

By Senator Lawson

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A bill to be entitled

An act relating to local occupational license taxes; amending ch. 205, F.S., consisting of ss. 205.013-205.1973, F.S.; changing the term "local occupational license tax" to "business tax"; defining the term "certificate" as it relates to business taxes; amending provisions to conform; providing an effective date.

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

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) "Local Business tax ~~occupational license~~" means the fees charged and the method by which a local governing authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. It does not mean any fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection. Unless otherwise provided by law, these are deemed to be regulatory and in addition to, but not in lieu

1 of, any local business tax ~~occupational license~~ imposed under
2 the provisions of this chapter.

3 (2) "Local governing authority" means the governing
4 body of any county or incorporated municipality of this state.

5 (3) "Person" means any individual, firm, partnership,
6 joint adventure, syndicate, or other group or combination
7 acting as a unit, association, corporation, estate, trust,
8 business trust, trustee, executor, administrator, receiver, or
9 other fiduciary, and includes the plural as well as the
10 singular.

11 (4) "Taxpayer" means any person liable for taxes
12 imposed under the provisions of this chapter; any agent
13 required to file and pay any taxes imposed hereunder; and the
14 heirs, successors, assignees, and transferees of any such
15 person or agent.

16 (5) "Classification" means the method by which a
17 business or group of businesses is identified by size or type,
18 or both.

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

25 (a) "Religious institutions" means churches and
26 ecclesiastical or denominational organizations or established
27 physical places for worship in this state at which nonprofit
28 religious services and activities are regularly conducted and
29 carried on, and also means church cemeteries.

30 (b) "Educational institutions" means state
31 tax-supported or parochial, church and nonprofit private

1 | schools, colleges, or universities conducting regular classes
2 | and courses of study required for accreditation by or
3 | membership in the Southern Association of Colleges and
4 | Schools, the Department of Education, or the Florida Council
5 | of Independent Schools. Nonprofit libraries, art galleries,
6 | and museums open to the public are defined as educational
7 | institutions and eligible for exemption.

8 | (c) "Charitable institutions" means only nonprofit
9 | corporations operating physical facilities in this state at
10 | which are provided charitable services, a reasonable
11 | percentage of which are without cost to those unable to pay.

12 | (7) "Enterprise zone" means an area designated as an
13 | enterprise zone pursuant to s. 290.0065. This subsection
14 | expires on the date specified in s. 290.016 for the expiration
15 | of the Florida Enterprise Zone Act.

16 | (8) "Certificate" means the document that is issued by
17 | the local governing authority which evidences that the person
18 | in whose name the document is issued has complied with the
19 | provisions of this chapter relating to the business tax.

20 | Section 3. Section 205.023, Florida Statutes, is
21 | amended to read:

22 | 205.023 Requirement to report status of fictitious
23 | name registration.--As a prerequisite to receiving a local
24 | business tax certificate ~~occupational license~~ under this
25 | chapter or transferring a business license under s. 205.033(2)
26 | or s. 205.043(2), the applicant or new owner must present to
27 | the county or municipality that has jurisdiction to issue or
28 | transfer the certificate ~~license~~ either:

29 | (1) A copy of the applicant's or new owner's current
30 | fictitious name registration, issued by the Division of
31 | Corporations of the Department of State; or

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

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

6 205.0315 Ordinance adoption after October 1,
7 1995.--Beginning October 1, 1995, a county or municipality
8 that has not adopted a business ~~an occupational license~~ tax
9 ordinance or resolution may adopt a business ~~an occupational~~
10 ~~license~~ tax ordinance. The business ~~occupational license~~ tax
11 rate structure and classifications in the adopted ordinance
12 must be reasonable and based upon the rate structure and
13 classifications prescribed in ordinances adopted by adjacent
14 local governments that have implemented s. 205.0535. If no
15 adjacent local government has implemented s. 205.0535, or if
16 the governing body of the county or municipality finds that
17 the rate structures or classifications of adjacent local
18 governments are unreasonable, the rate structure or
19 classifications prescribed in its ordinance may be based upon
20 those prescribed in ordinances adopted by local governments
21 that have implemented s. 205.0535 in counties or
22 municipalities that have a comparable population.

