

By the Committee on Regulated Industries; and Senators Lawson, Bennett, Jones, Aronberg and King

580-2426-06

1 A bill to be entitled

2 An act relating to local occupational license

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

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

5 "local occupational license tax" to "local

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

7 it relates to business taxes; amending

8 provisions to conform; providing an effective

9 date.

10

11 WHEREAS, local governments impose an occupational

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

13 profession, and

14 WHEREAS, what a particular charge is named by

15 government is not dispositive of its correct characterization,

16 and

17 WHEREAS, local governments have a bona fide interest in

18 protecting their residents from consumer fraud, and

19 WHEREAS, some unscrupulous persons present a local

20 occupational license to consumers as proof of competency to

21 perform various repairs and services, and

22 WHEREAS, local consumers are victimized by these

23 representations, and

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

25 governments from occupational license tax to local business

26 tax may eliminate some fraudulent misrepresentations, and

27 WHEREAS, the Legislature seeks to change the name of

28 the "Local Occupational License Tax Act" to the "Local

29 Business Tax Act" and make related changes, NOW, THEREFORE,

30

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

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

3 205.013 Short title.--This chapter shall be known and
4 may be cited as the "Local Business ~~Occupational License~~ Tax
5 Act."

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

8 205.022 Definitions.--When used in this chapter, the
9 following terms and phrases shall have the meanings ascribed
10 to them in this section, except when the context clearly
11 indicates a different meaning:

12 ~~(1)(6)~~ "Business," "profession," and "occupation" do
13 not include the customary religious, charitable, or
14 educational activities of nonprofit religious, nonprofit
15 charitable, and nonprofit educational institutions in this
16 state, which institutions are more particularly defined and
17 limited as follows:

18 (a) "Religious institutions" means churches and
19 ecclesiastical or denominational organizations or established
20 physical places for worship in this state at which nonprofit
21 religious services and activities are regularly conducted and
22 carried on, and also means church cemeteries.

23 (b) "Educational institutions" means state
24 tax-supported or parochial, church and nonprofit private
25 schools, colleges, or universities conducting regular classes
26 and courses of study required for accreditation by or
27 membership in the Southern Association of Colleges and
28 Schools, the Department of Education, or the Florida Council
29 of Independent Schools. Nonprofit libraries, art galleries,
30 and museums open to the public are defined as educational
31 institutions and eligible for exemption.

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

5 (2) "Receipt" means the document that is issued by the
6 local governing authority which bears the words "Local
7 Business Tax Receipt" and evidences that the person in whose
8 name the document is issued has complied with the provisions
9 of this chapter relating to the business tax.

10 ~~(3)(5)~~ "Classification" means the method by which a
11 business or group of businesses is identified by size or type,
12 or both.

13 ~~(4)(7)~~ "Enterprise zone" means an area designated as
14 an enterprise zone pursuant to s. 290.0065. This subsection
15 expires on the date specified in s. 290.016 for the expiration
16 of the Florida Enterprise Zone Act.

17 ~~(5)(1)~~ "Local business tax ~~occupational license~~" means
18 the fees charged and the method by which a local governing
19 authority grants the privilege of engaging in or managing any
20 business, profession, or occupation within its jurisdiction.
21 It does not mean any fees or licenses paid to any board,
22 commission, or officer for permits, registration, examination,
23 or inspection. Unless otherwise provided by law, these are
24 deemed to be regulatory and in addition to, but not in lieu
25 of, any local business tax ~~occupational license~~ imposed under
26 the provisions of this chapter.

27 ~~(6)(2)~~ "Local governing authority" means the governing
28 body of any county or incorporated municipality of this state.

29 ~~(7)(3)~~ "Person" means any individual, firm,
30 partnership, joint adventure, syndicate, or other group or
31 combination acting as a unit, association, corporation,

1 estate, trust, business trust, trustee, executor,
2 administrator, receiver, or other fiduciary, and includes the
3 plural as well as the singular.

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

9 Section 3. Section 205.023, Florida Statutes, is
10 amended to read:

11 205.023 Requirement to report status of fictitious
12 name registration.--As a prerequisite to receiving a local
13 business tax receipt ~~occupational license~~ under this chapter
14 or transferring a business license under s. 205.033(2) or s.
15 205.043(2), the applicant or new owner must present to the
16 county or municipality that has jurisdiction to issue or
17 transfer the receipt license either:

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

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

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

26 205.0315 Ordinance adoption after October 1,
27 1995.--Beginning October 1, 1995, a county or municipality
28 that has not adopted a business ~~an occupational license~~ tax
29 ordinance or resolution may adopt a business ~~an occupational~~
30 ~~license~~ tax ordinance. The business ~~occupational license~~ tax
31 rate structure and classifications in the adopted ordinance

1 | must be reasonable and based upon the rate structure and
2 | classifications prescribed in ordinances adopted by adjacent
3 | local governments that have implemented s. 205.0535. If no
4 | adjacent local government has implemented s. 205.0535, or if
5 | the governing body of the county or municipality finds that
6 | the rate structures or classifications of adjacent local
7 | governments are unreasonable, the rate structure or
8 | classifications prescribed in its ordinance may be based upon
9 | those prescribed in ordinances adopted by local governments
10 | that have implemented s. 205.0535 in counties or
11 | municipalities that have a comparable population.

