

Bill No. SB 2218

Barcode 790436

CHAMBER ACTION

Senate

House

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The Committee on Community Affairs (Lawson) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

(1)(6) "Business," "profession," and "occupation" do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit

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1 charitable, and nonprofit educational institutions in this
2 state, which institutions are more particularly defined and
3 limited as follows:

4 (a) "Religious institutions" means churches and
5 ecclesiastical or denominational organizations or established
6 physical places for worship in this state at which nonprofit
7 religious services and activities are regularly conducted and
8 carried on, and also means church cemeteries.

9 (b) "Educational institutions" means state
10 tax-supported or parochial, church and nonprofit private
11 schools, colleges, or universities conducting regular classes
12 and courses of study required for accreditation by or
13 membership in the Southern Association of Colleges and
14 Schools, the Department of Education, or the Florida Council
15 of Independent Schools. Nonprofit libraries, art galleries,
16 and museums open to the public are defined as educational
17 institutions and eligible for exemption.

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

22 (2) "Receipt" means the document that is issued by the
23 local governing authority which bears the words "Local
24 Business Tax Receipt" and evidences that the person in whose
25 name the document is issued has complied with the provisions
26 of this chapter relating to the business tax.

27 (3)(5) "Classification" means the method by which a
28 business or group of businesses is identified by size or type,
29 or both.

30 (4)(7) "Enterprise zone" means an area designated as
31 an enterprise zone pursuant to s. 290.0065. This subsection

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1 expires on the date specified in s. 290.016 for the expiration
2 of the Florida Enterprise Zone Act.

3 (5)(1) "Local business tax ~~occupational license~~" means
4 the fees charged and the method by which a local governing
5 authority grants the privilege of engaging in or managing any
6 business, profession, or occupation within its jurisdiction.
7 It does not mean any fees or licenses paid to any board,
8 commission, or officer for permits, registration, examination,
9 or inspection. Unless otherwise provided by law, these are
10 deemed to be regulatory and in addition to, but not in lieu
11 of, any local business tax ~~occupational license~~ imposed under
12 the provisions of this chapter.

13 (6)(2) "Local governing authority" means the governing
14 body of any county or incorporated municipality of this state.

15 (7)(3) "Person" means any individual, firm,
16 partnership, joint adventure, syndicate, or other group or
17 combination acting as a unit, association, corporation,
18 estate, trust, business trust, trustee, executor,
19 administrator, receiver, or other fiduciary, and includes the
20 plural as well as the singular.

21 (8)(4) "Taxpayer" means any person liable for taxes
22 imposed under the provisions of this chapter; any agent
23 required to file and pay any taxes imposed hereunder; and the
24 heirs, successors, assignees, and transferees of any such
25 person or agent.

26 Section 3. Section 205.023, Florida Statutes, is
27 amended to read:

28 205.023 Requirement to report status of fictitious
29 name registration.--As a prerequisite to receiving a local
30 business tax receipt ~~occupational license~~ under this chapter
31 or transferring a business license under s. 205.033(2) or s.

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1 205.043(2), the applicant or new owner must present to the
2 county or municipality that has jurisdiction to issue or
3 transfer the receipt license either:

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

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

10 Section 4. Section 205.0315, Florida Statutes, is
11 amended to read:

12 205.0315 Ordinance adoption after October 1,
13 1995.--Beginning October 1, 1995, a county or municipality
14 that has not adopted a business ~~an occupational license~~ tax
15 ordinance or resolution may adopt a business ~~an occupational~~
16 ~~license~~ tax ordinance. The business ~~occupational license~~ tax
17 rate structure and classifications in the adopted ordinance
18 must be reasonable and based upon the rate structure and
19 classifications prescribed in ordinances adopted by adjacent
20 local governments that have implemented s. 205.0535. If no
21 adjacent local government has implemented s. 205.0535, or if
22 the governing body of the county or municipality finds that
23 the rate structures or classifications of adjacent local
24 governments are unreasonable, the rate structure or
25 classifications prescribed in its ordinance may be based upon
26 those prescribed in ordinances adopted by local governments
27 that have implemented s. 205.0535 in counties or
28 municipalities that have a comparable population.

29 Section 5. Section 205.032, Florida Statutes, is
30 amended to read:

31 205.032 Levy; counties.--The governing body of a

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1 county may levy, by appropriate resolution or ordinance, a
 2 business ~~an occupational license~~ tax for the privilege of
 3 engaging in or managing any business, profession, or
 4 occupation within its jurisdiction. However, the governing
 5 body must first give at least 14 days' public notice between
 6 the first and last reading of the resolution or ordinance by
 7 publishing a notice in a newspaper of general circulation
 8 within its jurisdiction as defined by law. The public notice
 9 must contain the proposed classifications and rates applicable
 10 to the business ~~occupational license~~ tax.