23 Section 5. Section 205.032, Florida Statutes, is
24 amended to read:

25 205.032 Levy; counties.--The governing body of a
26 county may levy, by appropriate resolution or ordinance, a
27 business ~~an occupational license~~ tax for the privilege of
28 engaging in or managing any business, profession, or
29 occupation within its jurisdiction. However, the governing
30 body must first give at least 14 days' public notice between
31 the first and last reading of the resolution or ordinance by

1 publishing a notice in a newspaper of general circulation
2 within its jurisdiction as defined by law. The public notice
3 must contain the proposed classifications and rates applicable
4 to the occupational license tax.

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

7 205.033 Conditions for levy; counties.--

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

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

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

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

4 (2) Any certificate business license may be
5 transferred to a new owner, when there is a bona fide sale of
6 the business, upon payment of a transfer fee of up to 10
7 percent of the annual business license tax, but not less than
8 \$3 nor more than \$25, and presentation of the original
9 certificate license and evidence of the sale.

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

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

25 (5) The revenues so apportioned shall be sent to the
26 governing authority of each municipality, according to its
27 ratio, and to the governing authority of the county, according
28 to the ratio of the unincorporated area, within 15 days
29 following the month of receipt. This subsection does not
30 apply to counties that have established a new rate structure
31 under s. 205.0535.

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

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

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

20 (7) Notwithstanding any other provisions of this
21 chapter, the revenue received from a county business
22 ~~occupational license~~ tax may be used for overseeing and
23 implementing a comprehensive economic development strategy
24 through advertising, promotional activities, and other sales
25 and marketing techniques.

26 Section 7. Section 205.042, Florida Statutes, is
27 amended to read:

28 205.042 Levy; municipalities.--The governing body of
29 an incorporated municipality may levy, by appropriate
30 resolution or ordinance, a business ~~an occupational license~~
31 tax for the privilege of engaging in or managing any business,

1 | profession, or occupation within its jurisdiction. However,
2 | the governing body must first give at least 14 days' public
3 | notice between the first and last reading of the resolution or
4 | ordinance by publishing the notice in a newspaper of general
5 | circulation within its jurisdiction as defined by law. The
6 | notice must contain the proposed classifications and rates
7 | applicable to the business ~~occupational license~~ tax. The
8 | business ~~occupational license~~ tax may be levied on:

9 | (1) Any person who maintains a permanent business
10 | location or branch office within the municipality, for the
11 | privilege of engaging in or managing any business within its
12 | jurisdiction.

13 | (2) Any person who maintains a permanent business
14 | location or branch office within the municipality, for the
15 | privilege of engaging in or managing any profession or
16 | occupation within its jurisdiction.

17 | (3) Any person who does not qualify under subsection
18 | (1) or subsection (2) and who transacts any business or
19 | engages in any occupation or profession in interstate
20 | commerce, if the license tax is not prohibited by s. 8, Art. I
21 | of the United States Constitution.

22 | Section 8. Section 205.043, Florida Statutes, is
23 | amended to read:

24 | 205.043 Conditions for levy; municipalities.--

25 | (1) The following conditions are imposed on the
26 | authority of a municipal governing body to levy a business ~~an~~
27 | ~~occupational license~~ tax:

28 | (a) The tax must be based upon reasonable
29 | classifications and must be uniform throughout any class.

30 | (b) Unless the municipality implements s. 205.0535 or
31 | adopts a new business ~~occupational license~~ tax ordinance under

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

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

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

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

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

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

10 205.045 Transfer of administrative duties.--The
11 governing body of a municipality that levies a business ~~an~~
12 ~~occupational license~~ tax may request that the county in which
13 the municipality is located issue the municipal certificate
14 ~~license~~ and collect the tax thereon. The governing body of a
15 county that levies a business ~~an occupational license~~ tax may
16 request that municipalities within the county issue the county
17 certificate ~~license~~ and collect the tax thereon. Before any
18 local government may issue certificates ~~occupational licenses~~
19 on behalf of another local government, appropriate agreements
20 must be entered into by the affected local governments.

