

1 A bill to be entitled
2 An act relating to local business taxes; amending s.
3 205.022, F.S.; defining the term "independent contractor";
4 creating s. 205.066, F.S.; exempting an individual
5 engaging in or managing a business as an employee from
6 requirements related to local business taxes; specifying
7 that an individual licensed and operating as a broker
8 associate or sales associate is an employee; specifying
9 that an independent contractor is not an employee;
10 prohibiting a local governing authority from holding an
11 exempt employee liable for the failure of a principal or
12 employer to comply with certain obligations related to a
13 local business tax or requiring an exempt employee to take
14 certain actions related to a local business tax;
15 prohibiting a local governing authority from requiring a
16 principal or employer to provide personal or contact
17 information for exempt individuals in order to obtain a
18 local business tax receipt; providing that the exemption
19 does not apply to a business tax imposed on individual
20 employees by a municipality or county pursuant to a
21 resolution or ordinance adopted before October 13, 2010;
22 amending s. 205.194, F.S.; deleting obsolete language;
23 requiring a person applying for or renewing a local
24 business tax receipt to engage in or manage a business or
25 occupation regulated by the Florida Supreme Court or a
26 state agency to exhibit certain documentation before such
27 receipt may be issued; authorizing online renewals as a
28 means of providing electronic certifications that meet

29 such requirement; deleting a requirement that the
 30 Department of Business and Professional Regulation provide
 31 certain professional regulation information to local
 32 officials who issue business tax receipts; deleting a
 33 provision prohibiting a local official who issues business
 34 tax receipts from renewing a license under certain
 35 circumstances; providing for retroactive application;
 36 providing an effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

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 40 Section 1. Subsection (9) is added to section 205.022,
 41 Florida Statutes, to read:

42 205.022 Definitions.—When used in this chapter, the
 43 following terms and phrases shall have the meanings ascribed to
 44 them in this section, except when the context clearly indicates
 45 a different meaning:

46 (9) "Independent contractor" has the same meaning as
 47 provided in s. 440.02(15)(d)1.a. and b.

48 Section 2. Section 205.066, Florida Statutes, is created
 49 to read:

50 205.066 Exemptions; employees.—

51 (1) An individual who engages in or manages a business,
 52 profession, or occupation as an employee of another person is
 53 not required to apply for an exemption from a local business
 54 tax, pay a local business tax, or obtain a local business tax
 55 receipt. For purposes of this section, an individual licensed
 56 and operating as a broker associate or sales associate under

57 chapter 475 is an employee. An individual acting in the capacity
 58 of an independent contractor is not an employee.

59 (2) An employee may not be held liable by any local
 60 governing authority for the failure of a principal or employer
 61 to apply for an exemption from a local business tax, pay a local
 62 business tax, or obtain a local business tax receipt. An
 63 individual exempt under this section may not be required by any
 64 local governing authority to apply for an exemption from a local
 65 business tax, otherwise prove his or her exempt status, or pay
 66 any tax or fee related to a local business tax.

67 (3) A principal or employer who is required to obtain a
 68 local business tax receipt may not be required by a local
 69 governing authority to provide personal or contact information
 70 for individuals exempt under this section in order to obtain a
 71 local business tax receipt.

72 (4) The exemption provided in this section does not apply
 73 to a business tax imposed on individual employees by a
 74 municipality or county pursuant to a resolution or ordinance
 75 adopted before October 13, 2010. Municipalities or counties
 76 that, before October 13, 2010, had a classification system that
 77 was in compliance with the requirements of this chapter and that
 78 actually resulted in individual employees paying a business tax
 79 may continue to impose such a tax in that manner.

80 Section 3. Section 205.194, Florida Statutes, is amended
 81 to read:

82 205.194 Prohibition of local business tax receipt without
 83 exhibition of state license or registration.—

84 (1) Any person applying for or renewing a local business

85 | tax receipt ~~for the period beginning October 1, 1985,~~ to
 86 | practice any profession or engage in or manage any business or
 87 | occupation regulated by the Department of Business and
 88 | Professional Regulation, the Florida Supreme Court, or any other
 89 | state regulatory agency, including ~~or~~ any board or commission
 90 | thereof, must exhibit an active state certificate, registration,
 91 | or license, or proof of copy of the same, before such local
 92 | receipt may be issued. Online renewals may provide for
 93 | electronic certification by an applicant to meet this
 94 | requirement. ~~Thereafter, only persons applying for the first~~
 95 | ~~time for a receipt must exhibit such certification,~~
 96 | ~~registration, or license.~~

97 | ~~(2) The Department of Business and Professional Regulation~~
 98 | ~~shall, by August 1 of each year, supply to the local official~~
 99 | ~~who issues local business tax receipts a current list of~~
 100 | ~~professions it regulates and information regarding those persons~~
 101 | ~~for whom receipts should not be renewed due to the suspension,~~
 102 | ~~revocation, or inactivation of such person's state license,~~
 103 | ~~certificate, or registration. The official who issues local~~
 104 | ~~business tax receipts shall not renew such license unless such~~
 105 | ~~person can exhibit an active state certificate, registration, or~~
 106 | ~~license.~~

107 | ~~(2)(3)~~ This section shall not apply to s. 489.113, s.
 108 | 489.117, s. 489.119, s. 489.131, s. 489.511, s. 489.513, s.
 109 | 489.521, or s. 489.537.

110 | Section 4. This act shall take effect July 1, 2011, except
 111 | that section 2 of this act shall operate retroactively to
 112 | October 13, 2010.