

ENROLLED  
CS/CS/CS/HB 311

2011 Legislature

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

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0311-04-er

ENROLLED  
CS/CS/CS/HB 311

2011 Legislature

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:

39  
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

ENROLLED  
CS/CS/CS/HB 311

2011 Legislature

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

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CS/CS/CS/HB 311

2011 Legislature

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.