

1 A bill to be entitled
 2 An act relating to local business taxes; repealing ch.
 3 205, F.S., which established the Local Business Tax Act;
 4 amending ss. 202.24, 213.0535, 213.756, 290.0057, 376.84,
 5 379.3761, 482.071, 482.242, 489.127, 489.128, 489.131,
 6 489.532, 489.537, 500.511, 501.016, 501.143, 501.160, and
 7 559.939, F.S.; conforming references and cross-references;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Chapter 205, Florida Statutes, consisting of
 13 sections 205.013, 205.022, 205.023, 205.0315, 205.032, 205.033,
 14 205.042, 205.043, 205.045, 205.053, 205.0532, 205.0535,
 15 205.0536, 205.0537, 205.054, 205.063, 205.064, 205.065, 205.162,
 16 205.171, 205.191, 205.192, 205.193, 205.194, 205.196, 205.1965,
 17 205.1967, 205.1969, 205.1971, 205.1973, and 205.1975, is
 18 repealed.

19 Section 2. Paragraph (c) of subsection (2) of section
 20 202.24, Florida Statutes, is amended to read:

21 202.24 Limitations on local taxes and fees imposed on
 22 dealers of communications services.—

23 (2)

24 (c) This subsection does not apply to:

25 1. Local communications services taxes levied under this
 26 chapter.

27 2. Ad valorem taxes levied pursuant to chapter 200.

28 ~~3. Business taxes levied under chapter 205.~~

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29 ~~3.4.~~ "911" service charges levied under chapter 365.

30 ~~4.5.~~ Amounts charged for the rental or other use of
31 property owned by a public body which is not in the public
32 rights-of-way to a dealer of communications services for any
33 purpose, including, but not limited to, the placement or
34 attachment of equipment used in the provision of communications
35 services.

36 ~~5.6.~~ Permit fees of general applicability which are not
37 related to placing or maintaining facilities in or on public
38 roads or rights-of-way.

39 ~~6.7.~~ Permit fees related to placing or maintaining
40 facilities in or on public roads or rights-of-way pursuant to s.
41 337.401.

42 ~~7.8.~~ Any in-kind requirements, institutional networks, or
43 contributions for, or in support of, the use or construction of
44 public, educational, or governmental access facilities allowed
45 under federal law and imposed on providers of cable or video
46 service pursuant to any existing ordinance or an existing
47 franchise agreement granted by each municipality or county,
48 under which ordinance or franchise agreement service is provided
49 prior to July 1, 2007, or as permitted under chapter 610.
50 Nothing in this subparagraph shall prohibit the ability of
51 providers of cable or video service to recover such expenses as
52 allowed under federal law.

53 ~~8.9.~~ Special assessments and impact fees.

54 ~~9.10.~~ Pole attachment fees that are charged by a local
55 government for attachments to utility poles owned by the local
56 government.

57 | 10.11. Utility service fees or other similar user fees for
58 | utility services.

59 | 11.12. Any other generally applicable tax, fee, charge, or
60 | imposition authorized by general law on July 1, 2000, which is
61 | not specifically prohibited by this subsection or included as a
62 | replaced revenue source in s. 202.20.

63 | Section 3. Paragraph (a) of subsection (4) of section
64 | 213.0535, Florida Statutes, is amended to read:

65 | 213.0535 Registration Information Sharing and Exchange
66 | Program.—

67 | (4) There are two levels of participation:

68 | (a) Each unit of state or local government responsible for
69 | administering one or more of the provisions specified in
70 | subparagraphs 1.-8. is a level-one participant. Level-one
71 | participants shall exchange, monthly or quarterly, as determined
72 | jointly by each participant and the department, the data
73 | enumerated in subsection (2) for each new registrant, new filer,
74 | or initial reporter, permittee, or licensee, with respect to the
75 | following taxes, licenses, or permits:

- 76 | 1. The sales and use tax imposed under chapter 212.
- 77 | 2. The tourist development tax imposed under s. 125.0104.
- 78 | 3. The tourist impact tax imposed under s. 125.0108.
- 79 | ~~4. Local business taxes imposed under chapter 205.~~
- 80 | 4.5. Convention development taxes imposed under s.
81 | 212.0305.
- 82 | 5.6. Public lodging and food service establishment
83 | licenses issued pursuant to chapter 509.
- 84 | 6.7. Beverage law licenses issued pursuant to chapter 561.

