**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3490**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Quinn, Merrill, Atwater, Rivers, Erickson, Tallon, Loftis, Taylor, Putnam, Goldfinch, Ballentine, Bedingfield, Finlay, Hamilton, Hardwick, Herbkersman, Huggins, Sandifer and Henderson

Document Path: l:\council\bills\bbm\9162dg15.docx

Introduced in the House on February 3, 2015

Currently residing in the House Committee on **Ways and Means**

Summary: Business License Tax Reform Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/3/2015 House Introduced and read first time ([House Journal‑page 23](file:///h:\HJ%20Archive\2015\02-03-15.docx))

2/3/2015 House Referred to Committee on **Ways and Means** ([House Journal‑page 23](file:///h:\HJ%20Archive\2015\02-03-15.docx))

2/5/2015 House Member(s) request name removed as sponsor: Southard

2/5/2015 Scrivener's error corrected

2/17/2015 House Member(s) request name removed as sponsor: Toole

2/24/2015 House Member(s) request name removed as sponsor: Forrester

3/5/2015 House Member(s) request name removed as sponsor: Hicks

3/26/2015 House Member(s) request name removed as sponsor: Kennedy

1/12/2016 House Member(s) request name added as sponsor: Henderson

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**VERSIONS OF THIS BILL**

[2/3/2015](file:///p:\pprever\2015-16\3490_20150203.docx)

[2/5/2015](file:///p:\pprever\2015-16\3490_20150205.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “BUSINESS LICENSE TAX REFORM ACT”; TO AMEND SECTION 4-9-30, AS AMENDED, RELATING TO THE POWERS OF COUNTIES, SO AS TO AUTHORIZE THE LEVY OF LICENSE TAXES ONLY IN CERTAIN CIRCUMSTANCES AND IN COMPLIANCE WITH CERTAIN CRITERIA; TO AMEND SECTION 5-7-30, AS AMENDED, RELATING TO THE POWERS OF MUNICIPALITIES, SO AS TO AUTHORIZE THE LEVY OF A BUSINESS LICENSE TAX ONLY IN CERTAIN CIRCUMSTANCES AND IN COMPLIANCE WITH CERTAIN CRITERIA; AND TO AMEND SECTION 6-1-315, AS AMENDED, RELATING TO THE IMPOSITION OF A BUSINESS LICENSE TAX, SO AS TO REQUIRE THAT THE TAX NOT EXCEED ONE HUNDRED DOLLARS AND THAT THE TAX BE APPLIED UNIFORMLY, TO PROVIDE THAT A PERSON IS ONLY SUBJECT TO ONE BUSINESS LICENSE TAX, TO REQUIRE THE DEPARTMENT OF REVENUE TO COLLECT THE TAX, TO PROVIDE THAT THE TAX IS DUE ON JULY FIRST OF EACH YEAR AND MUST BE ABLE TO BE PAID ONLINE, AND TO REQUIRE ANY LOCAL GOVERNING BODY THAT IMPOSES THE TAX TO ISSUE A REPORT TO THE GENERAL ASSEMBLY DETAILING THE AMOUNT IT COLLECTED AND THE MANNER IN WHICH THE FUNDS WERE EXPENDED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Business License Tax Reform Act”.

SECTION 2. Section 4‑9‑30(12) of the 1976 Code, as last amended by Act 405 of 1994, is further amended to read:

“(12) to levy uniform license taxes pursuant to the provisions of Section 6‑1‑315, upon persons and businesses engaged in or intending to engage in a business, occupation, or profession, in whole or in part, within the county but outside the corporate limits of a municipality except those persons who are engaged in the profession of teaching or who are ministers of the gospel and rabbis, except persons and businesses acting in the capacity of telephone, telegraph, gas and electric utilities, suppliers, or other utility regulated by the Public Service Commission and except an entity which is exempt from license tax under another law or a subsidiary or affiliate of any such exempt entity. No county license fee or tax may be levied on insurance companies. ~~The license tax must be graduated according to the gross income of the person or business taxed.~~ A business engaged in making loans secured by real estate is subject to the license tax only if it has premises located in the county but outside the corporate limits of a municipality. Rental income on property of a lessor is not subject to the license tax if the lessee of the property is subject to the license tax. ~~If the person or business taxed pays a license tax to another county or to a municipality, the gross income for the purpose of computing the tax must be reduced by the amount of gross income taxed in the other county or municipality.~~”

SECTION 3. Section 5‑7‑30 of the 1976 Code, as last amended by Act 412 of 2008, is further amended to read:

“Section 5‑7‑30. Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it, including the authority to levy and collect taxes on real and personal property and as otherwise authorized in this section, make assessments, and establish uniform service charges relating to them; the authority to abate nuisances; the authority to provide police protection in contiguous municipalities and in unincorporated areas located not more than three miles from the municipal limits upon the request and agreement of the governing body of such contiguous municipality or the county, including agreement as to the boundaries of such police jurisdictional areas, in which case the municipal law enforcement officers shall have the full jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers’ compensation law, which they have in the municipality, including the authority to make arrests, and to execute criminal process within the extended jurisdictional area; provided, however, that this shall not extend the effect of the laws of the municipality beyond its corporate boundaries; grant franchises for the use of public streets and make charges for them; grant franchises and make charges for the use of public beaches; engage in the recreation function; levy a business license tax pursuant to the provisions of Section 6‑1‑315, ~~on gross income,~~ but a wholesaler delivering goods to retailers in a municipality is not subject to the business license tax unless he maintains within the corporate limits of the municipality a warehouse or mercantile establishment for the distribution of wholesale goods; and a business engaged in making loans secured by real estate is not subject to the business license tax unless it has premises located within the corporate limits of the municipality and no entity which is exempt from the license tax under another law nor a subsidiary or affiliate of an exempt entity is subject to the business license tax; and rental income on property of a lessor is not subject to the license tax if the lessee of the property is subject to the license tax; borrow in anticipation of taxes; and pledge revenues to be collected and the full faith and credit of the municipality against its note and conduct advisory referenda. The municipal governing body may fix fines and penalties for the violation of municipal ordinances and regulations not exceeding five hundred dollars or imprisonment not exceeding thirty days, or both. If the person or business taxed pays a business license tax to a county or to another municipality where the income is earned, the gross income for the purpose of computing the tax must be reduced by the amount of gross income taxed in the other county or municipality.

For the purpose of providing and maintaining parking for the benefit of a downtown commercial area, a municipality may levy a surtax upon the business license of a person doing business in a designated area in an amount not to exceed fifty percent of the current yearly business license tax upon terms and conditions fixed by ordinance of the municipal council. The area must be designated by council only after a petition is submitted by not less than two‑thirds of the persons paying a business license tax in the area and who paid not less than one‑half of the total business license tax collected for the preceding calendar year requesting the designation of the area. The business within the designated area which is providing twenty‑five or more parking spaces for customer use is required to pay not more than twenty‑five percent of a surtax levied pursuant to the provisions of this paragraph.”

SECTION 4. Section 6‑1‑315 of the 1976 Code, as last amended by Act 412 of 2008, is further amended to read:

“Section 6‑1‑315. (A) By ordinance adopted by a positive majority vote, a local governing body may impose a business license tax or increase the ~~rate~~ amount of a business license tax, authorized by Sections 4‑9‑30(12) and 5‑7‑30. However, after June 30, 2015, a business license tax may not exceed one hundred dollars. Also, the business license tax must be uniformly applied.

(B)(1) Notwithstanding any other provision of law, the governing body of a county or municipality may not impose a license, occupation, or professional tax or fee upon real estate licensees, except upon the broker‑in‑charge at the place where the real estate licensee shall maintain a principal or branch office. The license, occupation, or professional tax or fee shall permit the broker‑in‑charge and the broker’s affiliated associate brokers, salespersons, and property managers to engage in all of the brokerage activities described in Chapter 57, ~~of~~ Title 40 without further licensing or taxing, other than the state licenses issued pursuant to Chapter 57, ~~of~~ Title 40 or pursuant to other provisions of law. No license, occupation, or professional tax or fee shall be required of the affiliated associate brokers, salespersons, or property managers of a broker‑in‑charge for such gross receipts upon which a license, occupation, or professional tax or fee has already been paid.

(2) Brokered transactions of real property in counties or municipalities other than those in which the broker‑in‑charge maintains a principal or branch office create a nexus for imposition of a license, occupation, or professional tax or fee only with respect to gross receipts derived from transactions of property located in that county or municipality.

(3) Notwithstanding any other provision of law, the governing body of a county or municipality may not impose a license, occupation, or professional tax or fee upon the gross proceeds of an auctioneer licensed under Chapter 6, ~~of~~ Title 40 for the first three auctions conducted by the auctioneer in the county or municipality, unless the auctioneer maintains a principal or branch office in the county or municipality.

(C) A person, as defined in Section 12‑2‑20, only is subject to the business license tax in the county or municipality, as applicable, in which the business’ South Carolina income tax return is addressed.

(D)(1) Notwithstanding any other provision of law, the business license tax must be paid to the Department of Revenue. Upon collecting the business license tax, the department shall remit the tax to the appropriate counties and municipalities from which the tax was paid. The department may retain up to one percent of the tax to defray the administrative costs of the department, but in no circumstance may the department retain more than its actual administrative costs.

(2) The business license tax for all businesses is due on July first of each year. The department must allow businesses to pay the business license tax online.

(E) By December first of each year, any local governing body that imposes a business license tax must submit a report to the General Assembly detailing the amount remitted to the local governing body from the Department of Revenue and the expenditures of the business license tax in the previous completed fiscal year. Also, the report must be posted on the Internet website maintained by the local governing body, if applicable.”

SECTION 5. This act takes effect July 1, 2015.

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