12 | Section 5. Section 205.032, Florida Statutes, is
13 | amended to read:

14 | 205.032 Levy; counties.--The governing body of a
15 | county may levy, by appropriate resolution or ordinance, a
16 | business ~~an occupational license~~ tax for the privilege of
17 | engaging in or managing any business, profession, or
18 | occupation within its jurisdiction. However, the governing
19 | body must first give at least 14 days' public notice between
20 | the first and last reading of the resolution or ordinance by
21 | publishing a notice in a newspaper of general circulation
22 | within its jurisdiction as defined by law. The public notice
23 | must contain the proposed classifications and rates applicable
24 | to the business ~~occupational license~~ tax.

25 | Section 6. Section 205.033, Florida Statutes, is
26 | amended to read:

27 | 205.033 Conditions for levy; counties.--

28 | (1) The following conditions are imposed on the
29 | authority of a county governing body to levy a business ~~an~~
30 | ~~occupational license~~ tax:
31 |

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

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

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

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

31

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

7 (4) The revenues derived from the business
8 ~~occupational license~~ tax, exclusive of the costs of collection
9 and any credit given for municipal business license taxes,
10 shall be apportioned between the unincorporated area of the
11 county and the incorporated municipalities located therein by
12 a ratio derived by dividing their respective populations by
13 the population of the county. This subsection does not apply
14 to counties that have established a new rate structure under
15 s. 205.0535.

16 (5) The revenues so apportioned shall be sent to the
17 governing authority of each municipality, according to its
18 ratio, and to the governing authority of the county, according
19 to the ratio of the unincorporated area, within 15 days
20 following the month of receipt. This subsection does not apply
21 to counties that have established a new rate structure under
22 s. 205.0535.

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

29 (b) Subsections (4) and (5) do not apply to any
30 revenues derived from the additional tax imposed under this
31 subsection. Proceeds from the additional business license tax

1 must be placed in a separate interest-earning account, and the
2 governing body of the county shall distribute this revenue,
3 plus accrued interest, each fiscal year to an organization or
4 agency designated by the governing body of the county to
5 oversee and implement a comprehensive economic development
6 strategy through advertising, promotional activities, and
7 other sales and marketing techniques.

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

11 (7) Notwithstanding any other provisions of this
12 chapter, the revenue received from a county business
13 ~~occupational license~~ tax may be used for overseeing and
14 implementing a comprehensive economic development strategy
15 through advertising, promotional activities, and other sales
16 and marketing techniques.

17 Section 7. Section 205.042, Florida Statutes, is
18 amended to read:

19 205.042 Levy; municipalities.--The governing body of
20 an incorporated municipality may levy, by appropriate
21 resolution or ordinance, a business ~~an occupational license~~
22 tax for the privilege of engaging in or managing any business,
23 profession, or occupation within its jurisdiction. However,
24 the governing body must first give at least 14 days' public
25 notice between the first and last reading of the resolution or
26 ordinance by publishing the notice in a newspaper of general
27 circulation within its jurisdiction as defined by law. The
28 notice must contain the proposed classifications and rates
29 applicable to the business ~~occupational license~~ tax. The
30 business ~~occupational license~~ tax may be levied on:
31

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

5 (2) Any person who maintains a permanent business
6 location or branch office within the municipality, for the
7 privilege of engaging in or managing any profession or
8 occupation within its jurisdiction.

9 (3) Any person who does not qualify under subsection
10 (1) or subsection (2) and who transacts any business or
11 engages in any occupation or profession in interstate
12 commerce, if the business license tax is not prohibited by s.
13 8, Art. I of the United States Constitution.

14 Section 8. Section 205.043, Florida Statutes, is
15 amended to read:

16 205.043 Conditions for levy; municipalities.--

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

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

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

1 ~~license~~ taxes that are \$100 or less; 50 percent for business
2 ~~occupational license~~ taxes that are between \$101 and \$300; and
3 25 percent for business ~~occupational license~~ taxes that are
4 more than \$300. Beginning October 1, 1982, an increase may not
5 exceed 25 percent for ~~license~~ taxes levied at graduated or per
6 unit rates. Authority to increase business ~~occupational~~
7 ~~license~~ taxes does not apply to receipts or licenses granted
8 to any utility franchised by the municipality for which a
9 franchise fee is paid.