85 7.8. A municipal resort tax as authorized under chapter
86 67-930, Laws of Florida.

87 Section 4. Paragraph (b) of subsection (2) of section
88 213.756, Florida Statutes, is amended to read:

89 213.756 Funds collected are state tax funds.—

90 (2)

91 (b) This subsection applies to those taxes enumerated in
92 s. 72.011, excluding chapter 202 ~~and that portion of chapter 203~~
93 ~~collected thereunder~~, and also applies to taxes imposed under
94 chapter 205.

95 Section 5. Paragraph (e) of subsection (1) of section
96 290.0057, Florida Statutes, is amended to read:

97 290.0057 Enterprise zone development plan.—

98 (1) Any application for designation as a new enterprise
99 zone must be accompanied by a strategic plan adopted by the
100 governing body of the municipality or county, or the governing
101 bodies of the county and one or more municipalities together. At
102 a minimum, the plan must:

103 (e) Commit the governing body or bodies to enact and
104 maintain local fiscal and regulatory incentives, if approval for
105 the area is received under s. 290.0065. These incentives may
106 include the municipal public service tax exemption provided by
107 s. 166.231, the economic development ad valorem tax exemption
108 provided by s. 196.1995, ~~the business tax exemption provided by~~
109 ~~s. 205.054~~, local impact fee abatement or reduction, or low-
110 interest or interest-free loans or grants to businesses to
111 encourage the revitalization of the nominated area.

112 Section 6. Paragraphs (e) through (o) of subsection (1) of

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113 section 376.84, Florida Statutes, are redesignated as paragraphs
 114 (d) through (n), respectively, and present paragraph (d) of that
 115 subsection is amended to read:

116 376.84 Brownfield redevelopment economic incentives.—It is
 117 the intent of the Legislature that brownfield redevelopment
 118 activities be viewed as opportunities to significantly improve
 119 the utilization, general condition, and appearance of these
 120 sites. Different standards than those in place for new
 121 development, as allowed under current state and local laws,
 122 should be used to the fullest extent to encourage the
 123 redevelopment of a brownfield. State and local governments are
 124 encouraged to offer redevelopment incentives for this purpose,
 125 as an ongoing public investment in infrastructure and services,
 126 to help eliminate the public health and environmental hazards,
 127 and to promote the creation of jobs in these areas. Such
 128 incentives may include financial, regulatory, and technical
 129 assistance to persons and businesses involved in the
 130 redevelopment of the brownfield pursuant to this act.

131 (1) Financial incentives and local incentives for
 132 redevelopment may include, but not be limited to:

133 ~~(d) Waiver, reduction, or limitation by line of business~~
 134 ~~with respect to business taxes pursuant to chapter 205.~~

135 Section 7. Subsections (5) and (6) of section 379.3761,
 136 Florida Statutes, are renumbered as subsections (4) and (5),
 137 respectively, and present subsection (4) of that section is
 138 amended to read:

139 379.3761 Exhibition or sale of wildlife; fees;
 140 classifications.—

141 ~~(4) The provisions of this section relative to licensing~~
 142 ~~for exhibition do not apply to any municipal, county, state, or~~
 143 ~~other publicly owned wildlife exhibit or any traveling zoo,~~
 144 ~~circus, or exhibit licensed under chapter 205.~~

145 Section 8. Subsection (5) of section 482.071, Florida
 146 Statutes, is amended to read:

147 482.071 Licenses.—

148 ~~(5) A license under this section is a prerequisite for the~~
 149 ~~issuance of a local occupational license to engage in pest~~
 150 ~~control, as provided in s. 205.1967.~~

151 Section 9. Paragraphs (b) through (g) of subsection (1) of
 152 section 482.242, Florida Statutes, are redesignated as
 153 paragraphs (a) through (f), respectively, and present paragraph
 154 (a) of that subsection is amended to read:

155 482.242 Preemption.—

156 (1) This chapter is intended as comprehensive and
 157 exclusive regulation of pest control in this state. The
 158 provisions of this chapter preempt to the state all regulation
 159 of the activities and operations of pest control services,
 160 including the pesticides used pursuant to labeling and
 161 registration approved under part I of chapter 487. No local
 162 government or political subdivision of the state may enact or
 163 enforce an ordinance that regulates pest control, except that
 164 the preemption in this section does not prohibit a local
 165 government or political subdivision from enacting an ordinance
 166 regarding any of the following:

167 ~~(a) Local business taxes adopted pursuant to chapter 205.~~

168 Section 10. Subsection (1) of section 489.127, Florida

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169 Statutes, is amended to read:
 170 489.127 Prohibitions; penalties.—
 171 (1) No person shall:
 172 (a) Falsely hold himself or herself or a business
 173 organization out as a licensee, certificateholder, or
 174 registrant;
 175 (b) Falsely impersonate a certificateholder or registrant;
 176 (c) Present as his or her own the certificate or
 177 registration of another;
 178 (d) Knowingly give false or forged evidence to the board
 179 or a member thereof;
 180 (e) Use or attempt to use a certificate or registration
 181 that has been suspended or revoked;
 182 (f) Engage in the business or act in the capacity of a
 183 contractor or advertise himself or herself or a business
 184 organization as available to engage in the business or act in
 185 the capacity of a contractor without being duly registered or
 186 certified;
 187 (g) Operate a business organization engaged in contracting
 188 after 60 days following the termination of its only qualifying
 189 agent without designating another primary qualifying agent,
 190 except as provided in ss. 489.119 and 489.1195;
 191 (h) Commence or perform work for which a building permit
 192 is required pursuant to part IV of chapter 553 without such
 193 building permit being in effect; or
 194 (i) Willfully or deliberately disregard or violate any
 195 municipal or county ordinance relating to uncertified or
 196 unregistered contractors.

197
 198 For purposes of this subsection, a person or business
 199 organization operating on an inactive or suspended certificate
 200 or registration is not duly certified or registered and is
 201 considered unlicensed. ~~A business tax receipt issued under the~~
 202 ~~authority of chapter 205 is not a license for purposes of this~~
 203 ~~part.~~

204 Section 11. Paragraph (c) of subsection (1) of section
 205 489.128, Florida Statutes, is redesignated as paragraph (b) and
 206 present paragraph (b) of that subsection is amended to read:

207 489.128 Contracts entered into by unlicensed contractors
 208 unenforceable.—

209 (1) As a matter of public policy, contracts entered into
 210 on or after October 1, 1990, by an unlicensed contractor shall
 211 be unenforceable in law or in equity by the unlicensed
 212 contractor.

213 ~~(b) For purposes of this section, an individual or~~
 214 ~~business organization may not be considered unlicensed for~~
 215 ~~failing to have a business tax receipt issued under the~~
 216 ~~authority of chapter 205.~~

217 Section 12. Paragraph (c) of subsection (3) of section
 218 489.131, Florida Statutes, is amended to read:

219 489.131 Applicability.—

220 (3) Nothing in this part limits the power of a
 221 municipality or county:

222 (c) To collect ~~business taxes, subject to s. 205.065, and~~
 223 inspection fees for engaging in contracting or examination fees
 224 from persons who are registered with the board pursuant to local

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225 examination requirements and ~~issue business tax receipts.~~
 226 ~~However, nothing in this part shall be construed to require~~
 227 ~~general contractors, building contractors, or residential~~
 228 ~~contractors to obtain additional business tax receipts for~~
 229 ~~specialty work when such specialty work is performed by~~
 230 ~~employees of such contractors on projects for which they have~~
 231 ~~substantially full responsibility and such contractors do not~~
 232 ~~hold themselves out to the public as being specialty~~
 233 ~~contractors.~~

234 Section 13. Paragraph (c) of subsection (1) of section
 235 489.532, Florida Statutes, is redesignated as paragraph (b) and
 236 present paragraph (b) of that subsection is amended to read:

237 489.532 Contracts entered into by unlicensed contractors
 238 unenforceable.—

239 (1) As a matter of public policy, contracts entered into
 240 on or after October 1, 1990, by an unlicensed contractor shall
 241 be unenforceable in law or in equity by the unlicensed
 242 contractor.