21 Section 10. Section 205.053, Florida Statutes, is
22 amended to read:

23 205.053 Business tax certificates ~~Occupational~~
24 ~~licenses~~; dates due and delinquent; penalties.--

25 (1) All business tax certificates ~~licenses~~ shall be
26 sold by the appropriate tax collector beginning August 1 of
27 each year, are due and payable on or before September 30 of
28 each year, and expire on September 30 of the succeeding year.
29 If September 30 falls on a weekend or holiday, the tax is due
30 and payable on or before the first working day following
31 September 30. Provisions for partial certificates ~~licenses~~

1 may be made in the resolution or ordinance authorizing such
2 certificates ~~licenses~~. Certificates ~~licenses~~ that are not
3 renewed when due and payable are delinquent and subject to a
4 delinquency penalty of 10 percent for the month of October,
5 plus an additional 5 percent penalty for each subsequent month
6 of delinquency until paid. However, the total delinquency
7 penalty may not exceed 25 percent of the business ~~occupational~~
8 ~~license~~ tax for the delinquent establishment.

9 (2) Any person who engages in or manages any business,
10 occupation, or profession without first obtaining a local
11 certificate ~~occupational license~~, if required, is subject to a
12 penalty of 25 percent of the tax ~~license~~ due, in addition to
13 any other penalty provided by law or ordinance.

14 (3) Any person who engages in any business,
15 occupation, or profession covered by this chapter, who does
16 not pay the required business ~~occupational license~~ tax within
17 150 days after the initial notice of tax due, and who does not
18 obtain the required certificate ~~occupational license~~ is
19 subject to civil actions and penalties, including court costs,
20 reasonable attorneys' fees, additional administrative costs
21 incurred as a result of collection efforts, and a penalty of
22 up to \$250.

23 Section 11. Section 205.0532, Florida Statutes, is
24 amended to read:

25 205.0532 Revocation or refusal to renew; doing
26 business with Cuba.--Any local governing authority issuing a
27 business tax certificate ~~an occupational license~~ to any
28 individual, business, or entity under this chapter may revoke
29 or refuse to renew such certificate ~~license~~ if the individual,
30 business, or entity, or parent company of such individual,
31 business, or entity, is doing business with Cuba.

1 Section 12. Section 205.0535, Florida Statutes, is
2 amended to read:

3 205.0535 Reclassification and rate structure
4 revisions.--

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

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

27 (3)(a) After the reclassification and rate structure
28 revisions have been transmitted to and considered by the
29 appropriate local governing body, it may adopt by majority
30 vote a new business ~~occupational license~~ tax ordinance.
31 Except that a minimum ~~license~~ tax of up to \$25 is permitted,

1 | the reclassification ~~may shall~~ not increase the ~~occupational~~
2 | ~~license~~ tax by more than the following: for certificates
3 | ~~licenses~~ costing \$150 or less, 200 percent; for certificates
4 | ~~licenses~~ costing more than \$150 but not more than \$500, 100
5 | percent; for certificates ~~licenses~~ costing more than \$500 but
6 | not more than \$2,500, 75 percent; for certificates ~~licenses~~
7 | costing more than \$2,500 but not more than \$10,000, 50
8 | percent; and for certificates ~~licenses~~ costing more than
9 | \$10,000, 10 percent; however, in no case may the tax on any
10 | certificate ~~license~~ be increased more than \$5,000.