11 Section 6. Section 205.033, Florida Statutes, is
 12 amended to read:

13 205.033 Conditions for levy; counties.--

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

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

19 (b) Unless the county implements s. 205.0535 or adopts
 20 a new business ~~occupational license~~ tax ordinance under s.
 21 205.0315, a business ~~an occupational license~~ tax levied under
 22 this subsection may not exceed the rate provided by this
 23 chapter in effect for the year beginning October 1, 1971;
 24 however, beginning October 1, 1980, the county governing body
 25 may increase business ~~occupational license~~ taxes authorized by
 26 this chapter. The amount of the increase above the ~~license~~ tax
 27 rate levied on October 1, 1971, for ~~license~~ taxes levied at a
 28 flat rate may be up to 100 percent for business ~~occupational~~
 29 ~~license~~ taxes that are \$100 or less; 50 percent for business
 30 ~~occupational license~~ taxes that are between \$101 and \$300; and
 31 25 percent for business ~~occupational license~~ taxes that are

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1 more than \$300. Beginning October 1, 1982, the increase may
 2 not exceed 25 percent for ~~license~~ taxes levied at graduated or
 3 per unit rates. Authority to increase business ~~occupational~~
 4 ~~license~~ taxes does not apply to licenses or receipts granted
 5 to any utility franchised by the county for which a franchise
 6 fee is paid.

7 (c) A receipt ~~license~~ is not valid for more than 1
 8 year, and all receipts ~~licenses~~ expire on September 30 of each
 9 year, except as otherwise provided by law.

10 (2) Any receipt ~~business~~ license may be transferred to
 11 a new owner, when there is a bona fide sale of the business,
 12 upon payment of a transfer fee of up to 10 percent of the
 13 annual business ~~license~~ tax, but not less than \$3 nor more
 14 than \$25, and presentation of the original receipt ~~license~~ and
 15 evidence of the sale.

16 (3) Upon written request and presentation of the
 17 original receipt ~~license~~, any receipt ~~license~~ may be
 18 transferred from one location to another location in the same
 19 county upon payment of a transfer fee of up to 10 percent of
 20 the annual business ~~license~~ tax, but not less than \$3 nor more
 21 than \$25.

22 (4) The revenues derived from the business
 23 ~~occupational~~ license tax, exclusive of the costs of collection
 24 and any credit given for municipal business ~~license~~ taxes,
 25 shall be apportioned between the unincorporated area of the
 26 county and the incorporated municipalities located therein by
 27 a ratio derived by dividing their respective populations by
 28 the population of the county. This subsection does not apply
 29 to counties that have established a new rate structure under
 30 s. 205.0535.

31 (5) The revenues so apportioned shall be sent to the

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1 governing authority of each municipality, according to its
 2 ratio, and to the governing authority of the county, according
 3 to the ratio of the unincorporated area, within 15 days
 4 following the month of receipt. This subsection does not apply
 5 to counties that have established a new rate structure under
 6 s. 205.0535.

7 (6)(a) Each county, as defined in s. 125.011(1), or
 8 any county adjacent thereto may levy and collect, by an
 9 ordinance enacted by the governing body of the county, an
 10 additional business ~~occupational license~~ tax up to 50 percent
 11 of the appropriate business ~~license~~ tax imposed under
 12 subsection (1).

13 (b) Subsections (4) and (5) do not apply to any
 14 revenues derived from the additional tax imposed under this
 15 subsection. Proceeds from the additional business ~~license~~ tax
 16 must be placed in a separate interest-earning account, and the
 17 governing body of the county shall distribute this revenue,
 18 plus accrued interest, each fiscal year to an organization or
 19 agency designated by the governing body of the county to
 20 oversee and implement a comprehensive economic development
 21 strategy through advertising, promotional activities, and
 22 other sales and marketing techniques.

23 (c) An ordinance that levies an additional business
 24 ~~occupational license~~ tax under this subsection may not be
 25 adopted after January 1, 1995.

26 (7) Notwithstanding any other provisions of this
 27 chapter, the revenue received from a county business
 28 ~~occupational license~~ tax may be used for overseeing and
 29 implementing a comprehensive economic development strategy
 30 through advertising, promotional activities, and other sales
 31 and marketing techniques.

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1 Section 7. Section 205.042, Florida Statutes, is
2 amended to read:

3 205.042 Levy; municipalities.--The governing body of
4 an incorporated municipality may levy, by appropriate
5 resolution or ordinance, a business ~~an occupational license~~
6 tax for the privilege of engaging in or managing any business,
7 profession, or occupation within its jurisdiction. However,
8 the governing body must first give at least 14 days' public
9 notice between the first and last reading of the resolution or
10 ordinance by publishing the notice in a newspaper of general
11 circulation within its jurisdiction as defined by law. The
12 notice must contain the proposed classifications and rates
13 applicable to the business ~~occupational license~~ tax. The
14 business ~~occupational license~~ tax may be levied on:

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

19 (2) Any person who maintains a permanent business
20 location or branch office within the municipality, for the
21 privilege of engaging in or managing any profession or
22 occupation within its jurisdiction.

23 (3) Any person who does not qualify under subsection
24 (1) or subsection (2) and who transacts any business or
25 engages in any occupation or profession in interstate
26 commerce, if the business ~~license~~ tax is not prohibited by s.
27 8, Art. I of the United States Constitution.