243 ~~(b) For purposes of this section, an individual or~~
 244 ~~business organization shall not be considered unlicensed for~~
 245 ~~failing to have a business tax receipt issued under the~~
 246 ~~authority of chapter 205.~~

247 Section 14. Subsection (9) of section 489.537, Florida
 248 Statutes, is renumbered as subsection (8) and present subsection
 249 (8) of that section is amended to read:

250 489.537 Application of this part.—

251 ~~(8) Persons licensed under this part are subject to ss.~~
 252 ~~205.0535(1) and 205.065, as applicable.~~

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253 Section 15. Subsection (3) of section 500.511, Florida
 254 Statutes, is amended to read:

255 500.511 Fees; enforcement; preemption.—

256 (3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of
 257 bottled water plants, water vending machines, water vending
 258 machine operators, and packaged ice plants is preempted by the
 259 state. No county or municipality may adopt or enforce any
 260 ordinance that regulates the licensure or operation of bottled
 261 water plants, water vending machines, or packaged ice plants,
 262 unless it is determined that unique conditions exist within the
 263 county which require the county to regulate such entities in
 264 order to protect the public health. ~~This subsection does not~~
 265 ~~prohibit a county or municipality from requiring a business tax~~
 266 ~~pursuant to chapter 205.~~

267 Section 16. Subsection (1) of section 501.016, Florida
 268 Statutes, is amended to read:

269 501.016 Health studios; security requirements.—Each health
 270 studio that sells contracts for health studio services shall
 271 meet the following requirements:

272 (1) Each health studio shall maintain for each separate
 273 business location a bond issued by a surety company admitted to
 274 do business in this state. The principal sum of the bond shall
 275 be \$50,000, ~~and the bond, when required, shall be obtained~~
 276 ~~before a business tax receipt may be issued under chapter 205.~~
 277 ~~Upon issuance of a business tax receipt, the licensing authority~~
 278 ~~shall immediately notify the department of such issuance in a~~
 279 ~~manner established by the department by rule.~~ The bond shall be
 280 in favor of the state for the benefit of any person injured as a

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281 result of a violation of ss. 501.012-501.019. The aggregate
 282 liability of the surety to all persons for all breaches of the
 283 conditions of the bonds provided herein shall in no event exceed
 284 the amount of the bond. The original surety bond required by
 285 this section shall be filed with the department.

286 Section 17. Paragraphs (c) through (f) of subsection (3)
 287 of section 501.143, Florida Statutes, are redesignated as
 288 paragraphs (b) through (e), respectively, and present paragraph
 289 (b) of that subsection is amended to read:

290 501.143 Dance Studio Act.—

291 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

292 ~~(b) Any person applying for or renewing a local business~~
 293 ~~tax receipt to engage in business as a ballroom dance studio~~
 294 ~~must exhibit an active registration certificate from the~~
 295 ~~department before the local business tax receipt may be issued~~
 296 ~~or reissued under chapter 205.~~

297 Section 18. Subsection (9) of section 501.160, Florida
 298 Statutes, is amended to read:

299 501.160 Rental or sale of essential commodities during a
 300 declared state of emergency; prohibition against unconscionable
 301 prices.—

302 (9) Upon a declaration of a state of emergency by the
 303 Governor, ~~in order to protect the health, safety, and welfare of~~
 304 ~~residents, any person who offers goods and services for sale to~~
 305 ~~the public during the duration of the emergency and who does not~~
 306 ~~possess a business tax receipt under s. 205.032 or s. 205.042~~
 307 ~~commits a misdemeanor of the second degree, punishable as~~
 308 ~~provided in s. 775.082 or s. 775.083. During a declared~~

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309 ~~emergency, this subsection does not apply to religious,~~
 310 ~~charitable, fraternal, civic, educational, or social~~
 311 ~~organizations. During a declared emergency and~~ when there is an
 312 allegation of price gouging against the person, failure to
 313 possess a license constitutes reasonable cause to detain the
 314 person, provided that the detention shall only be made in a
 315 reasonable manner and only for a reasonable period of time
 316 sufficient for an inquiry into the circumstances surrounding the
 317 failure to possess a license.

318 Section 19. Section 559.939, Florida Statutes, is amended
 319 to read:

320 559.939 State preemption.—No municipality ~~or county~~ or
 321 other political subdivision of this state shall have authority
 322 to levy or collect any registration fee or tax, as a regulatory
 323 measure, or to require the registration or bonding in any manner
 324 of any seller of travel who is registered or complies with all
 325 applicable provisions of this part, unless that authority is
 326 provided for by special or general act of the Legislature. Any
 327 ordinance, resolution, or regulation of any municipality ~~or~~
 328 ~~county~~ or other political subdivision of this state which is in
 329 conflict with any provision of this part is preempted by this
 330 part. ~~The provisions of this section do not apply to any local~~
 331 ~~business tax levied pursuant to chapter 205.~~

332 Section 20. This act shall take effect July 1, 2011.