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

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

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

25 (4) If the governing body of the county in which the
26 municipality is located has levied a business ~~an occupational~~
27 ~~license~~ tax or subsequently levies such a tax, the collector
28 of the county tax may issue the receipt license and collect
29 the tax thereon.

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

1 205.045 Transfer of administrative duties.--The
2 governing body of a municipality that levies a business an
3 ~~occupational license~~ tax may request that the county in which
4 the municipality is located issue the municipal receipt
5 ~~license~~ and collect the tax thereon. The governing body of a
6 county that levies a business an occupational license tax may
7 request that municipalities within the county issue the county
8 receipt license and collect the tax thereon. Before any local
9 government may issue receipts occupational licenses on behalf
10 of another local government, appropriate agreements must be
11 entered into by the affected local governments.

12 Section 10. Section 205.053, Florida Statutes, is
13 amended to read:

14 205.053 Business tax receipts Occupational licenses;
15 dates due and delinquent; penalties.--

16 (1) All business tax receipts licenses shall be sold
17 by the appropriate tax collector beginning August 1 of each
18 year, are due and payable on or before September 30 of each
19 year, and expire on September 30 of the succeeding year. If
20 September 30 falls on a weekend or holiday, the tax is due and
21 payable on or before the first working day following September
22 30. Provisions for partial receipts licenses may be made in
23 the resolution or ordinance authorizing such receipts
24 ~~licenses~~. Receipts Licenses that are not renewed when due and
25 payable are delinquent and subject to a delinquency penalty of
26 10 percent for the month of October, plus an additional 5
27 percent penalty for each subsequent month of delinquency until
28 paid. However, the total delinquency penalty may not exceed 25
29 percent of the business occupational license tax for the
30 delinquent establishment.
31

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

6 (3) Any person who engages in any business,
7 occupation, or profession covered by this chapter, who does
8 not pay the required business ~~occupational license~~ tax within
9 150 days after the initial notice of tax due, and who does not
10 obtain the required receipt ~~occupational license~~ is subject to
11 civil actions and penalties, including court costs, reasonable
12 attorneys' fees, additional administrative costs incurred as a
13 result of collection efforts, and a penalty of up to \$250.

14 Section 11. Section 205.0532, Florida Statutes, is
15 amended to read:

16 205.0532 Revocation or refusal to renew; doing
17 business with Cuba.--Any local governing authority issuing a
18 business tax receipt ~~an occupational license~~ to any
19 individual, business, or entity under this chapter may revoke
20 or refuse to renew such receipt ~~license~~ if the individual,
21 business, or entity, or parent company of such individual,
22 business, or entity, is doing business with Cuba.

23 Section 12. Section 205.0535, Florida Statutes, is
24 amended to read:

25 205.0535 Reclassification and rate structure
26 revisions.--

27 (1) By October 1, 1995, any municipality or county
28 may, by ordinance, reclassify businesses, professions, and
29 occupations and may establish new rate structures, if the
30 conditions specified in subsections (2) and (3) are met. A
31 person who is engaged in the business of providing local

1 exchange telephone service or a pay telephone service in a
2 municipality or in the unincorporated area of a county and who
3 pays the business ~~occupational license~~ tax under the category
4 designated for telephone companies or a pay telephone service
5 provider certified pursuant to s. 364.3375 is deemed to have
6 but one place of business or business location in each
7 municipality or unincorporated area of a county. Pay telephone
8 service providers may not be assessed a business ~~an~~
9 ~~occupational license~~ tax on a per-instrument basis.

10 (2) Before adopting a reclassification and revision
11 ordinance, the municipality or county must establish an equity
12 study commission and appoint its members. Each member of the
13 study commission must be a representative of the business
14 community within the local government's jurisdiction. Each
15 equity study commission shall recommend to the appropriate
16 local government a classification system and rate structure
17 for business ~~local occupational license~~ taxes.

18 (3)(a) After the reclassification and rate structure
19 revisions have been transmitted to and considered by the
20 appropriate local governing body, it may adopt by majority
21 vote a new business ~~occupational license~~ tax ordinance. Except
22 that a minimum ~~license~~ tax of up to \$25 is permitted, the
23 reclassification ~~may shall~~ not increase the ~~occupational~~
24 ~~license~~ tax by more than the following: for receipts licenses
25 costing \$150 or less, 200 percent; for receipts licenses
26 costing more than \$150 but not more than \$500, 100 percent;
27 for receipts licenses costing more than \$500 but not more than
28 \$2,500, 75 percent; for receipts licenses costing more than
29 \$2,500 but not more than \$10,000, 50 percent; and for receipts
30 ~~licenses~~ costing more than \$10,000, 10 percent; however, in no
31

1 case may the tax on any receipt license be increased more than
2 \$5,000.