28 Section 8. Section 205.043, Florida Statutes, is
29 amended to read:

30 205.043 Conditions for levy; municipalities.--

31 (1) The following conditions are imposed on the

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1 authority of a municipal governing body to levy a business ~~an~~
2 ~~occupational license~~ tax:

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

5 (b) Unless the municipality implements s. 205.0535 or
6 adopts a new business ~~occupational license~~ tax ordinance under
7 s. 205.0315, a business ~~an occupational license~~ tax levied
8 under this subsection may not exceed the rate in effect in the
9 municipality for the year beginning October 1, 1971; however,
10 beginning October 1, 1980, the municipal governing body may
11 increase business ~~occupational license~~ taxes authorized by
12 this chapter. The amount of the increase above the ~~license~~ tax
13 rate levied on October 1, 1971, for ~~license~~ taxes levied at a
14 flat rate may be up to 100 percent for business ~~occupational~~
15 ~~license~~ taxes that are \$100 or less; 50 percent for business
16 ~~occupational license~~ taxes that are between \$101 and \$300; and
17 25 percent for business ~~occupational license~~ taxes that are
18 more than \$300. Beginning October 1, 1982, an increase may not
19 exceed 25 percent for ~~license~~ taxes levied at graduated or per
20 unit rates. Authority to increase business ~~occupational~~
21 ~~license~~ taxes does not apply to receipts or licenses granted
22 to any utility franchised by the municipality for which a
23 franchise fee is paid.

24 (c) A receipts ~~license~~ is not valid for more than 1
25 year and all receipts ~~licenses~~ expire on September 30 of each
26 year, except as otherwise provided by law.

27 (2) Any business receipt ~~license~~ may be transferred to
28 a new owner, when there is a bona fide sale of the business,
29 upon payment of a transfer fee of up to 10 percent of the
30 annual ~~license~~ tax, but not less than \$3 nor more than \$25,
31 and presentation of the original receipt ~~license~~ and evidence

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1 of the sale.

2 (3) Upon written request and presentation of the
3 original receipt license, any receipt license may be
4 transferred from one location to another location in the same
5 municipality upon payment of a transfer fee of up to 10
6 percent of the annual ~~license~~ tax, but not less than \$3 nor
7 more than \$25.

8 (4) If the governing body of the county in which the
9 municipality is located has levied a business ~~an occupational~~
10 ~~license~~ tax or subsequently levies such a tax, the collector
11 of the county tax may issue the receipt license and collect
12 the tax thereon.

13 Section 9. Section 205.045, Florida Statutes, is
14 amended to read:

15 205.045 Transfer of administrative duties.--The
16 governing body of a municipality that levies a business ~~an~~
17 ~~occupational license~~ tax may request that the county in which
18 the municipality is located issue the municipal receipt
19 ~~license~~ and collect the tax thereon. The governing body of a
20 county that levies a business ~~an occupational license~~ tax may
21 request that municipalities within the county issue the county
22 receipt license and collect the tax thereon. Before any local
23 government may issue receipts ~~occupational licenses~~ on behalf
24 of another local government, appropriate agreements must be
25 entered into by the affected local governments.

26 Section 10. Section 205.053, Florida Statutes, is
27 amended to read:

28 205.053 Business tax receipts ~~Occupational licenses;~~
29 dates due and delinquent; penalties.--

30 (1) All business tax receipts ~~licenses~~ shall be sold
31 by the appropriate tax collector beginning August 1 of each

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1 year, are due and payable on or before September 30 of each
 2 year, and expire on September 30 of the succeeding year. If
 3 September 30 falls on a weekend or holiday, the tax is due and
 4 payable on or before the first working day following September
 5 30. Provisions for partial receipts ~~licenses~~ may be made in
 6 the resolution or ordinance authorizing such receipts
 7 ~~licenses~~. Receipts ~~licenses~~ that are not renewed when due and
 8 payable are delinquent and subject to a delinquency penalty of
 9 10 percent for the month of October, plus an additional 5
 10 percent penalty for each subsequent month of delinquency until
 11 paid. However, the total delinquency penalty may not exceed 25
 12 percent of the business ~~occupational license~~ tax for the
 13 delinquent establishment.

14 (2) Any person who engages in or manages any business,
 15 occupation, or profession without first obtaining a local
 16 business tax receipt ~~occupational license~~, if required, is
 17 subject to a penalty of 25 percent of the tax ~~license~~ due, in
 18 addition to any other penalty provided by law or ordinance.

19 (3) Any person who engages in any business,
 20 occupation, or profession covered by this chapter, who does
 21 not pay the required business ~~occupational license~~ tax within
 22 150 days after the initial notice of tax due, and who does not
 23 obtain the required receipt ~~occupational license~~ is subject to
 24 civil actions and penalties, including court costs, reasonable
 25 attorneys' fees, additional administrative costs incurred as a
 26 result of collection efforts, and a penalty of up to \$250.

27 Section 11. Section 205.0532, Florida Statutes, is
 28 amended to read:

29 205.0532 Revocation or refusal to renew; doing
 30 business with Cuba.--Any local governing authority issuing a
 31 business tax receipt ~~an occupational license~~ to any

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1 individual, business, or entity under this chapter may revoke
 2 or refuse to renew such receipt ~~license~~ if the individual,
 3 business, or entity, or parent company of such individual,
 4 business, or entity, is doing business with Cuba.

5 Section 12. Section 205.0535, Florida Statutes, is
 6 amended to read:

7 205.0535 Reclassification and rate structure
 8 revisions.--

9 (1) By October 1, 1995, any municipality or county
 10 may, by ordinance, reclassify businesses, professions, and
 11 occupations and may establish new rate structures, if the
 12 conditions specified in subsections (2) and (3) are met. A
 13 person who is engaged in the business of providing local
 14 exchange telephone service or a pay telephone service in a
 15 municipality or in the unincorporated area of a county and who
 16 pays the business ~~occupational license~~ tax under the category
 17 designated for telephone companies or a pay telephone service
 18 provider certified pursuant to s. 364.3375 is deemed to have
 19 but one place of business or business location in each
 20 municipality or unincorporated area of a county. Pay telephone
 21 service providers may not be assessed a business ~~an~~
 22 ~~occupational license~~ tax on a per-instrument basis.

