

House Bill 878 (COMMITTEE SUBSTITUTE)

By: Representatives Yates of the 106th and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
2 specific, business, and occupation taxes, so as to provide remedies for the imposition of
3 excessive regulatory fees by a county or municipal government; to provide for complaints
4 to the Department of Community Affairs and for civil actions; to provide for jurisdiction and
5 remedies; to provide for authority and duties of the Department of Community Affairs
6 regarding such complaints; to provide for annual reports; to provide for related matters; to
7 provide for an effective date; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
11 business, and occupation taxes, is amended by inserting a new Code section to be designated
12 Code Section 48-13-9.1 to read as follows:

13 "48-13-9.1.

14 (a) The Department of Community Affairs is authorized and directed to collect
15 information regarding complaints alleging the imposition by any county or municipal
16 corporation of regulatory fees which exceed the limitations set out in subsection (a) of
17 Code Section 48-13-9. Upon receipt of written complaints from five different businesses
18 or practitioners involving the same local government within a period of six months, such
19 department shall request, at a minimum, the following information from the local
20 government for the preceding year: the total amount of regulatory fees collected; the total
21 costs to the local government of regulating the activities of businesses and practitioners of
22 occupations subject to such fees, including but not limited to personnel and administrative
23 costs; and an explanation of how the fees are determined, including any list of fees or
24 formula for calculating fees. The department may request a list of businesses and
25 practitioners who paid such fees, including name and address, the amount of fees each paid,
26 and other information relevant to the complaints.

1 (b) The Department of Community Affairs shall have the authority to require local
2 governments to submit the information requested in accordance with this Code section as
3 a condition of receiving state appropriated grant funds from the department. Upon the
4 receipt of the information requested from the local government, the Department of
5 Community Affairs is authorized to release any state appropriated grant funds that may be
6 due at such time to the local government.

7 (c) Upon the compilation of the information received from the local government, the
8 Department of Community Affairs shall make such information available to the
9 complainants identified in subsection (a) of this Code section.

10 (d) The department shall report annually to the Governor and the chairpersons of the
11 House Committee on Ways and Means and the Senate Finance and Public Utilities
12 Committee the information it compiled from complaints regarding regulatory fees imposed
13 by local governments.

14 (e) Businesses and practitioners subject to regulatory fees may make complaints to the
15 Department of Community Affairs if they believe that a county or municipal corporation
16 is imposing regulatory fees which exceed the limitations set out in Code Section 48-13-9.
17 Businesses and practitioners subject to regulatory fees may enforce the limitations relating
18 to the amount of regulatory fees set out in Code Section 48-13-9 by filing a civil action in
19 the superior, state, or magistrate court of the county which is imposing such fees or the
20 county in which the city imposing such fees is located. Where a civil action is filed after
21 the procedures in subsections (a), (b), and (c) of this Code section are completed, a
22 judgment against a county or municipal corporation in such an action shall include
23 recovery of wrongful fees and reasonable attorney's fees. Any county or municipal
24 corporation against which a final judgment is issued for unlawful regulatory fees in an
25 action authorized by this subsection shall refund the unlawful portion of such regulatory
26 fees to those businesses and practitioners who have paid unlawful fees in the past fiscal
27 year and requested a refund in writing."

28 **SECTION 2.**

29 This Act shall become effective on January 1, 2003.

30 **SECTION 3.**

31 All laws and parts of laws in conflict with this Act are repealed.