

House Bill 461

By: Representatives Thomas of the 21st, Momtahan of the 17th, Washburn of the 144th, Smith of the 138th, and Crowe of the 118th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding specific, business, and occupation taxes, so as to
3 require that the proceeds of local government regulatory fees be used to pay for regulatory
4 activity and not general operations; to revise the list of professions which may be subject to
5 such regulatory fees; to remove certain provisions authorizing calculation of regulatory fees
6 for renovation and other construction projects; to provide for refunds in certain
7 circumstances; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
12 general provisions regarding specific, business, and occupation taxes, is amended in Code
13 Section 48-13-9, relating to limitation on authority of local government to impose regulatory
14 fee, examples of those which may be subject to fees, individuals and entities not subject to
15 fees, and general laws not repealed, by revising subsections (a), (b), (c), and (e) as follows:

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"(a) A local government is authorized to require a business or practitioner of a profession or occupation to pay a regulatory fee only if the local government customarily performs investigation or inspection of such businesses or practitioners of such profession or occupation as protection of the public health, safety, or welfare or in the course of enforcing a state or local building, health, or safety code, but no local government is authorized to use regulatory fees as a means of raising revenue for general purposes; provided that the amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the local government and the proceeds of such regulatory fee shall be used to fund such regulatory activity and not the general operations of the local government, and further provided that the local government shall not be required to establish separate accounts for such proceeds.

(b) Examples of businesses or practitioners of professions or occupations which may be subject to regulatory fees of local governments include, but are expressly not limited to, the following:

- (1) Building and construction contractors, subcontractors, and workers;
- (2) Carnivals;
- (3) ~~Taxicab and limousine operators~~ Reserved;
- (4) Tattoo artists;
- (5) Stables;
- (6) ~~Shooting galleries and firearm ranges~~ Reserved;
- (7) Scrap metal processors;
- (8) Pawnbrokers;
- (9) Food service establishments;
- (10) Dealers in precious metals;
- (11) ~~Firearms dealers~~ Reserved;
- (12) Peddlers;
- (13) Parking lots;

- 43 (14) Nursing homes, assisted living communities, and personal care homes;
44 (15) Newspaper vending boxes;
45 (16) Modeling agencies;
46 (17) Massage parlors;
47 (18) Landfills;
48 (19) Auto and motorcycle racing;
49 (20) Boarding houses;
50 (21) Businesses which provide appearance bonds;
51 (22) Wrestling ~~Boxing and wrestling~~ promoters;
52 (23) Hotels and motels;
53 (24) Hypnotists;
54 (25) Handwriting analysts;
55 (26) Health clubs, gyms, and spas;
56 (27) Fortunetellers;
57 (28) Garbage collectors;
58 (29) Escort services;
59 (30) Burglar and fire alarm installers; and
60 (31) Locksmiths.
- 61 (c) Examples of businesses and practitioners of professions and occupations which local
62 governments are not authorized to subject to regulatory fees include, but are expressly not
63 limited to, the following:
- 64 (1) Lawyers;
65 (2) Physicians licensed under Chapter 34 of Title 43;
66 (3) Osteopaths licensed under Chapter 34 of Title 43;
67 (4) Chiropractors;
68 (5) Podiatrists;
69 (6) Dentists;

(7) Optometrists;
(8) Psychologists;
(9) Veterinarians;
(10) Landscape architects;
(11) Land surveyors;
(12) Practitioners of physiotherapy;
(13) Public accountants;
(14) Embalmers;
(15) Funeral directors;
(16) Civil, mechanical, hydraulic, or electrical engineers;
(17) Architects;
(18) Marriage and family therapists, social workers, and professional counselors;
(19) Dealers of motor vehicles, as defined in paragraph (1) of Code Section 10-1-622;
(20) Owners or operators of bona fide coin operated amusement machines, as defined in Code Section 50-27-70, and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with Code Section 50-27-78;
(21) Merchants or dealers as defined in Code Section 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; ~~and~~
(22) Sport shooting ranges, as defined in paragraph (2) of subsection (a) of Code Section 41-1-9;
(23) Firearm dealers, as defined under 18 U.S.C. Section 921(a)(11); and
~~(22)~~(24) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments."

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

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

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

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

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

110 (5) For construction projects that are classified as new construction or for extensive
111 renovation projects, the number of square feet of construction or the number of square
112 feet of construction to be served by the system to be installed, in conjunction with ~~and~~
113 ~~limited by the building valuation data, as established from time to time by the~~
114 International Code Council or by similar data, and in conjunction with and limited by the
115 hourly rate described in paragraph (3) or (4) of this subsection. As used in this paragraph,
116 'extensive renovation project' means a project valued at \$75,000.00 or more to renovate
117 an existing structure; or

118 provided, however, that, if the use of one of the methods provided in this subsection results
119 in the imposed fee exceeding the actual cost of regulation of such business, profession, or
120 occupation by an amount in excess of 20 percent of the actual costs of such regulation and
121 the business, profession, or occupation upon which such fee is imposed requests a refund
122 of the amount above the actual costs of regulation for such business, profession, or
123 occupation, the local government shall undertake a study of such fee and, if the local

government determines that the fee imposed on the business, profession, or occupation exceeds the cost of regulation by over 20 percent of the actual costs of such regulation, the local government shall refund to the requesting business, profession, or occupation the amount of such fee in excess of the actual costs of regulation incurred by the local government.

~~(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."~~

SECTION 2.

This Act shall become effective on July 1, 2023.

SECTION 3.

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