23 (2) Before adopting a reclassification and revision
 24 ordinance, the municipality or county must establish an equity
 25 study commission and appoint its members. Each member of the
 26 study commission must be a representative of the business
 27 community within the local government's jurisdiction. Each
 28 equity study commission shall recommend to the appropriate
 29 local government a classification system and rate structure
 30 for business ~~local occupational license~~ taxes.

31 (3)(a) After the reclassification and rate structure

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1 revisions have been transmitted to and considered by the
 2 appropriate local governing body, it may adopt by majority
 3 vote a new business ~~occupational license~~ tax ordinance. Except
 4 that a minimum ~~license~~ tax of up to \$25 is permitted, the
 5 reclassification may ~~shall~~ not increase the ~~occupational~~
 6 ~~license~~ tax by more than the following: for receipts ~~licenses~~
 7 costing \$150 or less, 200 percent; for receipts ~~licenses~~
 8 costing more than \$150 but not more than \$500, 100 percent;
 9 for receipts ~~licenses~~ costing more than \$500 but not more than
 10 \$2,500, 75 percent; for receipts ~~licenses~~ costing more than
 11 \$2,500 but not more than \$10,000, 50 percent; and for receipts
 12 ~~licenses~~ costing more than \$10,000, 10 percent; however, in no
 13 case may the tax on any receipt ~~license~~ be increased more than
 14 \$5,000.

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

18 1. For municipalities, the sum of the revenue base and
 19 10 percent of that revenue base. The revenue base is the sum
 20 of the business ~~occupational license~~ tax revenue generated by
 21 receipts ~~licenses~~ issued for the most recently completed local
 22 fiscal year or the amount of revenue that would have been
 23 generated from the authorized increases under s.
 24 205.043(1)(b), whichever is greater, plus any revenue received
 25 from the county under s. 205.033(4).

26 2. For counties, the sum of the revenue base, 10
 27 percent of that revenue base, and the amount of revenue
 28 distributed by the county to the municipalities under s.
 29 205.033(4) during the most recently completed local fiscal
 30 year. The revenue base is the business ~~occupational license~~
 31 tax revenue generated by receipts ~~licenses~~ issued for the most

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1 recently completed local fiscal year or the amount of revenue
 2 that would have been generated from the authorized increases
 3 under s. 205.033(1)(b), whichever is greater, but may not
 4 include any revenues distributed to municipalities under s.
 5 205.033(4).

6 (c) In addition to the revenue increases authorized by
 7 paragraph (b), revenue increases attributed to the increases
 8 in the number of receipts ~~licenses~~ issued are authorized.

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

15 (5) A receipt may not ~~No license shall~~ be issued
 16 unless the federal employer identification number or social
 17 security number is obtained from the person to be taxed
 18 ~~licensed~~.

19 Section 13. Section 205.0536, Florida Statutes, is
 20 amended to read:

21 205.0536 Distribution of county revenues.--A county
 22 that establishes a new rate structure under s. 205.0535 shall
 23 retain all business ~~occupational license~~ tax revenues
 24 collected from businesses, professions, or occupations whose
 25 places of business are located within the unincorporated
 26 portions of the county. Any business ~~occupational license~~ tax
 27 revenues collected by a county that establishes a new rate
 28 structure under s. 205.0535 from businesses, professions, or
 29 occupations whose places of business are located within a
 30 municipality, exclusive of the costs of collection, must be
 31 apportioned between the unincorporated area of the county and

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1 the incorporated municipalities located therein by a ratio
 2 derived by dividing their respective populations by the
 3 population of the county. As used in this section, the term
 4 "population" means the latest official state estimate of
 5 population certified under s. 186.901. The revenues so
 6 apportioned shall be sent to the governing authority of each
 7 municipality, according to its ratio, and to the governing
 8 authority of the county, according to the ratio of the
 9 unincorporated area, within 15 days after the month of
 10 receipt.

11 Section 14. Section 205.0537, Florida Statutes, is
 12 amended to read:

13 205.0537 Vending and amusement machines.--The business
 14 premises where a coin-operated or token-operated vending
 15 machine that dispenses products, merchandise, or services or
 16 where an amusement or game machine is operated must assure
 17 that any required municipal or county business tax receipt
 18 ~~occupational license~~ for the machine is secured. The term
 19 "vending machine" does not include coin-operated telephone
 20 sets owned by persons who are in the business of providing
 21 local exchange telephone service and who pay the business tax
 22 ~~occupational license~~ under the category designated for
 23 telephone companies in the municipality or county or a pay
 24 telephone service provider certified pursuant to s. 364.3375.
 25 The business license tax for vending and amusement machines
 26 must be assessed based on the highest number of machines
 27 located on the business premises on any single day during the
 28 previous receipted licensing year or, in the case of new
 29 businesses, be based on an estimate for the current year.
 30 Replacement of one vending machine with another machine during
 31 a receipted licensing year does not affect the tax assessment

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1 for that year, unless the replacement machine belongs to a
 2 business ~~an occupational license~~ tax classification that
 3 requires a higher tax rate. For the first year in which a
 4 municipality or county assesses a business ~~an occupational~~
 5 ~~license~~ tax on vending machines, each business owning machines
 6 located in the municipality or county must notify the
 7 municipality or county, upon request, of the location of such
 8 machines. Each business owning machines must provide notice of
 9 the provisions of this section to each affected business
 10 premises where the machines are located. The business premises
 11 must secure the receipt ~~license~~ if it is not otherwise
 12 secured.

