

CHAPTER 2011-78

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 311

An act relating to local business taxes; amending s. 205.022, F.S.; defining the term “independent contractor”; creating s. 205.066, F.S.; exempting an individual engaging in or managing a business as an employee from requirements related to local business taxes; specifying that an individual licensed and operating as a broker associate or sales associate is an employee; specifying that an independent contractor is not an employee; prohibiting a local governing authority from holding an exempt employee liable for the failure of a principal or employer to comply with certain obligations related to a local business tax or requiring an exempt employee to take certain actions related to a local business tax; prohibiting a local governing authority from requiring a principal or employer to provide personal or contact information for exempt individuals in order to obtain a local business tax receipt; providing that the exemption does not apply to a business tax imposed on individual employees by a municipality or county pursuant to a resolution or ordinance adopted before October 13, 2010; amending s. 205.194, F.S.; deleting obsolete language; requiring a person applying for or renewing a local business tax receipt to engage in or manage a business or occupation regulated by the Florida Supreme Court or a state agency to exhibit certain documentation before such receipt may be issued; authorizing online renewals as a means of providing electronic certifications that meet such requirement; deleting a requirement that the Department of Business and Professional Regulation provide certain professional regulation information to local officials who issue business tax receipts; deleting a provision prohibiting a local official who issues business tax receipts from renewing a license under certain circumstances; providing for retroactive application; providing an effective date.

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

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

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

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

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

205.066 Exemptions; employees.—

(1) An individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. For purposes of this section, an individual licensed and operating as a broker associate or sales associate under chapter 475 is an employee. An individual acting in the capacity of an independent contractor is not an employee.

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

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

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

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

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

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

~~(2) The Department of Business and Professional Regulation shall, by August 1 of each year, supply to the local official who issues local business tax receipts a current list of professions it regulates and information regarding those persons for whom receipts should not be renewed due to the suspension, revocation, or inactivation of such person's state license,~~

~~certificate, or registration. The official who issues local business tax receipts shall not renew such license unless such person can exhibit an active state certificate, registration, or license.~~

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

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

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.