**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4967**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Atwater, Ballentine, Bannister, Bedingfield, Chumley, Collins, Finlay, Forrester, Gambrell, Goldfinch, Hamilton, Hicks, Huggins, Jordan, White, Loftis, Long, McCoy, Murphy, Norman, Pitts, Pope, Rivers, Sandifer, Simrill, G.R. Smith, J.E. Smith, Spires, Tallon, Taylor, Whitmire, Gagnon and Putnam

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Introduced in the House on February 23, 2016

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Business License Compliance Reform Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/23/2016 House Introduced and read first time ([House Journal‑page 62](file:///h:\HJ%20Archive\2016\02-23-16.docx))

2/23/2016 House Referred to Committee on **Ways and Means** ([House Journal‑page 62](file:///h:\HJ%20Archive\2016\02-23-16.docx))

3/1/2016 House Member(s) request name removed as sponsor: Clary

3/3/2016 House Recalled from Committee on **Ways and Means** ([House Journal‑page 29](file:///h:\HJ%20Archive\2016\03-03-16.docx))

3/3/2016 House Committed to Committee on **Labor, Commerce and Industry** ([House Journal‑page 29](file:///h:\HJ%20Archive\2016\03-03-16.docx))

3/8/2016 House Member(s) request name removed as sponsor: Burns

3/10/2016 House Member(s) request name removed as sponsor: Brannon

3/16/2016 House Member(s) request name added as sponsor: Gagnon, Putnam

3/16/2016 House Member(s) request name removed as sponsor: Henderson

3/17/2016 House Member(s) request name removed as sponsor: Allison

4/14/2016 House Member(s) request name removed as sponsor: Kennedy, Erickson

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**VERSIONS OF THIS BILL**

[2/23/2016](file:///p:\pprever\2015-16\4967_20160223.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “BUSINESS LICENSE COMPLIANCE REFORM ACT”; AND TO AMEND SECTION 6‑1‑315, AS AMENDED, RELATING TO THE IMPOSITION OF A BUSINESS LICENSE TAX, SO AS TO PROVIDE THAT A LOCAL GOVERNING BODY SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING ANY BUSINESS LICENSE TAX ORDINANCE, 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 FEBRUARY FIRST OF EACH YEAR AND MUST BE ABLE TO BE PAID ONLINE, TO PROVIDE THAT A LOCAL GOVERNING BODY MUST USE CERTAIN FORMS, DATES, FORMULAS, AND PENALTIES, TO PROVIDE FOR AN APPEALS PROCESS, TO PROVIDE THAT A BUSINESS IS NOT LIABLE FOR THE BUSINESS LICENSE TAX OF ANOTHER BUSINESS WITH WHICH IT CONTRACTS, AND TO PROVIDE EXCEPTIONS.

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

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

SECTION 2. 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 of a business license tax, authorized by Sections 4‑9‑30(12) and 5‑7‑30. A local governing body shall hold at least one public hearing, with a notice of seven business days, before adopting any business license tax ordinance.

(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 operates on a calendar year basis, and the tax is due on February first of the year for which it is based. If the business license tax is not paid in full by April first, a delinquency fee may be assessed. The department must allow businesses to pay the business license tax online.

(3) All tax return information used to calculate fees only may be submitted to the department.

(E) A local governing body that charges a business license tax shall use standardized forms, compliance dates, formulas, and penalties as prescribed by the Department of Revenue. The department must allow all forms and data to be completed and submitted electronically.

(F) A person may apply to an administrative law judge, pursuant to the provisions of Chapter 23, Title 1, for a disputed business license tax amount before April first of the calendar year in which the tax is due.

(G) A business is not liable for the business license tax of another business with which it contracts, and no permit may be withheld solely because of the liability of the other business.

(H) The following are exempt from the business license tax:

(1) nonprofit organizations; and

(2) revenue derived from work performed out of state.”

SECTION 3. This act takes effect upon approval by the Governor and applies to a business license tax imposed after December 31, 2017.

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