13 Section 15. Section 205.054, Florida Statutes, is
 14 amended to read:

15 205.054 Business ~~Occupational license~~ tax; partial
 16 exemption for engaging in business or occupation in enterprise
 17 zone.--

18 (1) Notwithstanding the provisions of s. 205.033(1)(a)
 19 or s. 205.043(1)(a), the governing body of a county or
 20 municipality may authorize by appropriate resolution or
 21 ordinance, adopted pursuant to the procedure established in s.
 22 205.032 or s. 205.042, the exemption of 50 percent of the
 23 business ~~occupational license~~ tax levied for the privilege of
 24 engaging in or managing any business, profession, or
 25 occupation in the respective jurisdiction of the county or
 26 municipality when such privilege is exercised at a permanent
 27 business location or branch office located in an enterprise
 28 zone.

29 (2) Such exemption applies to each classification for
 30 which a business tax receipt ~~an occupational license~~ is
 31 required in the jurisdiction. Classifications shall be the

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1 same in an enterprise zone as elsewhere in the jurisdiction.
 2 Each county or municipal business tax receipt ~~occupational~~
 3 ~~license~~ issued with the exemption authorized in this section
 4 shall be in the same general form as the other county or
 5 municipal business tax receipts ~~occupational licenses~~ and
 6 shall expire at the same time as those other receipts ~~licenses~~
 7 expire as fixed by law. Any receipt ~~license~~ issued with the
 8 exemption authorized in this section is nontransferable. The
 9 exemption authorized in this section does not apply to any
 10 penalty authorized in s. 205.053.

11 (3) Each tax collecting authority of a county or
 12 municipality which provides the exemption authorized in this
 13 section shall issue to each person who may be entitled to the
 14 exemption a receipt ~~license~~ pursuant to the provisions
 15 contained in this section. Before a receipt ~~license~~ with such
 16 exemption is issued to an applicant, the tax collecting
 17 authority must, in each case, be provided proof that the
 18 applicant is entitled to such exemption. Such proof shall be
 19 made by means of a statement filed under oath with the tax
 20 collecting authority, which statement indicates that the
 21 permanent business location or branch office of the applicant
 22 is located in an enterprise zone of a jurisdiction which has
 23 authorized the exemption permitted in this section.

24 (4) Any receipt ~~license~~ obtained with the exemption
 25 authorized in this subsection by the commission of fraud upon
 26 the issuing authority ~~is shall be deemed null and~~ void. Any
 27 person who has fraudulently obtained such exemption and
 28 thereafter engages, under color of the receipt ~~license~~, in any
 29 business, profession, or occupation requiring the business tax
 30 receipt ~~license~~ is subject to prosecution for engaging in a
 31 business, profession, or occupation without having the

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1 required receipt ~~license~~ under the laws of the state.

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

9 (6) This section expires on the date specified in s.
10 290.016 for the expiration of the Florida Enterprise Zone Act;
11 and a receipt may not ~~no license shall~~ be issued with the
12 exemption authorized in this section for any period beginning
13 on or after that date.

14 Section 16. Section 205.063, Florida Statutes, is
15 amended to read:

16 205.063 Exemptions; motor vehicles.--Vehicles used by
17 any person receipted ~~licensed~~ under this chapter for the sale
18 and delivery of tangible personal property at ~~either~~ wholesale
19 or retail from his or her place of business on which a
20 business tax ~~license~~ is paid may ~~shall~~ not be construed to be
21 separate places of business, and a business tax ~~no license~~ may
22 not be levied on such vehicles or the operators thereof as
23 salespersons or otherwise by a county or incorporated
24 municipality, any other law to the contrary notwithstanding.

25 Section 17. Section 205.064, Florida Statutes, is
26 amended to read:

27 205.064 Farm, aquacultural, grove, horticultural,
28 floricultural, tropical piscicultural, and tropical fish farm
29 products; certain exemptions.--

30 (1) A ~~No~~ local business tax receipt is not
31 ~~occupational license shall be~~ required of any natural person

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1 for the privilege of engaging in the selling of farm,
 2 aquacultural, grove, horticultural, floricultural, tropical
 3 piscicultural, or tropical fish farm products, or products
 4 manufactured therefrom, except intoxicating liquors, wine, or
 5 beer, when such products were grown or produced by such
 6 natural person in the state.

7 (2) A wholesale farmers' produce market may ~~shall have~~
 8 ~~the right to~~ pay a tax of not more than \$200 for a receipt
 9 ~~license~~ that will entitle the market's stall tenants to engage
 10 in the selling of agricultural and horticultural products
 11 therein, in lieu of such tenants being required to obtain
 12 individual local business tax receipts ~~occupational licenses~~
 13 to so engage.

