

Occupational licenses, professions regulated by DBPR

Number: INFORMAL

Date: December 09, 2005

Mr. Patrick J. Sura
Codes Compliance Director
Suwannee County Building Department
224 Pine Avenue
Live Oak, Florida 32064

Dear Mr. Sura:

You ask for clarification of section 205.065, Florida Statutes.

Your inquiry concerns the authority of the county to impose occupational licenses and thus concerns the powers of the board of county commissioners. In order for this office to formally comment upon this matter, such a request must come from the board of county commissioners.

Informally and in an effort to be of some assistance, however, I would note that Chapter 205, Florida Statutes, authorizes counties and municipalities to impose occupational license taxes on those persons engaging in specified businesses or occupations within the government's jurisdiction.[1] Section 205.065, Florida Statutes, however, provides:

"If any person engaging in or managing a business, profession, or occupation regulated by the Department of Business and Professional Regulation has paid an occupational license tax for the current year to the county or municipality in the state where the person's permanent business location or branch office is maintained, no other local governing authority may levy an occupational license tax, or any registration or regulatory fee equivalent to the occupational license tax, on the person for performing work or services on a temporary or transitory basis in another municipality or county. In no event shall any work or services performed in a place other than the county or municipality where the permanent business location or branch office is maintained be construed as creating a separate business location or branch office of that person for the purposes of this chapter. Any properly licensed contractor asserting an exemption under this section who is unlawfully required by the local governing authority to pay an occupational license tax, or any registration or regulatory fee equivalent to the occupational license tax, shall have standing to challenge the propriety of the local government's actions, and the prevailing party in such a challenge is entitled to recover a reasonable attorney's fee."

In Attorney General Opinion 92-74, this office has stated that section 205.065 requires only that a municipality or county refrain from imposing an occupational license tax on a person engaging in or managing a business, profession, or occupation regulated by the Department of Professional Regulation (now the Department of Business and Professional Regulation) if:

"1) the permanent business location or a branch office is not maintained in that city or county,
and

2) the business has paid an occupational license tax for the current year to another county or municipality where its permanent business location or branch office is maintained." [2]

If a "regulated" business does not meet either of these requirements, it is still liable for payment of an occupational license tax. Based upon its examination of the legislative history surrounding the enactment of the statute, the opinion concluded that the statute is directed at eliminating the imposition of an occupational license tax on transitory business activity. Thus, this office stated that the prohibition contained in section 205.065, Florida Statutes, "would not prevent a municipality or county from imposing an occupational license tax if the person maintained a permanent or branch office in such jurisdiction even though the person may have paid an occupational license tax to another county or municipality where a permanent or branch office was located."

You may access the 1992 opinion, as well as the other opinions cited herein, on this office's website at: www.myfloridalegal.com Click on "AG Opinions" from the menu on the left side of the screen to access a searchable database of opinions issued by this office since 1974. Thank you for contacting the Florida Attorney General's Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tfl

[1] See s. 205.033, Fla. Stat., relating to the imposition of occupational license taxes by counties, and s. 205.043, Fla. Stat., providing for the levy of such a tax by municipalities.

[2] *And see* Op. Att'y Gen. Fla. 93-19 (1993) which considered whether registered contractors are "regulated" within the scope of s. 205.065, Fla. Stat. *See also* Op. Att'y Gen. Fla. 92-83 (1992) in which this office stated that s. 205.065, Fla. Stat., does not prohibit a county from imposing an occupational license tax on such a business when the business has a permanent business location or branch office in a municipality located within the county, even though the business has paid an occupational license tax to the municipality for the tax year since the permanent business location or branch office is also located within the county.