

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 20 is repealed.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.
 30 ~~3. Business taxes levied under chapter 205.~~
 31 3.4. "911" service charges levied under chapter 365.
 32 ~~4.5.~~ Amounts charged for the rental or other use of
 33 property owned by a public body which is not in the public
 34 rights-of-way to a dealer of communications services for any
 35 purpose, including, but not limited to, the placement or
 36 attachment of equipment used in the provision of communications
 37 services.
 38 ~~5.6.~~ Permit fees of general applicability which are not
 39 related to placing or maintaining facilities in or on public
 40 roads or rights-of-way.
 41 ~~6.7.~~ Permit fees related to placing or maintaining
 42 facilities in or on public roads or rights-of-way pursuant to s.
 43 337.401.
 44 ~~7.8.~~ Any in-kind requirements, institutional networks, or
 45 contributions for, or in support of, the use or construction of
 46 public, educational, or governmental access facilities allowed
 47 under federal law and imposed on providers of cable or video
 48 service pursuant to any existing ordinance or an existing
 49 franchise agreement granted by each municipality or county,
 50 under which ordinance or franchise agreement service is provided
 51 prior to July 1, 2007, or as permitted under chapter 610.
 52 Nothing in this subparagraph shall prohibit the ability of
 53 providers of cable or video service to recover such expenses as
 54 allowed under federal law.
 55 ~~8.9.~~ Special assessments and impact fees.
 56 ~~9.10.~~ Pole attachment fees that are charged by a local

57 government for attachments to utility poles owned by the local
58 government.

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

85 licenses 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
88 67-930, 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
94 s. 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
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,
 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)
 173 of section 482.242, Florida Statutes, are redesignated as
 174 paragraphs (a) through (f), respectively, and present paragraph
 175 (a) of that subsection is amended to read:

176 482.242 Preemption.—

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

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
 215 or 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
 228 is 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.

233
 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
 246 on or after October 1, 1990, by an unlicensed contractor shall
 247 be unenforceable in law or in equity by the unlicensed
 248 contractor.

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

HB 4025

2012

253 Section 14. Paragraph (c) of subsection (3) of section
 254 489.131, Florida Statutes, is amended to read:

255 489.131 Applicability.—

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

258 (c) To collect ~~business taxes, subject to s. 205.065, and~~
 259 inspection fees for engaging in contracting or examination fees
 260 from persons who are registered with the board pursuant to local
 261 examination requirements ~~and issue business tax receipts.~~
 262 ~~However, nothing in this part shall be construed to require~~
 263 ~~general contractors, building contractors, or residential~~
 264 ~~contractors to obtain additional business tax receipts for~~
 265 ~~specialty work when such specialty work is performed by~~
 266 ~~employees of such contractors on projects for which they have~~
 267 ~~substantially full responsibility and such contractors do not~~
 268 ~~hold themselves out to the public as being specialty~~
 269 ~~contractors.~~

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

272 489.516 Qualifications to practice; restrictions;
 273 prerequisites.—

274 (3) When a certificateholder desires to engage in
 275 contracting in any area of the state, as a prerequisite
 276 therefor, he or she shall only be required to exhibit to the
 277 local building official, tax collector, or other authorized
 278 person in charge of the issuance of licenses and building or
 279 electrical permits in the area evidence of holding a current
 280 certificate ~~and a current business tax receipt issued by the~~

HB 4025

2012

281 ~~jurisdiction in which the certificateholder's principal place of~~
282 ~~business is located~~ and having paid the fee for the permit
283 required of other persons. However, a local construction
284 regulation board may deny the issuance of an electrical permit
285 to a certified contractor, or issue a permit with specific
286 conditions, if the local construction regulation board has found
287 such contractor, through the public hearing process, to be
288 guilty of fraud or a willful building code violation within the
289 county or municipality that the local construction regulation
290 board represents, or if the local construction regulation board
291 has proof that such contractor, through the public hearing
292 process, has been found guilty, in another county or
293 municipality within the past 12 months, of fraud or a willful
294 building code violation and finds, after providing notice to the
295 contractor, that such fraud or violation would have been fraud
296 or a violation if committed in the county or municipality that
297 the local construction board represents. Notification of and
298 information concerning such permit denial shall be submitted to
299 the Department of Business and Professional Regulation within 15
300 days after the local construction regulation board decides to
301 deny the permit.