14 Section 18. Section 205.065, Florida Statutes, is
 15 amended to read:

16 205.065 Exemption; nonresident persons regulated by
 17 the Department of Business and Professional Regulation.--If
 18 any person engaging in or managing a business, profession, or
 19 occupation regulated by the Department of Business and
 20 Professional Regulation has paid a business ~~an occupational~~
 21 ~~license~~ tax for the current year to the county or municipality
 22 in the state where the person's permanent business location or
 23 branch office is maintained, no other local governing
 24 authority may levy a business ~~an occupational license~~ tax, or
 25 any registration or regulatory fee equivalent to the business
 26 ~~occupational license~~ tax, on the person for performing work or
 27 services on a temporary or transitory basis in another
 28 municipality or county. ~~In no event shall any~~ Work or services
 29 performed in a place other than the county or municipality
 30 where the permanent business location or branch office is
 31 maintained may not be construed as creating a separate

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1 business location or branch office of that person for the
 2 purposes of this chapter. Any properly licensed contractor
 3 asserting an exemption under this section who is unlawfully
 4 required by the local governing authority to pay a business ~~an~~
 5 ~~occupational license~~ tax, or any registration or regulatory
 6 fee equivalent to a business ~~the occupational license~~ tax, has
 7 ~~shall have~~ standing to challenge the propriety of the local
 8 government's actions, and the prevailing party in such a
 9 challenge is entitled to recover a reasonable attorney's fee.

10 Section 19. Section 205.162, Florida Statutes, is
 11 amended to read:

12 205.162 Exemption allowed certain disabled persons,
 13 the aged, and widows with minor dependents.--

14 (1) All disabled persons physically incapable of
 15 manual labor, widows with minor dependents, and persons 65
 16 years of age or older, with not more than one employee or
 17 helper, and who use their own capital only, not in excess of
 18 \$1,000, may ~~shall be allowed to~~ engage in any business or
 19 occupation in counties in which they live without being
 20 required to pay ~~for a~~ business tax ~~license~~. The exemption
 21 provided by this section shall be allowed only upon the
 22 certificate of the county physician, or other reputable
 23 physician, that the applicant claiming the exemption is
 24 disabled, the nature and extent of the disability being
 25 specified therein, and in case the exemption is claimed by a
 26 widow with minor dependents, or a person over 65 years of age,
 27 proof of the right to the exemption shall be made. Any person
 28 entitled to the exemption provided by this section shall, upon
 29 application and furnishing of the necessary proof as
 30 aforesaid, be issued a receipt ~~license~~ which shall have
 31 plainly stamped or written across the face thereof the fact

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1 that it is issued under this section, and the reason for the
2 exemption shall be written thereon.

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

8 Section 20. Section 205.171, Florida Statutes, is
9 amended to read:

10 205.171 Exemptions allowed disabled veterans of any
11 war or their unremarried spouses.--

12 (1) Any bona fide, permanent resident elector of the
13 state who served as an officer or enlisted person during any
14 of the periods specified in s. 1.01(14) in the Armed Forces of
15 the United States, National Guard, or United States Coast
16 Guard or Coast Guard Reserve, or any temporary member thereof,
17 who has actually been, or may hereafter be, reassigned by the
18 air force, army, navy, coast guard, or marines to active duty
19 during any war, declared or undeclared, armed conflicts,
20 crises, etc., who was honorably discharged from the service of
21 the United States, and who at the time of his or her
22 application for a business tax receipt is license as
23 ~~hereinafter mentioned shall be~~ disabled from performing manual
24 labor shall, upon sufficient identification, proof of being a
25 permanent resident elector in the state, and production of an
26 honorable discharge from the service of the United States:

27 (a) Be granted a receipt license to engage in any
28 business or occupation in the state which may be carried on
29 mainly through the personal efforts of the receipt holder
30 ~~licensee~~ as a means of livelihood and for which the state
31 license or county, or municipal receipt license does not

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1 exceed the sum of \$50 for each without payment of any business
 2 ~~license~~ tax otherwise provided for by law; or

3 (b) Be entitled to an exemption to the extent of \$50
 4 on any receipt license to engage in any business or occupation
 5 in the state which may be carried on mainly through the
 6 personal efforts of the receiptholder licensee as a means of
 7 livelihood when the state license or, county, or municipal
 8 receipt license for such business or occupation ~~is~~ ~~shall be~~
 9 more than \$50. The exemption ~~heretofore referred to~~ shall
 10 extend to and include the right of the receiptholder licensee
 11 to operate an automobile-for-hire of not exceeding
 12 five-passenger capacity, including the driver, when ~~it shall~~
 13 ~~be made to appear that~~ such automobile is ~~bona fide~~ owned or
 14 contracted to be purchased by the receiptholder licensee and
 15 is being operated by him or her as a means of livelihood and
 16 that the proper business license tax for the operation of such
 17 motor vehicle for private use has been applied for and
 18 attached to the said motor vehicle and the proper fees
 19 ~~therefor~~ paid by the receiptholder licensee.

20 (2) When ~~any~~ such person applies ~~shall apply~~ for a
 21 receipt license to conduct any business or occupation for
 22 which ~~either~~ the county or municipal business license tax
 23 exceeds ~~as fixed by law shall exceed the sum of~~ \$50, the
 24 remainder of such ~~license~~ tax in excess of \$50 shall be paid
 25 in cash.