11 | (b) The total annual revenue generated by the new rate
12 | structure for the fiscal year following the fiscal year during
13 | which the rate structure is adopted may not exceed:

14 | 1. For municipalities, the sum of the revenue base and
15 | 10 percent of that revenue base. The revenue base is the sum
16 | of the business ~~occupational license~~ tax revenue generated by
17 | certificates ~~licenses~~ issued for the most recently completed
18 | local fiscal year or the amount of revenue that would have
19 | been generated from the authorized increases under s.
20 | 205.043(1)(b), whichever is greater, plus any revenue received
21 | from the county under s. 205.033(4).

22 | 2. For counties, the sum of the revenue base, 10
23 | percent of that revenue base, and the amount of revenue
24 | distributed by the county to the municipalities under s.
25 | 205.033(4) during the most recently completed local fiscal
26 | year. The revenue base is the business ~~occupational license~~
27 | tax revenue generated by certificates ~~licenses~~ issued for the
28 | most recently completed local fiscal year or the amount of
29 | revenue that would have been generated from the authorized
30 | increases under s. 205.033(1)(b), whichever is greater, but
31 |

1 may not include any revenues distributed to municipalities
2 under s. 205.033(4).

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

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

12 (5) A certificate may not ~~No license shall~~ be issued
13 unless the federal employer identification number or social
14 security number is obtained from the person to be taxed
15 ~~licensed~~.

16 Section 13. Section 205.0536, Florida Statutes, is
17 amended to read:

18 205.0536 Distribution of county revenues.--A county
19 that establishes a new rate structure under s. 205.0535 shall
20 retain all business ~~occupational license~~ tax revenues
21 collected from businesses, professions, or occupations whose
22 places of business are located within the unincorporated
23 portions of the county. Any business ~~occupational license~~ tax
24 revenues collected by a county that establishes a new rate
25 structure under s. 205.0535 from businesses, professions, or
26 occupations whose places of business are located within a
27 municipality, exclusive of the costs of collection, must be
28 apportioned between the unincorporated area of the county and
29 the incorporated municipalities located therein by a ratio
30 derived by dividing their respective populations by the
31 population of the county. As used in this section, the term

1 "population" means the latest official state estimate of
2 population certified under s. 186.901. The revenues so
3 apportioned shall be sent to the governing authority of each
4 municipality, according to its ratio, and to the governing
5 authority of the county, according to the ratio of the
6 unincorporated area, within 15 days after the month of
7 receipt.

8 Section 14. Section 205.0537, Florida Statutes, is
9 amended to read:

10 205.0537 Vending and amusement machines.--The business
11 premises where a coin-operated or token-operated vending
12 machine that dispenses products, merchandise, or services or
13 where an amusement or game machine is operated must assure
14 that any required municipal or county business tax certificate
15 ~~occupational license~~ for the machine is secured. The term
16 "vending machine" does not include coin-operated telephone
17 sets owned by persons who are in the business of providing
18 local exchange telephone service and who pay the business tax
19 ~~occupational license~~ under the category designated for
20 telephone companies in the municipality or county or a pay
21 telephone service provider certified pursuant to s. 364.3375.
22 The business license tax for vending and amusement machines
23 must be assessed based on the highest number of machines
24 located on the business premises on any single day during the
25 previous licensing year or, in the case of new businesses, be
26 based on an estimate for the current year. Replacement of one
27 vending machine with another machine during a certification
28 ~~licensing~~ year does not affect the tax assessment for that
29 year, unless the replacement machine belongs to a business an
30 ~~occupational license~~ tax classification that requires a higher
31 tax rate. For the first year in which a municipality or

1 county assesses a business ~~an occupational license~~ tax on
2 vending machines, each business owning machines located in the
3 municipality or county must notify the municipality or county,
4 upon request, of the location of such machines. Each business
5 owning machines must provide notice of the provisions of this
6 section to each affected business premises where the machines
7 are located. The business premises must secure the certificate
8 ~~license~~ if it is not otherwise secured.

