

By Senator Hays

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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  
 4           Act; amending ss. 202.24, 213.0535, 213.756, 290.0057,  
 5           337.401, 376.84, 379.3761, 482.071, 482.242, 489.119,  
 6           489.127, 489.128, 489.131, 489.516, 489.521, 489.5315,  
 7           489.532, 489.533, 489.537, 500.511, 501.016, 501.143,  
 8           501.160, 507.13, 539.001, and 559.939, F.S.;  
 9           conforming references and cross-references; providing  
 10          an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Chapter 205, Florida Statutes, consisting of  
 15 sections 205.013, 205.022, 205.023, 205.0315, 205.032, 205.033,  
 16 205.042, 205.043, 205.045, 205.053, 205.0532, 205.0535,  
 17 205.0536, 205.0537, 205.054, 205.063, 205.064, 205.065, 205.066,  
 18 205.162, 205.171, 205.191, 205.192, 205.193, 205.194, 205.196,  
 19 205.1965, 205.1967, 205.1969, 205.1971, 205.1973, and 205.1975,  
 20 is repealed.

21           Section 2. Paragraph (c) of subsection (2) of section  
 22 202.24, Florida Statutes, is amended to read:

23           202.24 Limitations on local taxes and fees imposed on  
 24 dealers of communications services.—

25           (2)

26           (c) This subsection does not apply to:

27           1. Local communications services taxes levied under this  
 28 chapter.

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

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

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

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

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

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

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

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

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

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59        10.11. Utility service fees or other similar user fees for  
60 utility services.

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

65        Section 3. Paragraph (a) of subsection (4) of section  
66 213.0535, Florida Statutes, is amended to read:

67        213.0535 Registration Information Sharing and Exchange  
68 Program.—

69        (4) There are two levels of participation:

70        (a) Each unit of state or local government responsible for  
71 administering one or more of the provisions specified in  
72 subparagraphs 1.-7. ~~1.-8.~~ is a level-one participant. Level-one  
73 participants shall exchange, monthly or quarterly, as determined  
74 jointly by each participant and the department, the data  
75 enumerated in subsection (2) for each new registrant, new filer,  
76 or initial reporter, permittee, or licensee, with respect to the  
77 following taxes, licenses, or permits:

78        1. The sales and use tax imposed under chapter 212.

79        2. The tourist development tax imposed under s. 125.0104.

80        3. The tourist impact tax imposed under s. 125.0108.

81        ~~4. Local business taxes imposed under chapter 205.~~

82        4.5. Convention development taxes imposed under s.  
83 212.0305.

84        5.6. Public lodging and food service establishment licenses  
85 issued pursuant to chapter 509.

86        6.7. Beverage law licenses issued pursuant to chapter 561.

87        7.8. A municipal resort tax as authorized under chapter 67-

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88 930, Laws of Florida.

89 Section 4. Paragraph (b) of subsection (2) of section  
90 213.756, Florida Statutes, is amended to read:

91 213.756 Funds collected are state tax funds.—

92 (2)

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

97 Section 5. Paragraph (e) of subsection (1) of section  
98 290.0057, Florida Statutes, is amended to read:

99 290.0057 Enterprise zone development plan.—

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

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

114 Section 6. Paragraph (f) of subsection (3) of section  
115 337.401, Florida Statutes, is amended to read:

116 337.401 Use of right-of-way for utilities subject to

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117 regulation; permit; fees.—

118 (3)

119 (f) Except as expressly allowed or authorized by general  
120 law and except for the rights-of-way permit fees subject to  
121 paragraph (c), a municipality or county may not levy on a  
122 provider of communications services a tax, fee, or other charge  
123 or imposition for operating as a provider of communications  
124 services within the jurisdiction of the municipality or county  
125 which is in any way related to using its roads or rights-of-way.  
126 A municipality or county may not require or solicit in-kind  
127 compensation, except as otherwise provided in s. 202.24(2)(c)7.  
128 ~~s. 202.24(2)(c)8.~~ or s. 610.109. Nothing in this paragraph shall  
129 impair any ordinance or agreement in effect on May 22, 1998, or  
130 any voluntary agreement entered into subsequent to that date,  
131 which provides for or allows in-kind compensation by a  
132 telecommunications company.