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

306 489.521 Business organizations; qualifying agents.—

307 ~~(6) When a business organization qualified to engage in~~
308 ~~contracting makes application for a business tax receipt in any~~

309 ~~municipality or county of this state, the application shall be~~
 310 ~~made with the tax collector in the name of the business~~
 311 ~~organization, and the business tax receipt, when issued, shall~~
 312 ~~be issued to the business organization upon payment of the~~
 313 ~~appropriate licensing fee and exhibition to the tax collector of~~
 314 ~~a valid certificate issued by the department.~~

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

317 489.5315 Proprietary electrical or alarm contractors.—
 318 Businesses that obtain an electrical or burglar alarm system
 319 license to work only on their own equipment, and that do not
 320 offer electrical or alarm contracting services to the public,
 321 are not electrical or burglar alarm system contracting
 322 businesses ~~and do not have to obtain a business tax receipt in~~
 323 ~~addition to any they are otherwise required to have.~~

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

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

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

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

337 Section 19. Paragraph (q) of subsection (1) of section
 338 489.533, Florida Statutes, is amended to read:

339 489.533 Disciplinary proceedings.—

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

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

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

348 Section 20. Subsection (9) of section 489.537, Florida
 349 Statutes, is renumbered as subsection (8), and paragraph (b) of
 350 subsection (3) and present subsection (8) of that section are
 351 amended to read:

352 489.537 Application of this part.—

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

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

359 ~~(8) Persons licensed under this part are subject to ss.~~
 360 ~~205.0535(1) and 205.065, as applicable.~~

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

363 500.511 Fees; enforcement; preemption.—

364 (3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of

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

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

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

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

393 | this section shall be filed with the department.

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

398 | 501.143 Dance Studio Act.—

399 | (3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

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

405 | Section 24. Subsection (9) of section 501.160, Florida
 406 | Statutes, is amended to read:

407 | 501.160 Rental or sale of essential commodities during a
 408 | declared state of emergency; prohibition against unconscionable
 409 | prices.—

410 | (9) Upon a declaration of a state of emergency by the
 411 | Governor, ~~in order to protect the health, safety, and welfare of~~
 412 | ~~residents, any person who offers goods and services for sale to~~
 413 | ~~the public during the duration of the emergency and who does not~~
 414 | ~~possess a business tax receipt under s. 205.032 or s. 205.042~~
 415 | ~~commits a misdemeanor of the second degree, punishable as~~
 416 | ~~provided in s. 775.082 or s. 775.083. During a declared~~
 417 | ~~emergency, this subsection does not apply to religious,~~
 418 | ~~charitable, fraternal, civic, educational, or social~~
 419 | ~~organizations. During a declared emergency and when there is an~~
 420 | ~~allegation of price gouging against the person, failure to~~

421 possess a license constitutes reasonable cause to detain the
 422 person, provided that the detention shall only be made in a
 423 reasonable manner and only for a reasonable period of time
 424 sufficient for an inquiry into the circumstances surrounding the
 425 failure to possess a license.

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

428 507.13 Local regulation.—

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

433 (b) This chapter does not preempt an ordinance or
 434 regulation originally enacted by a county before January 1,
 435 2011, or a subsequent amendment to such an ordinance or
 436 regulation. However, registration fees required by such an
 437 ordinance or regulation must be reasonable and may not exceed
 438 the cost of administering the ordinance or regulation. In
 439 addition, registration and bonding may be required only of a
 440 mover or moving broker whose principal place of business is
 441 located within that county's jurisdiction.

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

444 Section 26. Paragraph (f) of subsection (3) of section
 445 539.001, Florida Statutes, is amended to read:

446 539.001 The Florida Pawnbroking Act.—

447 (3) LICENSE REQUIRED.—

448 ~~(f) Any person applying for or renewing a local~~

HB 4025

2012

449 ~~occupational license to engage in business as a pawnbroker must~~
450 ~~exhibit a current license from the agency before the local~~
451 ~~business tax receipt may be issued or reissued.~~

452 Section 27. Section 559.939, Florida Statutes, is amended
453 to read:

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

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