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

6 1. For municipalities, the sum of the revenue base and
7 10 percent of that revenue base. The revenue base is the sum
8 of the business ~~occupational license~~ tax revenue generated by
9 receipts licenses issued for the most recently completed local
10 fiscal year or the amount of revenue that would have been
11 generated from the authorized increases under s.
12 205.043(1)(b), whichever is greater, plus any revenue received
13 from the county under s. 205.033(4).

14 2. For counties, the sum of the revenue base, 10
15 percent of that revenue base, and the amount of revenue
16 distributed by the county to the municipalities under s.
17 205.033(4) during the most recently completed local fiscal
18 year. The revenue base is the business ~~occupational license~~
19 tax revenue generated by receipts licenses issued for the most
20 recently completed local fiscal year or the amount of revenue
21 that would have been generated from the authorized increases
22 under s. 205.033(1)(b), whichever is greater, but may not
23 include any revenues distributed to municipalities under s.
24 205.033(4).

25 (c) In addition to the revenue increases authorized by
26 paragraph (b), revenue increases attributed to the increases
27 in the number of receipts licenses issued are authorized.

28 (4) After the conditions specified in subsections (2)
29 and (3) are met, municipalities and counties may, every other
30 year thereafter, increase by ordinance the rates of business
31 ~~local occupational license~~ taxes by up to 5 percent. The

1 increase, however, may not be enacted by less than a majority
2 plus one vote of the governing body.

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

7 Section 13. Section 205.0536, Florida Statutes, is
8 amended to read:

9 205.0536 Distribution of county revenues.--A county
10 that establishes a new rate structure under s. 205.0535 shall
11 retain all business ~~occupational license~~ tax revenues
12 collected from businesses, professions, or occupations whose
13 places of business are located within the unincorporated
14 portions of the county. Any business ~~occupational license~~ tax
15 revenues collected by a county that establishes a new rate
16 structure under s. 205.0535 from businesses, professions, or
17 occupations whose places of business are located within a
18 municipality, exclusive of the costs of collection, must be
19 apportioned between the unincorporated area of the county and
20 the incorporated municipalities located therein by a ratio
21 derived by dividing their respective populations by the
22 population of the county. As used in this section, the term
23 "population" means the latest official state estimate of
24 population certified under s. 186.901. The revenues so
25 apportioned shall be sent to the governing authority of each
26 municipality, according to its ratio, and to the governing
27 authority of the county, according to the ratio of the
28 unincorporated area, within 15 days after the month of
29 receipt.

30 Section 14. Section 205.0537, Florida Statutes, is
31 amended to read:

1 205.0537 Vending and amusement machines.--The business
2 premises where a coin-operated or token-operated vending
3 machine that dispenses products, merchandise, or services or
4 where an amusement or game machine is operated must assure
5 that any required municipal or county business tax receipt
6 ~~occupational license~~ for the machine is secured. The term
7 "vending machine" does not include coin-operated telephone
8 sets owned by persons who are in the business of providing
9 local exchange telephone service and who pay the business tax
10 ~~occupational license~~ under the category designated for
11 telephone companies in the municipality or county or a pay
12 telephone service provider certified pursuant to s. 364.3375.
13 The business license tax for vending and amusement machines
14 must be assessed based on the highest number of machines
15 located on the business premises on any single day during the
16 previous receipted licensing year or, in the case of new
17 businesses, be based on an estimate for the current year.
18 Replacement of one vending machine with another machine during
19 a receipted licensing year does not affect the tax assessment
20 for that year, unless the replacement machine belongs to a
21 business ~~an occupational license~~ tax classification that
22 requires a higher tax rate. For the first year in which a
23 municipality or county assesses a business ~~an occupational~~
24 ~~license~~ tax on vending machines, each business owning machines
25 located in the municipality or county must notify the
26 municipality or county, upon request, of the location of such
27 machines. Each business owning machines must provide notice of
28 the provisions of this section to each affected business
29 premises where the machines are located. The business premises
30 must secure the receipt license if it is not otherwise
31 secured.