9 Section 15. Section 205.054, Florida Statutes, is
10 amended to read:

11 205.054 Business ~~Occupational license~~ tax; partial
12 exemption for engaging in business or occupation in enterprise
13 zone.--

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

25 (2) Such exemption applies to each classification for
26 which a business tax certificate ~~an occupational license~~ is
27 required in the jurisdiction. Classifications shall be the
28 same in an enterprise zone as elsewhere in the jurisdiction.
29 Each county or municipal business tax certificate ~~occupational~~
30 ~~license~~ issued with the exemption authorized in this section
31 shall be in the same general form as the other county or

1 municipal business tax certificates ~~occupational licenses~~ and
2 shall expire at the same time as those other certificates
3 ~~licenses~~ expire as fixed by law. Any certificate license
4 issued with the exemption authorized in this section is
5 nontransferable. The exemption authorized in this section does
6 not apply to any penalty authorized in s. 205.053.

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

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

29 (5) ~~If in the event~~ an area nominated as an enterprise
30 zone pursuant to s. 290.0055 has not yet been designated
31 pursuant to s. 290.0065, the governing body of a county or

1 municipality may enact the appropriate ordinance or resolution
2 authorizing the exemption permitted in this section; however,
3 such ordinance or resolution will not be effective until such
4 area is designated pursuant to s. 290.0065.

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

10 Section 16. Section 205.063, Florida Statutes, is
11 amended to read:

12 205.063 Exemptions; motor vehicles.--Vehicles used by
13 any person certified licensed under this chapter for the sale
14 and delivery of tangible personal property at ~~either~~ wholesale
15 or retail from his or her place of business on which a
16 business tax license is paid may ~~shall~~ not be construed to be
17 separate places of business, and a business tax ~~no license~~ may
18 not be levied on such vehicles or the operators thereof as
19 salespersons or otherwise by a county or incorporated
20 municipality, any other law to the contrary notwithstanding.

21 Section 17. Section 205.064, Florida Statutes, is
22 amended to read:

23 205.064 Farm, aquacultural, grove, horticultural,
24 floricultural, tropical piscicultural, and tropical fish farm
25 products; certain exemptions.--

26 (1) ~~A No~~ local business tax certificate is not
27 ~~occupational license shall be~~ required of any natural person
28 for the privilege of engaging in the selling of farm,
29 aquacultural, grove, horticultural, floricultural, tropical
30 piscicultural, or tropical fish farm products, or products
31 manufactured therefrom, except intoxicating liquors, wine, or

1 beer, when such products were grown or produced by such
2 natural person in the state.

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

10 Section 18. Section 205.065, Florida Statutes, is
11 amended to read:

12 205.065 Exemption; nonresident persons regulated by
13 the Department of Business and Professional Regulation.--If
14 any person engaging in or managing a business, profession, or
15 occupation regulated by the Department of Business and
16 Professional Regulation has paid a business ~~an occupational~~
17 ~~license~~ tax for the current year to the county or municipality
18 in the state where the person's permanent business location or
19 branch office is maintained, no other local governing
20 authority may levy a business ~~an occupational license~~ tax, or
21 any registration or regulatory fee equivalent to the business
22 ~~occupational license~~ tax, on the person for performing work or
23 services on a temporary or transitory basis in another
24 municipality or county. ~~In no event shall any~~ Work or services
25 performed in a place other than the county or municipality
26 where the permanent business location or branch office is
27 maintained may not be construed as creating a separate
28 business location or branch office of that person for the
29 purposes of this chapter. Any properly licensed contractor
30 asserting an exemption under this section who is unlawfully
31 required by the local governing authority to pay a business ~~an~~

1 ~~occupational license~~ tax, or any registration or regulatory
2 fee equivalent to a business ~~the occupational license~~ tax, has
3 ~~shall have~~ standing to challenge the propriety of the local
4 government's actions, and the prevailing party in such a
5 challenge is entitled to recover a reasonable attorney's fee.

6 Section 19. Section 205.162, Florida Statutes, is
7 amended to read:

8 205.162 Exemption allowed certain disabled persons,
9 the aged, and widows with minor dependents.--

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

30 (2) Neither ~~In no event under this nor~~ ~~or~~ any other
31 law exempts ~~shall any person, veteran or otherwise, be allowed~~

1 ~~any exemption whatsoever~~ from the payment of any amount
2 required by law for the issuance of a license to sell
3 intoxicating liquors or malt and vinous beverages.