133 Section 7. Paragraphs (e) through (o) of subsection (1) of  
134 section 376.84, Florida Statutes, are redesignated as paragraphs  
135 (d) through (n), respectively, and present paragraph (d) of that  
136 subsection is amended to read:

137 376.84 Brownfield redevelopment economic incentives.—It is  
138 the intent of the Legislature that brownfield redevelopment  
139 activities be viewed as opportunities to significantly improve  
140 the utilization, general condition, and appearance of these  
141 sites. Different standards than those in place for new  
142 development, as allowed under current state and local laws,  
143 should be used to the fullest extent to encourage the  
144 redevelopment of a brownfield. State and local governments are  
145 encouraged to offer redevelopment incentives for this purpose,

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146 as an ongoing public investment in infrastructure and services,  
147 to help eliminate the public health and environmental hazards,  
148 and to promote the creation of jobs in these areas. Such  
149 incentives may include financial, regulatory, and technical  
150 assistance to persons and businesses involved in the  
151 redevelopment of the brownfield pursuant to this act.

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

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

156 Section 8. Subsections (5) and (6) of section 379.3761,  
157 Florida Statutes, are renumbered as subsections (4) and (5),  
158 respectively, and present subsection (4) of that section is  
159 amended to read:

160 379.3761 Exhibition or sale of wildlife; fees;  
161 classifications.-

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

166 Section 9. Subsection (5) of section 482.071, Florida  
167 Statutes, is amended to read:

168 482.071 Licenses.-

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

172 Section 10. Paragraphs (b) through (g) of subsection (1) of  
173 section 482.242, Florida Statutes, are redesignated as  
174 paragraphs (a) through (f), respectively, and present paragraph

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175 (a) of that subsection is amended to read:

176 482.242 Preemption.—

177 (1) This chapter is intended as comprehensive and exclusive  
178 regulation of pest control in this state. The provisions of this  
179 chapter preempt to the state all regulation of the activities  
180 and operations of pest control services, including the  
181 pesticides used pursuant to labeling and registration approved  
182 under part I of chapter 487. No local government or political  
183 subdivision of the state may enact or enforce an ordinance that  
184 regulates pest control, except that the preemption in this  
185 section does not prohibit a local government or political  
186 subdivision from enacting an ordinance regarding any of the  
187 following:

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

189 Section 11. Subsections (5), (6), and (7) of section  
190 489.119, Florida Statutes, are renumbered as subsections (4),  
191 (5), and (6), respectively, and present subsection (4) of that  
192 section is amended to read:

193 489.119 Business organizations; qualifying agents.—

194 ~~(4) When a certified qualifying agent, on behalf of a  
195 business organization, makes application for a business tax  
196 receipt in any municipality or county of this state, the  
197 application shall be made with the tax collector in the name of  
198 the business organization and the qualifying agent; and the  
199 license, when issued, shall be issued to the business  
200 organization, upon payment of the appropriate licensing fee and  
201 exhibition to the tax collector of a valid certificate for the  
202 qualifying agent issued by the department, and the state license  
203 numbers shall be noted thereon.~~

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204 Section 12. Subsection (1) of section 489.127, Florida  
205 Statutes, is amended to read:

206 489.127 Prohibitions; penalties.—

207 (1) No person shall:

208 (a) Falsely hold himself or herself or a business  
209 organization out as a licensee, certificateholder, or  
210 registrant;

211 (b) Falsely impersonate a certificateholder or registrant;

212 (c) Present as his or her own the certificate or  
213 registration of another;

214 (d) Knowingly give false or forged evidence to the board or  
215 a member thereof;

216 (e) Use or attempt to use a certificate or registration  
217 that has been suspended or revoked;

