Section 26. Section 205.1965, Florida Statutes, is amended
787 | to read:

788 | 205.1965 Assisted living facilities.--A county or
789 | municipality may not issue a business tax certificate ~~an~~
790 | ~~occupational license~~ for the operation of an assisted living
791 | facility pursuant to part III of chapter 400 without first
792 | ascertaining that the applicant has been licensed by the Agency
793 | for Health Care Administration to operate such facility at the
794 | specified location or locations. The Agency for Health Care
795 | Administration shall furnish to local agencies responsible for
796 | issuing certificates ~~occupational licenses~~ sufficient
797 | instructions for making the ~~above~~ required determinations.

798 | Section 27. Section 205.1967, Florida Statutes, is amended
799 | to read:

800 | 205.1967 Prerequisite for issuance of pest control
801 | business tax certificate ~~occupational license~~--A municipality
802 | or county may not issue a business tax certificate ~~an~~
803 | ~~occupational license~~ to any pest control business regulated
804 | ~~coming~~ under chapter 482, unless a current license has been
805 | procured from the Department of Agriculture and Consumer
806 | Services for each of its business locations in that municipality
807 | or county. Upon presentation of the requisite licenses from the
808 | department and the required fee, a business tax certificate ~~an~~
809 | ~~occupational license~~ shall be issued by the municipality or
810 | county in which application is made.

811 | Section 28. Section 205.1969, Florida Statutes, is amended
812 | to read:

HB 1269

2006

813 205.1969 Health studios; consumer protection.--~~A~~ ~~No~~ county
 814 or municipality may not ~~shall~~ issue or renew a business tax
 815 certificate ~~an occupational license~~ for the operation of a
 816 health studio pursuant to ss. 501.012-501.019 or ballroom dance
 817 studio pursuant to s. 501.143, unless such business exhibits a
 818 current license, registration, or letter of exemption from the
 819 Department of Agriculture and Consumer Services.

820 Section 29. Section 205.1971, Florida Statutes, is amended
 821 to read:

822 205.1971 Sellers of travel; consumer protection.--~~A~~ ~~No~~
 823 county or municipality may not ~~shall~~ issue or renew a business
 824 tax certificate ~~an occupational license~~ to engage in business as
 825 a seller of travel pursuant to part XI of chapter 559 unless
 826 such business exhibits a current registration or letter of
 827 exemption from the Department of Agriculture and Consumer
 828 Services.

829 Section 30. Section 205.1973, Florida Statutes, is amended
 830 to read:

831 205.1973 Telemarketing businesses; consumer protection.--A
 832 county or municipality may not issue or renew a business tax
 833 certificate ~~an occupational license~~ for the operation of a
 834 telemarketing business under ss. 501.604 and 501.608, unless
 835 such business exhibits a current license or registration from
 836 the Department of Agriculture and Consumer Services or a current
 837 affidavit of exemption.

838 Section 31. This act shall take effect July 1, 2006.