4 Section 20. Section 205.171, Florida Statutes, is
5 amended to read:

6 205.171 Exemptions allowed disabled veterans of any
7 war or their unremarried spouses.--

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

23 (a) Be granted a certificate ~~license~~ to engage in any
24 business or occupation in the state which may be carried on
25 mainly through the personal efforts of the certificateholder
26 ~~licensee~~ as a means of livelihood and for which the state
27 license or county, or municipal certificate ~~license~~ does not
28 exceed the sum of \$50 for each without payment of any business
29 ~~license~~ tax otherwise provided for by law; or

30 (b) Be entitled to an exemption to the extent of \$50
31 on any certificate ~~license~~ to engage in any business or

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

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

23 (3) Each ~~and every~~ tax collecting authority of this
24 state and of each county ~~thereof~~ and each municipality ~~therein~~
25 shall issue to such persons as may be entitled hereunder a
26 certificate license pursuant to the foregoing provision and
27 subject to the conditions thereof. Such certificate license
28 when issued shall be marked across the face ~~thereof~~ "Veterans
29 Exempt License"--"Not Transferable." Before issuing the
30 certificate ~~same~~, proof shall be duly made ~~in each case~~ that
31 the applicant is entitled under ~~the conditions of~~ this law to

1 receive the exemption ~~herein provided for~~. The proof may be
2 made by establishing to the satisfaction of such tax
3 collecting authority by means of certificate of honorable
4 discharge or certified copy thereof that the applicant is a
5 veteran within the purview of this section and by exhibiting:

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

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

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

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

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

23
24 All certificates licenses issued under this section shall be
25 in the same general form as other state, county, and municipal
26 licenses and shall expire at the same time as such other
27 licenses are fixed by law to expire.

28 (4) Certificates ~~All licenses~~ obtained ~~under the~~
29 ~~provisions of this section~~ by the commission of fraud upon any
30 issuing authority are ~~shall be deemed null and~~ void. Any
31 person who has fraudulently obtained a certificate ~~any such~~

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

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

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

24 Section 21. Section 205.191, Florida Statutes, is
25 amended to read:

26 205.191 Religious tenets; exemption.--~~Nothing in~~ This
27 chapter does not ~~shall be construed to~~ require a business tax
28 certificate license for practicing the religious tenets of any
29 church.

30 Section 22. Section 205.192, Florida Statutes, is
31 amended to read:

1 205.192 Charitable, etc., organizations; occasional
2 sales, fundraising; exemption.--A business tax certificate is
3 not ~~No occupational license shall be~~ required of any
4 charitable, religious, fraternal, youth, civic, service, or
5 other similar ~~such~~ organization that ~~when the organization~~
6 makes occasional sales or engages in fundraising projects that
7 ~~when the projects~~ are performed exclusively by the members,
8 ~~thereof~~ and ~~when~~ the proceeds derived from the activities are
9 used exclusively in the charitable, religious, fraternal,
10 youth, civic, and service activities of the organization.

11 Section 23. Section 205.193, Florida Statutes, is
12 amended to read:

13 205.193 Mobile home setup operations; local business
14 tax certificate ~~license~~ prohibited; exception.--~~A No~~ county,
15 municipality, or other unit of local government may not
16 require a ~~duly~~ licensed mobile home dealer or a ~~duly~~ licensed
17 mobile home manufacturer, or an employee of a ~~such~~ dealer or
18 manufacturer, who performs setup operations as defined in s.
19 320.822 to be a certificateholder ~~licensed~~ to engage in such
20 operations. However, such dealer or manufacturer must ~~shall be~~
21 ~~required to~~ obtain a local certificate ~~occupational license~~
22 for his or her permanent business location or branch office,
23 which certificate ~~license~~ shall not require for its issuance
24 any conditions other than those required by chapter 320.

