

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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5 AMENDED--NOT PRINTED IN THE HOUSE

6 Amt. No.1A (Doc. Path council\agm\19282mm08)

7 Amt. No.2A (Doc. Path council\gjk\20744sd08)

8 June 5, 2008

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H. 4554

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12 Introduced by Reps. Cobb-Hunter and Bedingfield

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14 S. Printed 5/27/08--S.

15 Read the first time April 17, 2008.

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9 **A BILL**

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 40-57-245 SO AS TO PROVIDE
13 THAT THE GOVERNING BODY OF A COUNTY OR
14 MUNICIPALITY MAY NOT IMPOSE A LICENSE,
15 OCCUPATION, OR PROFESSIONAL TAX OR FEE UPON
16 REAL ESTATE LICENSEES, EXCEPT UPON THE
17 BROKER-IN-CHARGE AT THE PLACE WHERE THE REAL
18 ESTATE LICENSEE SHALL MAINTAIN A PRINCIPAL OR
19 BRANCH OFFICE AND TO PROVIDE THAT A
20 MUNICIPALITY MAY IMPOSE AN OCCUPATION, LICENSE,
21 OR PROFESSIONAL TAX OR FEE UPON REAL ESTATE
22 BROKERS-IN-CHARGE BASED UPON GROSS RECEIPTS
23 ONLY FOR REAL ESTATE TRANSACTIONS WITH RESPECT
24 TO PROPERTY LOCATED WITHIN ITS CORPORATE LIMITS,
25 AND A COUNTY GOVERNING AUTHORITY MAY IMPOSE
26 AN OCCUPATION, LICENSE, OR PROFESSIONAL TAX OR
27 FEE UPON REAL ESTATE BROKERS-IN-CHARGE BASED
28 UPON GROSS RECEIPTS ONLY FOR REAL ESTATE
29 TRANSACTIONS WITH RESPECT TO PROPERTY LOCATED
30 WITHIN THE UNINCORPORATED AREAS OF THE COUNTY.

31 Amend Title To Conform

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

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36 SECTION 1. Section 6-1-315 of the 1976 Code is amended to
37 read:

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39 “Section 6-1-315. (A) By ordinance adopted by a positive
40 majority vote, a local governing body may impose a business
41 license tax or increase the rate of a business license tax, authorized
42 by Sections 4-9-30(12) and 5-7-30.

43 (B)(1) Notwithstanding any other provision of law, the
44 governing body of a county or municipality may not impose a

1 license, occupation, or professional tax or fee upon real estate
2 licensees, except upon the broker-in-charge at the place where the
3 real estate licensee shall maintain a principal or branch office. The
4 license, occupation, or professional tax or fee shall permit the
5 broker-in-charge and the broker's affiliated associate brokers,
6 salespersons, and property managers to engage in all of the
7 brokerage activities described in Chapter 57 of Title 40 without
8 further licensing or taxing, other than the state licenses issued
9 pursuant to Chapter 57 of Title 40 or pursuant to other provisions
10 of law. No license, occupation, or professional tax or fee shall be
11 required of the affiliated associate brokers, salespersons or
12 property managers of a broker-in-charge for such gross receipts
13 upon which a license, occupation, or professional tax or fee has
14 already been paid.

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

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

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29 SECTION 2. Section 5-7-30 of the 1976 Code is amended to
30 read:

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32 "Section 5-7-30. Each municipality of the State, in addition to
33 the powers conferred to its specific form of government, may enact
34 regulations, resolutions, and ordinances, not inconsistent with the
35 Constitution and general law of this State, including the exercise of
36 powers in relation to roads, streets, markets, law enforcement,
37 health, and order in the municipality or respecting any subject
38 which appears to it necessary and proper for the security, general
39 welfare, and convenience of the municipality or for preserving
40 health, peace, order, and good government in it, including the
41 authority to levy and collect taxes on real and personal property
42 and as otherwise authorized in this section, make assessments, and
43 establish uniform service charges relating to them; the authority to
44 abate nuisances; the authority to provide police protection in