1 Section 15. Section 205.054, Florida Statutes, is
2 amended to read:

3 205.054 Business ~~Occupational license~~ tax; partial
4 exemption for engaging in business or occupation in enterprise
5 zone.--

6 (1) Notwithstanding the provisions of s. 205.033(1)(a)
7 or s. 205.043(1)(a), the governing body of a county or
8 municipality may authorize by appropriate resolution or
9 ordinance, adopted pursuant to the procedure established in s.
10 205.032 or s. 205.042, the exemption of 50 percent of the
11 business ~~occupational license~~ tax levied for the privilege of
12 engaging in or managing any business, profession, or
13 occupation in the respective jurisdiction of the county or
14 municipality when such privilege is exercised at a permanent
15 business location or branch office located in an enterprise
16 zone.

17 (2) Such exemption applies to each classification for
18 which a business tax receipt ~~an occupational license~~ is
19 required in the jurisdiction. Classifications shall be the
20 same in an enterprise zone as elsewhere in the jurisdiction.
21 Each county or municipal business tax receipt ~~occupational~~
22 ~~license~~ issued with the exemption authorized in this section
23 shall be in the same general form as the other county or
24 municipal business tax receipts ~~occupational licenses~~ and
25 shall expire at the same time as those other receipts ~~licenses~~
26 expire as fixed by law. Any receipt ~~license~~ issued with the
27 exemption authorized in this section is nontransferable. The
28 exemption authorized in this section does not apply to any
29 penalty authorized in s. 205.053.

30 (3) Each tax collecting authority of a county or
31 municipality which provides the exemption authorized in this

1 section shall issue to each person who may be entitled to the
2 exemption a receipt license pursuant to the provisions
3 contained in this section. Before a receipt license with such
4 exemption is issued to an applicant, the tax collecting
5 authority must, in each case, be provided proof that the
6 applicant is entitled to such exemption. Such proof shall be
7 made by means of a statement filed under oath with the tax
8 collecting authority, which statement indicates that the
9 permanent business location or branch office of the applicant
10 is located in an enterprise zone of a jurisdiction which has
11 authorized the exemption permitted in this section.

12 (4) Any receipt license obtained with the exemption
13 authorized in this subsection by the commission of fraud upon
14 the issuing authority ~~is shall be deemed null and~~ void. Any
15 person who has fraudulently obtained such exemption and
16 thereafter engages, under color of the receipt license, in any
17 business, profession, or occupation requiring the business tax
18 receipt license is subject to prosecution for engaging in a
19 business, profession, or occupation without having the
20 required receipt license under the laws of the state.

21 (5) ~~If in the event~~ an area nominated as an enterprise
22 zone pursuant to s. 290.0055 has not yet been designated
23 pursuant to s. 290.0065, the governing body of a county or
24 municipality may enact the appropriate ordinance or resolution
25 authorizing the exemption permitted in this section; however,
26 such ordinance or resolution will not be effective until such
27 area is designated pursuant to s. 290.0065.

28 (6) This section expires on the date specified in s.
29 290.016 for the expiration of the Florida Enterprise Zone Act;
30 and a receipt may not no license shall be issued with the
31

1 exemption authorized in this section for any period beginning
2 on or after that date.

3 Section 16. Section 205.063, Florida Statutes, is
4 amended to read:

5 205.063 Exemptions; motor vehicles.--Vehicles used by
6 any person receipted ~~licensed~~ under this chapter for the sale
7 and delivery of tangible personal property at ~~either~~ wholesale
8 or retail from his or her place of business on which a
9 business tax license is paid ~~may shall~~ not be construed to be
10 separate places of business, and a business tax ~~no license~~ may
11 not be levied on such vehicles or the operators thereof as
12 salespersons or otherwise by a county or incorporated
13 municipality, any other law to the contrary notwithstanding.

14 Section 17. Section 205.064, Florida Statutes, is
15 amended to read:

16 205.064 Farm, aquacultural, grove, horticultural,
17 floricultural, tropical piscicultural, and tropical fish farm
18 products; certain exemptions.--

19 (1) ~~A No~~ A No local business tax receipt is not
20 ~~occupational license shall be~~ required of any natural person
21 for the privilege of engaging in the selling of farm,
22 aquacultural, grove, horticultural, floricultural, tropical
23 piscicultural, or tropical fish farm products, or products
24 manufactured therefrom, except intoxicating liquors, wine, or
25 beer, when such products were grown or produced by such
26 natural person in the state.

27 (2) A wholesale farmers' produce market ~~may shall have~~
28 ~~the right to~~ pay a tax of not more than \$200 for a receipt
29 ~~license~~ that will entitle the market's stall tenants to engage
30 in the selling of agricultural and horticultural products
31 therein, in lieu of such tenants being required to obtain

1 individual local business tax receipts ~~occupational licenses~~
2 to so engage.