25 Section 24. Section 205.194, Florida Statutes, is
26 amended to read:

27 205.194 Prohibition of local business tax certificate
28 ~~occupational licensure~~ without exhibition of state license or
29 registration.--

30 (1) Any person applying for or renewing a local
31 business tax certificate ~~occupational license~~ for the

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

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

21 (3) This section shall not apply to s. 489.113, s.
22 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
23 489.521, or s. 489.537.

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

26 205.196 Pharmacies and pharmacists.--~~A~~ ~~No~~ state,
27 county, or municipal licensing agency may not ~~shall~~ issue a
28 business tax certificate ~~an occupational license~~ to operate a
29 pharmacy unless the applicant produces ~~shall first exhibit~~ a
30 current permit issued by the Board of Pharmacy; however, no
31

1 such certificate is ~~occupational license~~ shall be required in
2 ~~order~~ to practice the profession of pharmacy.

3 Section 26. Section 205.1965, Florida Statutes, is
4 amended to read:

5 205.1965 Assisted living facilities.--A county or
6 municipality may not issue a business tax certificate ~~an~~
7 ~~occupational license~~ for the operation of an assisted living
8 facility pursuant to part III of chapter 400 without first
9 ascertaining that the applicant has been licensed by the
10 Agency for Health Care Administration to operate such facility
11 at the specified location or locations. The Agency for Health
12 Care Administration shall furnish to local agencies
13 responsible for issuing certificates ~~occupational licenses~~
14 sufficient instructions for making the ~~above~~ required
15 determinations.

16 Section 27. Section 205.1967, Florida Statutes, is
17 amended to read:

18 205.1967 Prerequisite for issuance of pest control
19 business tax certificate ~~occupational license~~.--A municipality
20 or county may not issue a business tax certificate ~~an~~
21 ~~occupational license~~ to any pest control business regulated
22 ~~coming~~ under chapter 482, unless a current license has been
23 procured from the Department of Agriculture and Consumer
24 Services for each of its business locations in that
25 municipality or county. Upon presentation of the requisite
26 licenses from the department and the required fee, a business
27 tax certificate ~~an occupational license~~ shall be issued by the
28 municipality or county in which application is made.

29 Section 28. Section 205.1969, Florida Statutes, is
30 amended to read:

31

1 205.1969 Health studios; consumer protection.--~~A No~~
2 county or municipality may not ~~shall~~ issue or renew a business
3 tax certificate ~~an occupational license~~ for the operation of a
4 health studio pursuant to ss. 501.012-501.019 or ballroom
5 dance studio pursuant to s. 501.143, unless such business
6 exhibits a current license, registration, or letter of
7 exemption from the Department of Agriculture and Consumer
8 Services.

9 Section 29. Section 205.1971, Florida Statutes, is
10 amended to read:

11 205.1971 Sellers of travel; consumer protection.--~~A No~~
12 county or municipality may not ~~shall~~ issue or renew a business
13 tax certificate ~~an occupational license~~ to engage in business
14 as a seller of travel pursuant to part XI of chapter 559
15 unless such business exhibits a current registration or letter
16 of exemption from the Department of Agriculture and Consumer
17 Services.

18 Section 30. Section 205.1973, Florida Statutes, is
19 amended to read:

20 205.1973 Telemarketing businesses; consumer
21 protection.--A county or municipality may not issue or renew a
22 business tax certificate ~~an occupational license~~ for the
23 operation of a telemarketing business under ss. 501.604 and
24 501.608, unless such business exhibits a current license or
25 registration from the Department of Agriculture and Consumer
26 Services or a current affidavit of exemption.

27 Section 31. This acts shall take effect July 1, 2006.
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SENATE SUMMARY

Revises ch. 205, F.S., relating to local occupational license taxes. Changes the term "local occupational license tax" to "business tax." Conforms references in the chapter. Defines the term "certificate" to refer to the former "occupational license" and conforms references in the chapter. (See Bill for details.)