218 (f) Engage in the business or act in the capacity of a  
219 contractor or advertise himself or herself or a business  
220 organization as available to engage in the business or act in  
221 the capacity of a contractor without being duly registered or  
222 certified;

223 (g) Operate a business organization engaged in contracting  
224 after 60 days following the termination of its only qualifying  
225 agent without designating another primary qualifying agent,  
226 except as provided in ss. 489.119 and 489.1195;

227 (h) Commence or perform work for which a building permit is  
228 required pursuant to part IV of chapter 553 without such  
229 building permit being in effect; or

230 (i) Willfully or deliberately disregard or violate any  
231 municipal or county ordinance relating to uncertified or  
232 unregistered contractors.



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234 For purposes of this subsection, a person or business  
235 organization operating on an inactive or suspended certificate  
236 or registration is not duly certified or registered and is  
237 considered unlicensed. ~~A business tax receipt issued under the~~  
238 ~~authority of chapter 205 is not a license for purposes of this~~  
239 ~~part.~~

240 Section 13. Paragraph (c) of subsection (1) of section  
241 489.128, Florida Statutes, is redesignated as paragraph (b), and  
242 present paragraph (b) of that subsection is amended to read:

243 489.128 Contracts entered into by unlicensed contractors  
244 unenforceable.—

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

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

252 Section 14. Paragraph (c) of subsection (3) of section  
253 489.131, Florida Statutes, is amended to read:

254 489.131 Applicability.—

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

257 (c) To collect ~~business taxes, subject to s. 205.065, and~~  
258 inspection fees for engaging in contracting or examination fees  
259 from persons who are registered with the board pursuant to local  
260 examination requirements ~~and issue business tax receipts.~~  
261 ~~However, nothing in this part shall be construed to require~~

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262 ~~general contractors, building contractors, or residential~~  
263 ~~contractors to obtain additional business tax receipts for~~  
264 ~~specialty work when such specialty work is performed by~~  
265 ~~employees of such contractors on projects for which they have~~  
266 ~~substantially full responsibility and such contractors do not~~  
267 ~~hold themselves out to the public as being specialty~~  
268 ~~contractors.~~

269 Section 15. Subsection (3) of section 489.516, Florida  
270 Statutes, is amended to read:

271 489.516 Qualifications to practice; restrictions;  
272 prerequisites.-

273 (3) When a certificateholder desires to engage in  
274 contracting in any area of the state, as a prerequisite  
275 therefor, he or she shall only be required to exhibit to the  
276 local building official, tax collector, or other authorized  
277 person in charge of the issuance of licenses and building or  
278 electrical permits in the area evidence of holding a current  
279 certificate ~~and a current business tax receipt issued by the~~  
280 ~~jurisdiction in which the certificateholder's principal place of~~  
281 ~~business is located~~ and having paid the fee for the permit  
282 required of other persons. However, a local construction  
283 regulation board may deny the issuance of an electrical permit  
284 to a certified contractor, or issue a permit with specific  
285 conditions, if the local construction regulation board has found  
286 such contractor, through the public hearing process, to be  
287 guilty of fraud or a willful building code violation within the  
288 county or municipality that the local construction regulation  
289 board represents, or if the local construction regulation board  
290 has proof that such contractor, through the public hearing

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291 process, has been found guilty, in another county or  
292 municipality within the past 12 months, of fraud or a willful  
293 building code violation and finds, after providing notice to the  
294 contractor, that such fraud or violation would have been fraud  
295 or a violation if committed in the county or municipality that  
296 the local construction board represents. Notification of and  
297 information concerning such permit denial shall be submitted to  
298 the Department of Business and Professional Regulation within 15  
299 days after the local construction regulation board decides to  
300 deny the permit.