3 Section 18. Section 205.065, Florida Statutes, is
4 amended to read:

5 205.065 Exemption; nonresident persons regulated by
6 the Department of Business and Professional Regulation.--If
7 any person engaging in or managing a business, profession, or
8 occupation regulated by the Department of Business and
9 Professional Regulation has paid a business ~~an occupational~~
10 ~~license~~ tax for the current year to the county or municipality
11 in the state where the person's permanent business location or
12 branch office is maintained, no other local governing
13 authority may levy a business ~~an occupational license~~ tax, or
14 any registration or regulatory fee equivalent to the business
15 ~~occupational license~~ tax, on the person for performing work or
16 services on a temporary or transitory basis in another
17 municipality or county. ~~In no event shall any~~ Work or services
18 performed in a place other than the county or municipality
19 where the permanent business location or branch office is
20 maintained may not be construed as creating a separate
21 business location or branch office of that person for the
22 purposes of this chapter. Any properly licensed contractor
23 asserting an exemption under this section who is unlawfully
24 required by the local governing authority to pay a business ~~an~~
25 ~~occupational license~~ tax, or any registration or regulatory
26 fee equivalent to a business ~~the occupational license~~ tax, has
27 ~~shall have~~ standing to challenge the propriety of the local
28 government's actions, and the prevailing party in such a
29 challenge is entitled to recover a reasonable attorney's fee.

30 Section 19. Section 205.162, Florida Statutes, is
31 amended to read:

1 205.162 Exemption allowed certain disabled persons,
2 the aged, and widows with minor dependents.--

3 (1) All disabled persons physically incapable of
4 manual labor, widows with minor dependents, and persons 65
5 years of age or older, with not more than one employee or
6 helper, and who use their own capital only, not in excess of
7 \$1,000, may ~~shall be allowed to~~ engage in any business or
8 occupation in counties in which they live without being
9 required to pay for a business tax license. The exemption
10 provided by this section shall be allowed only upon the
11 certificate of the county physician, or other reputable
12 physician, that the applicant claiming the exemption is
13 disabled, the nature and extent of the disability being
14 specified therein, and in case the exemption is claimed by a
15 widow with minor dependents, or a person over 65 years of age,
16 proof of the right to the exemption shall be made. Any person
17 entitled to the exemption provided by this section shall, upon
18 application and furnishing of the necessary proof as
19 aforesaid, be issued a receipt license which shall have
20 plainly stamped or written across the face thereof the fact
21 that it is issued under this section, and the reason for the
22 exemption shall be written thereon.

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

28 Section 20. Section 205.171, Florida Statutes, is
29 amended to read:

30 205.171 Exemptions allowed disabled veterans of any
31 war or their unremarried spouses.--

1 (1) Any bona fide, permanent resident elector of the
2 state who served as an officer or enlisted person during any
3 of the periods specified in s. 1.01(14) in the Armed Forces of
4 the United States, National Guard, or United States Coast
5 Guard or Coast Guard Reserve, or any temporary member thereof,
6 who has actually been, or may hereafter be, reassigned by the
7 air force, army, navy, coast guard, or marines to active duty
8 during any war, declared or undeclared, armed conflicts,
9 crises, etc., who was honorably discharged from the service of
10 the United States, and who at the time of his or her
11 application for a business tax receipt is license as
12 ~~hereinafter mentioned shall be~~ disabled from performing manual
13 labor shall, upon sufficient identification, proof of being a
14 permanent resident elector in the state, and production of an
15 honorable discharge from the service of the United States:
16 (a) Be granted a receipt license to engage in any
17 business or occupation in the state which may be carried on
18 mainly through the personal efforts of the receiptholder
19 ~~licensee~~ as a means of livelihood and for which the state
20 license or county or municipal receipt license does not
21 exceed the sum of \$50 for each without payment of any business
22 ~~license~~ tax otherwise provided for by law; or
23 (b) Be entitled to an exemption to the extent of \$50
24 on any receipt license to engage in any business or occupation
25 in the state which may be carried on mainly through the
26 personal efforts of the receiptholder licensee as a means of
27 livelihood when the state license or county or municipal
28 receipt license for such business or occupation ~~is shall be~~
29 more than \$50. The exemption ~~heretofore referred to~~ shall
30 extend to and include the right of the receiptholder licensee
31 to operate an automobile-for-hire of not exceeding

1 five-passenger capacity, including the driver, when it shall
2 ~~be made to appear that~~ such automobile is ~~bona fide~~ owned or
3 contracted to be purchased by the receiptholder licensee and
4 is being operated by him or her as a means of livelihood and
5 that the proper business license tax for the operation of such
6 motor vehicle for private use has been applied for and
7 attached to ~~the said~~ motor vehicle and the proper fees
8 ~~therefor~~ paid by the receiptholder licensee.

