

The Senate Finance Committee offered the following substitute to HB 304:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to
2 general provisions applicable to counties and municipal corporations, so as to prohibit local
3 governments from prohibiting or regulating the sale of certain lawful products or services;
4 to provide for exceptions; to provide that ordinances in violation of such provisions are void;
5 to amend Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
6 relating to general provisions concerning specific, business, and occupation taxes, so as to
7 change the provisions relating to the imposition and determination of the amount of certain
8 regulatory fees by local governments; to provide for additional requirements regarding
9 certain certificates; to provide for the timing of payment of certain regulatory fees; to provide
10 for related matters; to provide an effective date; to provide for applicability; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

13 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general
14 provisions applicable to counties and municipal corporations, is amended by inserting a new
15 Code section to be designated Code Section 36-60-24 to read as follows:
16

17 "(a) The governing authority of a county or municipal corporation shall not prohibit the
18 sale of products or services which products or services are lawful under subsection (b) of
19 Code Section 25-10-1, unless such prohibition is expressly authorized by the general law
20 of the state.

21 (b) If the sale of a product or service is regulated by subsection (b) of Code Section
22 25-10-1, the governing authority of a county or municipal corporation shall not enact
23 additional regulation of the sale of such product or service, unless such additional
24 regulation is expressly authorized by general law.

25 (c) Any ordinance enacted before, on, or after July 1, 2006, by a county or municipal
26 corporation in violation of this Code section is void."

SECTION 2.

Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions concerning specific, business, and occupation taxes, is amended by adding new subsections (e) and (f) to Code Section 48-13-9, relating to limitation on authority of local government to impose regulatory fee, to read as follows:

"(e) For each business, profession, or occupation, local governments are authorized to determine the amount of a regulatory fee imposed in accordance with this article only by one of the following methods:

(1) A flat fee for each business or practitioner of a profession or occupation doing business in the jurisdiction as authorized by Code Section 48-13-8;

(2) A flat fee for each type of permit or inspection requested;

(3) An hourly rate determined by the hourly wage or salary, including employee benefits, of the person or persons assigned to investigate or inspect multiplied by the number of hours estimated for the investigation or inspection to be performed;

(4) An hourly rate as determined by paragraph (3) of this subsection with the addition of other expenses reasonably related to such regulatory activity, such as administrative and travel expenses, multiplied by the number of hours estimated for the investigation or inspection to be performed;

(5) For construction projects that are classified as new construction, the number of square feet of construction or the number of square feet of construction to be served by the system to be installed, in conjunction with and limited by the building valuation data, as established from time to time by the International Code Council or by similar data, and in conjunction with and limited by the hourly rate described in paragraph (3) or (4) of this subsection; or

(6) For construction projects that are classified as renovation and all other construction projects other than those classified as new construction, the cost of the project in conjunction with and limited by the building valuation data that conforms with the principles and methods established from time to time by the International Code Council or by similar data, and in conjunction with and limited by the hourly rate described in paragraph (3) or (4) of this subsection.

(f) If a local government requires businesses or practitioners to pay a regulatory fee under paragraph (3) of subsection (b) of this Code section, issues certificates of public necessity and convenience to such businesses or practitioners, and limits the total number outstanding of such certificates, such certificates shall be fully transferable pursuant to a purchase, gift, bequest, or acquisition of the stock or assets of a corporation. Each such certificate may be used as collateral to secure a loan, and a lending institution making such

1 loans shall have all rights of secured parties with respect to such loans. Prior to increasing
 2 the number of such outstanding certificates by more than 10 percent in a calendar year, any
 3 such local government shall first certify, based upon credible evidence, that such an
 4 increase will not result in a significant devaluation of the existing outstanding certificates."

5 SECTION 3.

6 Said article is further amended by striking subsections (b) and (c) of Code Section 48-13-20,
 7 relating to time for payment of fees and taxes, and inserting in lieu thereof new subsections
 8 (b) and (c) to read as follows:

9 "(b) Regulatory fees authorized by this chapter shall be paid before commencing business
 10 or the practice of a profession or occupation as a condition precedent for transacting
 11 business, or practicing a profession or occupation.

12 (c) Regulatory fees may be paid after commencing business or the practice of a profession
 13 or occupation when:

14 (1) The work done or services provided are necessary for the health, comfort, or safety
 15 of one or more individuals or protection of property. This paragraph shall apply to, but
 16 not be limited to, the repair, service, or installation of heating, ventilation, and air
 17 conditioning equipment or systems;

18 (2) The work done or services provided have no adverse effect on any other person; ~~and~~

19 (3) Regulatory fees are tendered to the local government within two business days after
 20 commencing business or the practice of a profession or occupation and any and all
 21 required inspections are made in order to ensure compliance with applicable codes; and

22 (4) The request for repair, service, or installation is received by the practitioner of a
 23 profession or occupation outside of the regular office hours of the local government's
 24 permitting office."

25 SECTION 4.

26 This Act shall become effective on July 1, 2006.

27 SECTION 5.

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