301 Section 16. Subsections (7) through (10) of section  
302 489.521, Florida Statutes, are renumbered as subsections (6)  
303 through (9), respectively, and present subsection (6) of that  
304 section is amended to read:

305 489.521 Business organizations; qualifying agents.—

306 ~~(6) When a business organization qualified to engage in~~  
307 ~~contracting makes application for a business tax receipt in any~~  
308 ~~municipality or county of this state, the application shall be~~  
309 ~~made with the tax collector in the name of the business~~  
310 ~~organization, and the business tax receipt, when issued, shall~~  
311 ~~be issued to the business organization upon payment of the~~  
312 ~~appropriate licensing fee and exhibition to the tax collector of~~  
313 ~~a valid certificate issued by the department.~~

314 Section 17. Section 489.5315, Florida Statutes, is amended  
315 to read:

316 489.5315 Proprietary electrical or alarm contractors.—  
317 Businesses that obtain an electrical or burglar alarm system  
318 license to work only on their own equipment, and that do not  
319 offer electrical or alarm contracting services to the public,

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320 are not electrical or burglar alarm system contracting  
321 businesses ~~and do not have to obtain a business tax receipt in~~  
322 ~~addition to any they are otherwise required to have.~~

323 Section 18. Paragraph (c) of subsection (1) of section  
324 489.532, Florida Statutes, is redesignated as paragraph (b), and  
325 present paragraph (b) of that subsection is amended to read:

326 489.532 Contracts entered into by unlicensed contractors  
327 unenforceable.—

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

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

335 Section 19. Paragraph (q) of subsection (1) of section  
336 489.533, Florida Statutes, is amended to read:

337 489.533 Disciplinary proceedings.—

338 (1) The following acts shall constitute grounds for  
339 disciplinary actions as provided in subsection (2):

340 (q) Failing to affix a registration or certification number  
341 as required by s. 489.521(6) ~~s. 489.521(7)~~.

342  
343 For the purposes of this subsection, construction is considered  
344 to be commenced when the contract is executed and the contractor  
345 has accepted funds from the customer or lender.

346 Section 20. Subsection (9) of section 489.537, Florida  
347 Statutes, is renumbered as subsection (8), and paragraph (b) of  
348 subsection (3) and present subsection (8) of that section are

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349 amended to read:

350 489.537 Application of this part.—

351 (3) Nothing in this act limits the power of a municipality  
352 or county:

353 (b) To collect fees for ~~business tax receipts and~~  
354 inspections for engaging in contracting or examination fees from  
355 persons who are registered with the local boards pursuant to  
356 local examination requirements.

357 ~~(8) Persons licensed under this part are subject to ss.~~  
358 ~~205.0535(1) and 205.065, as applicable.~~

359 Section 21. Subsection (3) of section 500.511, Florida  
360 Statutes, is amended to read:

361 500.511 Fees; enforcement; preemption.—

362 (3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of  
363 bottled water plants, water vending machines, water vending  
364 machine operators, and packaged ice plants is preempted by the  
365 state. No county or municipality may adopt or enforce any  
366 ordinance that regulates the licensure or operation of bottled  
367 water plants, water vending machines, or packaged ice plants,  
368 unless it is determined that unique conditions exist within the  
369 county which require the county to regulate such entities in  
370 order to protect the public health. ~~This subsection does not~~  
371 ~~prohibit a county or municipality from requiring a business tax~~  
372 ~~pursuant to chapter 205.~~

373 Section 22. Subsection (1) of section 501.016, Florida  
374 Statutes, is amended to read:

375 501.016 Health studios; security requirements.—Each health  
376 studio that sells contracts for health studio services shall  
377 meet the following requirements:

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378 (1) Each health studio shall maintain for each separate  
379 business location a bond issued by a surety company admitted to  
380 do business in this state. The principal sum of the bond shall  
381 be \$50,000, ~~and the bond, when required, shall be obtained~~  
382 ~~before a business tax receipt may be issued under chapter 205.~~  
383 ~~Upon issuance of a business tax receipt, the licensing authority~~  
384 ~~shall immediately notify the department of such issuance in a~~  
385 ~~manner established by the department by rule.~~ The bond shall be  
386 in favor of the state for the benefit of any person injured as a  
387 result of a violation of ss. 501.012-501.019. The aggregate  
388 liability of the surety to all persons for all breaches of the  
389 conditions of the bonds provided herein shall in no event exceed  
390 the amount of the bond. The original surety bond required by  
391 this section shall be filed with the department.