9 (2) When ~~any~~ such person applies ~~shall apply~~ for a
10 receipt license to conduct any business or occupation for
11 which ~~either~~ the county or municipal business license tax
12 ~~exceeds as fixed by law shall exceed the sum of~~ \$50, the
13 remainder of such ~~license~~ tax in excess of \$50 shall be paid
14 in cash.

15 (3) Each ~~and every~~ tax collecting authority of this
16 state and of each county ~~thereof~~ and each municipality ~~therein~~
17 shall issue to such persons as may be entitled hereunder a
18 receipt license pursuant to the foregoing provision and
19 subject to the conditions thereof. Such receipt license when
20 issued shall be marked across the face ~~thereof~~ "Veterans
21 Exempt Receipt License"--"Not Transferable." Before issuing
22 the receipt ~~same~~, proof shall be duly made ~~in each case~~ that
23 the applicant is entitled under ~~the conditions of~~ this law to
24 receive the exemption ~~herein provided for~~. The proof may be
25 made by establishing to the satisfaction of such tax
26 collecting authority by means of certificate of honorable
27 discharge or certified copy thereof that the applicant is a
28 veteran within the purview of this section and by exhibiting:

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

31

1 (b) The affidavit or testimony of a reputable
2 physician who personally knows the applicant and who makes
3 oath that the applicant is disabled from performing manual
4 labor as a means of livelihood;

5 (c) The certificate of the veteran's service officer
6 of the county in which applicant lives, duly executed under
7 the hand and seal of the chief officer and secretary thereof,
8 attesting the fact that the applicant is disabled and entitled
9 to receive a receipt license within the meaning and intent of
10 this section;

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

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

16
17 All receipts licenses issued under this section shall be in
18 the same general form as other state, county, and municipal
19 licenses and shall expire at the same time as such other
20 licenses are fixed by law to expire.

21 (4) Receipts ~~All licenses~~ obtained ~~under the~~
22 ~~provisions of this section~~ by the commission of fraud upon any
23 issuing authority are ~~shall be deemed null and void~~. Any
24 person who has fraudulently obtained a receipt ~~any such~~
25 ~~license~~, or who has fraudulently received any transfer of a
26 receipt license issued to another, and has thereafter engaged
27 in any business or occupation requiring a receipt license
28 under color thereof is ~~shall be~~ subject to prosecution ~~as~~ for
29 engaging in a business or occupation without having the
30 required receipt license under the laws of the state. Such
31 receipt may license ~~shall~~ not be issued in any county other

1 than the county where the ~~wherein said~~ veteran is a ~~bona fide~~
2 resident citizen elector, unless such veteran produces
3 ~~applying therefor shall produce to the tax collecting~~
4 ~~authority in such county~~ a certificate of the tax collector of
5 his or her home county to the effect that no exemption from
6 taxation license has been granted to such veteran in his or
7 her home county under ~~the authority of~~ this section.

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

13 (6) The unremarried spouse of a ~~the~~ deceased disabled
14 veteran of any war in which the United States Armed Forces
15 participated is ~~will be~~ entitled to the same exemptions as the
16 disabled veteran.

17 Section 21. Section 205.191, Florida Statutes, is
18 amended to read:

19 205.191 Religious tenets; exemption.--~~Nothing in~~ This
20 chapter does not ~~shall be construed to~~ require a business tax
21 receipt license for practicing the religious tenets of any
22 church.

23 Section 22. Section 205.192, Florida Statutes, is
24 amended to read:

25 205.192 Charitable, etc., organizations; occasional
26 sales, fundraising; exemption.--A business tax receipt is not
27 ~~No occupational license shall be~~ required of any charitable,
28 religious, fraternal, youth, civic, service, or other similar
29 ~~such~~ organization that ~~when the organization~~ makes occasional
30 sales or engages in fundraising projects that ~~when the~~
31 ~~projects~~ are performed exclusively by the members, ~~thereof~~ and

1 ~~when~~ the proceeds derived from the activities are used
2 exclusively in the charitable, religious, fraternal, youth,
3 civic, and service activities of the organization.

4 Section 23. Section 205.193, Florida Statutes, is
5 amended to read:

6 205.193 Mobile home setup operations; local business
7 tax receipt license prohibited; exception.--~~A~~ ~~No~~ county,
8 municipality, or other unit of local government may not
9 require a ~~duly~~ licensed mobile home dealer or a ~~duly~~ licensed
10 mobile home manufacturer, or an employee of a ~~such~~ dealer or
11 manufacturer, who performs setup operations as defined in s.
12 320.822 to be a business tax receiptholder ~~licensed~~ to engage
13 in such operations. However, such dealer or manufacturer must
14 ~~shall be required to~~ obtain a local receipt occupational
15 ~~license~~ for his or her permanent business location or branch
16 office, which receipt license shall not require for its
17 issuance any conditions other than those required by chapter
18 320.

