

House Bill 1355

By: Representatives Mughal of the 105th, Stephens of the 164th, Stoner of the 40th, Marin of the 96th, Anulewicz of the 42nd, and others

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 revise regulatory fees for home based businesses; to provide for a definition; to provide for
4 related matters; to provide for a short title; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 This Act shall be known and may be cited as the "Home Based Businesses Entrepreneurship
8 Act."

9 **SECTION 2.**

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14 subject to fees, and general laws not repealed, to include a new subsection to read as follows:

15 "48-13-9.

16 (a) A local government is authorized to require a business or practitioner of a profession
17 or occupation to pay a regulatory fee only if the local government customarily performs
18 investigation or inspection of such businesses or practitioners of such profession or
19 occupation as protection of the public health, safety, or welfare or in the course of
20 enforcing a state or local building, health, or safety code, but no local government is
21 authorized to use regulatory fees as a means of raising revenue for general purposes;
22 provided that the amount of a regulatory fee shall approximate the reasonable cost of the
23 actual regulatory activity performed by the local government.

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

- 27 (1) Building and construction contractors, subcontractors, and workers;
- 28 (2) Carnivals;
- 29 (3) Taxicab and limousine operators;
- 30 (4) Tattoo artists;
- 31 (5) Stables;
- 32 (6) Shooting galleries and firearm ranges;
- 33 (7) Scrap metal processors;
- 34 (8) Pawnbrokers;
- 35 (9) Food service establishments;
- 36 (10) Dealers in precious metals;
- 37 (11) Firearms dealers;
- 38 (12) Peddlers;
- 39 (13) Parking lots;
- 40 (14) Nursing homes, assisted living communities, and personal care homes;
- 41 (15) Newspaper vending boxes;

- 42 (16) Modeling agencies;
- 43 (17) Massage parlors;
- 44 (18) Landfills;
- 45 (19) Auto and motorcycle racing;
- 46 (20) Boarding houses;
- 47 (21) Businesses which provide appearance bonds;
- 48 (22) Boxing and wrestling promoters;
- 49 (23) Hotels and motels;
- 50 (24) Hypnotists;
- 51 (25) Handwriting analysts;
- 52 (26) Health clubs, gyms, and spas;
- 53 (27) Fortunetellers;
- 54 (28) Garbage collectors;
- 55 (29) Escort services;
- 56 (30) Burglar and fire alarm installers; and
- 57 (31) Locksmiths.

58 (c) Examples of businesses and practitioners of professions and occupations which local
59 governments are not authorized to subject to regulatory fees include, but are expressly not
60 limited to, the following:

- 61 (1) Lawyers;
- 62 (2) Physicians licensed under Chapter 34 of Title 43;
- 63 (3) Osteopaths licensed under Chapter 34 of Title 43;
- 64 (4) Chiropractors;
- 65 (5) Podiatrists;
- 66 (6) Dentists;
- 67 (7) Optometrists;
- 68 (8) Psychologists;

- 69 (9) Veterinarians;
- 70 (10) Landscape architects;
- 71 (11) Land surveyors;
- 72 (12) Practitioners of physiotherapy;
- 73 (13) Public accountants;
- 74 (14) Embalmers;
- 75 (15) Funeral directors;
- 76 (16) Civil, mechanical, hydraulic, or electrical engineers;
- 77 (17) Architects;
- 78 (18) Marriage and family therapists, social workers, and professional counselors;
- 79 (19) Dealers of motor vehicles, as defined in paragraph (1) of Code Section 10-1-622;
- 80 (20) Owners or operators of bona fide coin operated amusement machines, as defined
- 81 in Code Section 50-27-70, and owners or operators of businesses where bona fide coin
- 82 operated amusement machines are available for commercial use and play by the public,
- 83 provided that such amusement machines have affixed current stickers showing payment
- 84 of annual permit fees, in accordance with Code Section 50-27-78;
- 85 (21) Merchants or dealers as defined in Code Section 48-5-354 as to their deliveries to
- 86 businesses and practitioners of professions and occupations in areas zoned for
- 87 commercial use; and
- 88 (22) Any other business, profession, or occupation for which state licensure or
- 89 registration is required by state law, unless the state law regulating such business,
- 90 profession, or occupation specifically allows for regulation by local governments.
- 91 (d) This Code section shall not be construed to repeal other general laws which allow or
- 92 require regulation of businesses, occupations, or professions by local governments.
- 93 (e) For each business, profession, or occupation, local governments are authorized to
- 94 determine the amount of a regulatory fee imposed in accordance with this article only by
- 95 one of the following methods:

- 96 (1) A flat fee for each business or practitioner of a profession or occupation doing
97 business in the jurisdiction as authorized by Code Section 48-13-8;
- 98 (2) A flat fee for each type of permit or inspection requested;
- 99 (3) An hourly rate determined by the hourly wage or salary, including employee benefits,
100 of the person or persons assigned to investigate or inspect multiplied by the number of
101 hours estimated for the investigation or inspection to be performed;
- 102 (4) An hourly rate as determined by paragraph (3) of this subsection with the addition
103 of other expenses reasonably related to such regulatory activity, such as administrative
104 and travel expenses, multiplied by the number of hours estimated for the investigation or
105 inspection to be performed;
- 106 (5) For construction projects that are classified as new construction, the number of
107 square feet of construction or the number of square feet of construction to be served by
108 the system to be installed, in conjunction with and limited by the building valuation data,
109 as established from time to time by the International Code Council or by similar data, and
110 in conjunction with and limited by the hourly rate described in paragraph (3) or (4) of this
111 subsection; or
- 112 (6) For construction projects that are classified as renovation and all other construction
113 projects other than those classified as new construction, the cost of the project in
114 conjunction with and limited by the building valuation data that conforms with the
115 principles and methods established from time to time by the International Code Council
116 or by similar data, and in conjunction with and limited by the hourly rate described in
117 paragraph (3) or (4) of this subsection.
- 118 (f)(1) As used in this subsection, the term 'home based business' means any activity
119 operated by a limited liability company consisting of only one member for pecuniary gain
120 or directed from a residential dwelling by one or more family members residing within
121 that dwelling.