392 Section 23. Paragraphs (c) through (f) of subsection (3) of  
393 section 501.143, Florida Statutes, are redesignated as  
394 paragraphs (b) through (e), respectively, and present paragraph  
395 (b) of that subsection is amended to read:

396 501.143 Dance Studio Act.—

397 (3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

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

403 Section 24. Subsection (9) of section 501.160, Florida  
404 Statutes, is amended to read:

405 501.160 Rental or sale of essential commodities during a  
406 declared state of emergency; prohibition against unconscionable

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407 prices.-

408 (9) Upon a declaration of a state of emergency by the  
409 Governor, ~~in order to protect the health, safety, and welfare of~~  
410 ~~residents, any person who offers goods and services for sale to~~  
411 ~~the public during the duration of the emergency and who does not~~  
412 ~~possess a business tax receipt under s. 205.032 or s. 205.042~~  
413 ~~commits a misdemeanor of the second degree, punishable as~~  
414 ~~provided in s. 775.082 or s. 775.083. During a declared~~  
415 ~~emergency, this subsection does not apply to religious,~~  
416 ~~charitable, fraternal, civic, educational, or social~~  
417 ~~organizations. During a declared emergency and when there is an~~  
418 allegation of price gouging against the person, failure to  
419 possess a license constitutes reasonable cause to detain the  
420 person, provided that the detention shall only be made in a  
421 reasonable manner and only for a reasonable period of time  
422 sufficient for an inquiry into the circumstances surrounding the  
423 failure to possess a license.

424 Section 25. Subsection (1) of section 507.13, Florida  
425 Statutes, is amended to read:

426 507.13 Local regulation.-

427 (1) (a) Except as provided in paragraph ~~paragraphs~~ (b) ~~and~~  
428 ~~(c)~~, this chapter preempts a local ordinance or regulation of a  
429 county or municipality which regulates transactions relating to  
430 movers of household goods or moving brokers.

431 (b) This chapter does not preempt an ordinance or  
432 regulation originally enacted by a county before January 1,  
433 2011, or a subsequent amendment to such an ordinance or  
434 regulation. However, registration fees required by such an  
435 ordinance or regulation must be reasonable and may not exceed

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436 the cost of administering the ordinance or regulation. In  
437 addition, registration and bonding may be required only of a  
438 mover or moving broker whose principal place of business is  
439 located within that county's jurisdiction.

440 ~~(c) This section does not preempt a local government's~~  
441 ~~authority to levy a local business tax pursuant to chapter 205.~~

442 Section 26. Paragraph (f) of subsection (3) of section  
443 539.001, Florida Statutes, is amended to read:

444 539.001 The Florida Pawnbroking Act.—

445 (3) LICENSE REQUIRED.—

446 ~~(f) Any person applying for or renewing a local~~  
447 ~~occupational license to engage in business as a pawnbroker must~~  
448 ~~exhibit a current license from the agency before the local~~  
449 ~~business tax receipt may be issued or reissued.~~

450 Section 27. Section 559.939, Florida Statutes, is amended  
451 to read:

452 559.939 State preemption.—No municipality ~~or county~~ or  
453 other political subdivision of this state shall have authority  
454 to levy or collect any registration fee or tax, as a regulatory  
455 measure, or to require the registration or bonding in any manner  
456 of any seller of travel who is registered or complies with all  
457 applicable provisions of this part, unless that authority is  
458 provided for by special or general act of the Legislature. Any  
459 ordinance, resolution, or regulation of any municipality ~~or~~  
460 ~~county~~ or other political subdivision of this state which is in  
461 conflict with any provision of this part is preempted by this  
462 part. ~~The provisions of this section do not apply to any local~~  
463 ~~business tax levied pursuant to chapter 205.~~

464 Section 28. This act shall take effect July 1, 2012.