19 Section 24. Section 205.194, Florida Statutes, is
20 amended to read:

21 205.194 Prohibition of local business tax receipt
22 ~~occupational licensure~~ without exhibition of state license or
23 registration.--

24 (1) Any person applying for or renewing a local
25 business tax receipt occupational license for the ~~licensing~~
26 period beginning October 1, 1985, to practice any profession
27 regulated by the Department of Business and Professional
28 Regulation, or any board or commission thereof, must exhibit
29 an active state certificate, registration, or license, or
30 proof of copy of the same, before such local receipt
31 ~~occupational license~~ may be issued. Thereafter, only persons

1 applying for the first time for a receipt ~~local occupational~~
2 ~~license~~ must exhibit such certification, registration, or
3 license.

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

15 (3) This section shall not apply to s. 489.113, s.
16 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
17 489.521, or s. 489.537.

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

20 205.196 Pharmacies and pharmacists.--~~A~~ ~~No~~ state,
21 county, or municipal licensing agency may not ~~shall~~ issue a
22 business tax receipt ~~an occupational license~~ to operate a
23 pharmacy unless the applicant produces ~~shall first exhibit~~ a
24 current permit issued by the Board of Pharmacy; however, no
25 such receipt is ~~occupational license shall be~~ required in
26 ~~order~~ to practice the profession of pharmacy.

27 Section 26. Section 205.1965, Florida Statutes, is
28 amended to read:

29 205.1965 Assisted living facilities.--A county or
30 municipality may not issue a business tax receipt ~~an~~
31 ~~occupational license~~ for the operation of an assisted living

1 facility pursuant to part III of chapter 400 without first
2 ascertaining that the applicant has been licensed by the
3 Agency for Health Care Administration to operate such facility
4 at the specified location or locations. The Agency for Health
5 Care Administration shall furnish to local agencies
6 responsible for issuing business tax receipts ~~occupational~~
7 ~~licenses~~ sufficient instructions for making the ~~above~~ required
8 determinations.

9 Section 27. Section 205.1967, Florida Statutes, is
10 amended to read:

11 205.1967 Prerequisite for issuance of pest control
12 business tax receipt ~~occupational license~~.--A municipality or
13 county may not issue a business tax receipt ~~an occupational~~
14 ~~license~~ to any pest control business regulated ~~coming~~ under
15 chapter 482, unless a current license has been procured from
16 the Department of Agriculture and Consumer Services for each
17 of its business locations in that municipality or county. Upon
18 presentation of the requisite licenses from the department and
19 the required fee, a business tax receipt ~~an occupational~~
20 ~~license~~ shall be issued by the municipality or county in which
21 application is made.

22 Section 28. Section 205.1969, Florida Statutes, is
23 amended to read:

24 205.1969 Health studios; consumer protection.--~~A No~~
25 county or municipality may not shall issue or renew a business
26 tax receipt ~~an occupational license~~ for the operation of a
27 health studio pursuant to ss. 501.012-501.019 or ballroom
28 dance studio pursuant to s. 501.143, unless such business
29 exhibits a current license, registration, or letter of
30 exemption from the Department of Agriculture and Consumer
31 Services.

1 Section 29. Section 205.1971, Florida Statutes, is
2 amended to read:

3 205.1971 Sellers of travel; consumer protection.--~~A No~~
4 county or municipality may not ~~shall~~ issue or renew a business
5 tax receipt ~~an occupational license~~ to engage in business as a
6 seller of travel pursuant to part XI of chapter 559 unless
7 such business exhibits a current registration or letter of
8 exemption from the Department of Agriculture and Consumer
9 Services.

10 Section 30. Section 205.1973, Florida Statutes, is
11 amended to read:

12 205.1973 Telemarketing businesses; consumer
13 protection.--A county or municipality may not issue or renew a
14 business tax receipt ~~an occupational license~~ for the operation
15 of a telemarketing business under ss. 501.604 and 501.608,
16 unless such business exhibits a current license or
17 registration from the Department of Agriculture and Consumer
18 Services or a current affidavit of exemption.

19 Section 31. This act shall take effect January 1,
20 2007.

21
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 Senate Bill 2218

25 The CS incorporates whereas clauses in the bill and changes
26 references from business tax "certificate" to business tax
27 "receipt" in order to clarify that a person who pays
28 occupational business taxes receives only a receipt for
29 payment, not a certificate. The CS also changes the effective
30 date of the bill from July 1, 2006 to January 1, 2007.
31