26 (3) Each ~~and every~~ tax collecting authority of this
 27 state and of each county ~~thereof~~ and each municipality ~~therein~~
 28 shall issue to such persons as may be entitled hereunder a
 29 receipt license pursuant to the foregoing provision and
 30 subject to the conditions thereof. Such receipt license when
 31 issued shall be marked across the face ~~thereof~~ "Veterans

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1 ~~Exempt Receipt License~~--"Not Transferable." Before issuing
 2 the receipt ~~same~~, proof shall be duly made ~~in each case~~ that
 3 the applicant is entitled under ~~the conditions of~~ this law to
 4 receive the exemption ~~herein provided for~~. The proof may be
 5 made by establishing to the satisfaction of such tax
 6 collecting authority by means of certificate of honorable
 7 discharge or certified copy thereof that the applicant is a
 8 veteran within the purview of this section and by exhibiting:

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

11 (b) The affidavit or testimony of a reputable
 12 physician who personally knows the applicant and who makes
 13 oath that the applicant is disabled from performing manual
 14 labor as a means of livelihood;

15 (c) The certificate of the veteran's service officer
 16 of the county in which applicant lives, duly executed under
 17 the hand and seal of the chief officer and secretary thereof,
 18 attesting the fact that the applicant is disabled and entitled
 19 to receive a receipt ~~license~~ within the meaning and intent of
 20 this section;

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

23 (e) Such other reasonable proof as may be required by
 24 the tax collecting authority to establish the fact that such
 25 applicant is ~~so~~ disabled.

26
 27 All receipts ~~licenses~~ issued under this section shall be in
 28 the same general form as other state, county, and municipal
 29 licenses and shall expire at the same time as such other
 30 licenses are fixed by law to expire.

31 (4) Receipts ~~All licenses~~ obtained ~~under the~~

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1 ~~provisions of this section~~ by the commission of fraud upon any
2 issuing authority are ~~shall be deemed null and~~ void. Any
3 person who has fraudulently obtained a receipt ~~any such~~
4 ~~license~~, or who has fraudulently received any transfer of a
5 receipt license issued to another, and has thereafter engaged
6 in any business or occupation requiring a receipt license
7 under color thereof is ~~shall be~~ subject to prosecution ~~as~~ for
8 engaging in a business or occupation without having the
9 required receipt license under the laws of the state. Such
10 receipt may license ~~shall~~ not be issued in any county other
11 than the county where the ~~wherein said~~ veteran is a ~~bona fide~~
12 resident citizen elector, unless such veteran produces
13 ~~applying therefor shall produce to the tax collecting~~
14 ~~authority in such county~~ a certificate of the tax collector of
15 his or her home county to the effect that no exemption from
16 taxation license ~~has~~ been granted to such veteran in his or
17 her home county under ~~the authority of~~ this section.

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

23 (6) The unremarried spouse of a ~~the~~ deceased disabled
24 veteran of any war in which the United States Armed Forces
25 participated is ~~will be~~ entitled to the same exemptions as the
26 disabled veteran.

27 Section 21. Section 205.191, Florida Statutes, is
28 amended to read:

29 205.191 Religious tenets; exemption.--~~Nothing in This~~
30 chapter does not ~~shall be construed to~~ require a business tax
31 receipt license for practicing the religious tenets of any

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1 church.

2 Section 22. Section 205.192, Florida Statutes, is
3 amended to read:

4 205.192 Charitable, etc., organizations; occasional
5 sales, fundraising; exemption.--A business tax receipt is not
6 ~~No occupational license shall be~~ required of any charitable,
7 religious, fraternal, youth, civic, service, or other similar
8 ~~such~~ organization that ~~when the organization~~ makes occasional
9 sales or engages in fundraising projects that ~~when the~~
10 ~~projects~~ are performed exclusively by the members, ~~thereof~~ and
11 ~~when~~ the proceeds derived from the activities are used
12 exclusively in the charitable, religious, fraternal, youth,
13 civic, and service activities of the organization.

14 Section 23. Section 205.193, Florida Statutes, is
15 amended to read:

16 205.193 Mobile home setup operations; local business
17 tax receipt license prohibited; exception.--A No county,
18 municipality, or other unit of local government may not
19 require a ~~duly~~ licensed mobile home dealer or a ~~duly~~ licensed
20 mobile home manufacturer, or an employee of a such dealer or
21 manufacturer, who performs setup operations as defined in s.
22 320.822 to be a business tax receiptholder ~~licensed~~ to engage
23 in such operations. However, such dealer or manufacturer must
24 ~~shall be required to~~ obtain a local receipt ~~occupational~~
25 ~~license~~ for his or her permanent business location or branch
26 office, which receipt license shall not require for its
27 issuance any conditions other than those required by chapter
28 320.

29 Section 24. Section 205.194, Florida Statutes, is
30 amended to read:

31 205.194 Prohibition of local business tax receipt

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1 ~~occupational licensure~~ without exhibition of state license or
2 registration.--

3 (1) Any person applying for or renewing a local
4 business tax receipt ~~occupational license~~ for the ~~licensing~~
5 period beginning October 1, 1985, to practice any profession
6 regulated by the Department of Business and Professional
7 Regulation, or any board or commission thereof, must exhibit
8 an active state certificate, registration, or license, or
9 proof of copy of the same, before such local receipt
10 ~~occupational license~~ may be issued. Thereafter, only persons
11 applying for the first time for a receipt ~~local occupational~~
12 ~~license~~ must exhibit such certification, registration, or
13 license.