1 contiguous municipalities and in unincorporated areas located not
2 more than three miles from the municipal limits upon the request
3 and agreement of the governing body of such contiguous
4 municipality or the county, including agreement as to the
5 boundaries of such police jurisdictional areas, in which case the
6 municipal law enforcement officers shall have the full jurisdiction,
7 authority, rights, privileges, and immunities, including coverage
8 under the workers' compensation law, which they have in the
9 municipality, including the authority to make arrests, and to
10 execute criminal process within the extended jurisdictional area;
11 provided, however, that this shall not extend the effect of the laws
12 of the municipality beyond its corporate boundaries; grant
13 franchises for the use of public streets and make charges for them;
14 grant franchises and make charges for the use of public beaches;
15 engage in the recreation function; levy a business license tax on
16 gross income, but a wholesaler delivering goods to retailers in a
17 municipality is not subject to the business license tax unless he
18 maintains within the corporate limits of the municipality a
19 warehouse or mercantile establishment for the distribution of
20 wholesale goods; and a business engaged in making loans secured
21 by real estate is not subject to the business license tax unless it has
22 premises located within the corporate limits of the municipality
23 and no entity which is exempt from the license tax under another
24 law nor a subsidiary or affiliate of an exempt entity is subject to
25 the business license tax; borrow in anticipation of taxes; and
26 pledge revenues to be collected and the full faith and credit of the
27 municipality against its note and conduct advisory referenda. The
28 municipal governing body may fix fines and penalties for the
29 violation of municipal ordinances and regulations not exceeding
30 five hundred dollars or imprisonment not exceeding thirty days, or
31 both. If the person or business taxed pays a business license tax to
32 a county or to another municipality where the income is earned,
33 the gross income for the purpose of computing the tax must be
34 reduced by the amount of gross income taxed in the other county
35 or municipality.

36 For the purpose of providing and maintaining parking for the
37 benefit of a downtown commercial area, a municipality may levy a
38 surtax upon the business license of a person doing business in a
39 designated area in an amount not to exceed fifty percent of the
40 current yearly business license tax upon terms and conditions fixed
41 by ordinance of the municipal council. The area must be
42 designated by council only after a petition is submitted by not less
43 than two-thirds of the persons paying a business license tax in the
44 area and who paid not less than one-half of the total business

1 license tax collected for the preceding calendar year requesting the
2 designation of the area. The business within the designated area
3 which is providing twenty-five or more parking spaces for
4 customer use is required to pay not more than twenty-five percent
5 of a surtax levied pursuant to the provisions of this paragraph.”
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7 SECTION 3. Section 40-57-180(G) of the 1976 Code, as last
8 amended by Act 218 of 2004, is further amended to read:
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10 “(G) The commission shall establish and publish standards
11 relevant to the approval and conduct of education required by this
12 chapter.

13 (1) The department shall review, approve, and regulate
14 education courses required by this chapter and providers and
15 instructors of these courses including, but not limited to, accredited
16 colleges, universities, private business entities, organizations,
17 schools, associations, and institutions. Notwithstanding another
18 rule or regulation, all Certified Commercial Investment Member
19 (CCIM) designation courses approved by the CCIM institute and
20 all Graduate Realtor Institute (GRI) designation courses approved
21 by the National Association of Realtors must be approved for
22 post-licensing and continuing education credit upon application
23 accompanied by applicable fees.

24 (2) The department may deny, reprimand, fine, suspend, or
25 revoke the approval of an education provider or instructor if the
26 department finds that the education provider or instructor has
27 violated or failed to satisfy the provisions of this chapter or the
28 regulations and standards promulgated pursuant to this chapter.

29 (3) Application by providers seeking approval to offer and
30 conduct educational instruction or application by instructors must
31 be made on a form prescribed by the department and accompanied
32 by applicable fees not less than sixty days before a course offering
33 and must be approved by the department before the
34 commencement of any instruction. Instructors that hold the
35 Certified Commercial Investment Member (CCIM) designation
36 conferred by the CCIM Institute are approved for instruction in all
37 commercial real estate courses upon application accompanied by
38 the applicable fees.

39 (4) If an application for provider, instructor, or course is not
40 approved, the reason must be detailed and the applicant must be
41 given thirty days to respond.

42 (5) Upon approval, certificates must be issued to providers,
43 courses, and instructors to be renewed biennially.

(6) Approved courses must be taught by approved instructors who are qualified and have demonstrated knowledge of the subject matter to be taught as well as the ability to teach.

(7) Approved instructors shall attend instructor development workshops sponsored by the department or provide evidence of equivalent hours of continuing education that increases their knowledge of the subject content in their area of expertise or their teaching techniques.

(8) The Commission must allow for electronic delivery including, but not limited to, the Internet, videoconference, or other interactive electronic means, of all courses approved for continuing education.”

SECTION 4. This act takes effect upon approval by the Governor.

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