14 (2) The Department of Business and Professional
15 Regulation shall, by August 1 of each year, supply to the
16 local official who issues local business tax receipts
17 ~~occupational licenses~~ a current list of professions it
18 regulates and information regarding those persons for whom
19 receipts ~~local occupational licenses~~ should not be renewed due
20 to the suspension, revocation, or inactivation of such
21 person's state license, certificate, or registration. The
22 official who issues local business tax receipts ~~occupational~~
23 ~~licenses~~ shall not renew such license unless such person can
24 exhibit an active state certificate, registration, or license.

25 (3) This section shall not apply to s. 489.113, s.
26 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
27 489.521, or s. 489.537.

28 Section 25. Section 205.196, Florida Statutes, is
29 amended to read:

30 205.196 Pharmacies and pharmacists.--A ~~No~~ state,
31 county, or municipal licensing agency may not ~~shall~~ issue a

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1 ~~business tax receipt~~ ~~an occupational license~~ to operate a
 2 pharmacy unless the applicant produces ~~shall first exhibit~~ a
 3 current permit issued by the Board of Pharmacy; however, no
 4 such receipt is ~~occupational license shall be~~ required in
 5 ~~order~~ to practice the profession of pharmacy.

6 Section 26. Section 205.1965, Florida Statutes, is
 7 amended to read:

8 205.1965 Assisted living facilities.--A county or
 9 municipality may not issue a business tax receipt ~~an~~
 10 ~~occupational license~~ for the operation of an assisted living
 11 facility pursuant to part III of chapter 400 without first
 12 ascertaining that the applicant has been licensed by the
 13 Agency for Health Care Administration to operate such facility
 14 at the specified location or locations. The Agency for Health
 15 Care Administration shall furnish to local agencies
 16 responsible for issuing business tax receipts ~~occupational~~
 17 ~~licenses~~ sufficient instructions for making the ~~above~~ required
 18 determinations.

19 Section 27. Section 205.1967, Florida Statutes, is
 20 amended to read:

21 205.1967 Prerequisite for issuance of pest control
 22 business tax receipt ~~occupational license~~--A municipality or
 23 county may not issue a business tax receipt ~~an occupational~~
 24 ~~license~~ to any pest control business regulated ~~coming~~ under
 25 chapter 482, unless a current license has been procured from
 26 the Department of Agriculture and Consumer Services for each
 27 of its business locations in that municipality or county. Upon
 28 presentation of the requisite licenses from the department and
 29 the required fee, a business tax receipt ~~an occupational~~
 30 ~~license~~ shall be issued by the municipality or county in which
 31 application is made.

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1 Section 28. Section 205.1969, Florida Statutes, is
2 amended to read:

3 205.1969 Health studios; consumer protection.--~~A No~~
4 county or municipality may not ~~shall~~ issue or renew a business
5 tax receipt ~~an occupational license~~ for the operation of a
6 health studio pursuant to ss. 501.012-501.019 or ballroom
7 dance studio pursuant to s. 501.143, unless such business
8 exhibits a current license, registration, or letter of
9 exemption from the Department of Agriculture and Consumer
10 Services.

11 Section 29. Section 205.1971, Florida Statutes, is
12 amended to read:

13 205.1971 Sellers of travel; consumer protection.--~~A No~~
14 county or municipality may not ~~shall~~ issue or renew a business
15 tax receipt ~~an occupational license~~ to engage in business as a
16 seller of travel pursuant to part XI of chapter 559 unless
17 such business exhibits a current registration or letter of
18 exemption from the Department of Agriculture and Consumer
19 Services.

20 Section 30. Section 205.1973, Florida Statutes, is
21 amended to read:

22 205.1973 Telemarketing businesses; consumer
23 protection.--A county or municipality may not issue or renew a
24 business tax receipt ~~an occupational license~~ for the operation
25 of a telemarketing business under ss. 501.604 and 501.608,
26 unless such business exhibits a current license or
27 registration from the Department of Agriculture and Consumer
28 Services or a current affidavit of exemption.

29 Section 31. This act shall take effect January 1,
30 2007.

31

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

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to local occupational license

8 taxes; amending ch. 205, F.S., consisting of

9 ss. 205.013-205.1973, F.S.; changing the term

10 "local occupational license tax" to "local

11 business tax"; defining the term "receipt" as

12 it relates to business taxes; amending

13 provisions to conform; providing an effective

14 date.

15

16 WHEREAS, local governments impose an occupational

17 license tax for the privilege of engaging in a business or

18 profession, and

19 WHEREAS, what a particular charge is named by

20 government is not dispositive of its correct characterization,

21 and

22 WHEREAS, local governments have a bona fide interest in

23 protecting their residents from consumer fraud, and

24 WHEREAS, some unscrupulous persons present a local

25 occupational license to consumers as proof of competency to

26 perform various repairs and services, and

27 WHEREAS, local consumers are victimized by these

28 representations, and

29 WHEREAS, changing the name of the item issued by local

30 governments from occupational license tax to local business

31 tax may eliminate some fraudulent misrepresentations, and

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1 WHEREAS, the Legislature seeks to change the name of
2 the "Local Occupational License Tax Act" to the "Local
3 Business Tax Act" and make related changes, NOW, THEREFORE,

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