

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

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2 An act relating to home-based businesses; creating s.
3 559.955, F.S; prohibiting local governments from
4 taking certain actions relating to the licensure and
5 regulation of home-based businesses; specifying
6 conditions under which a business is considered a
7 home-based business; defining the term "heavy
8 equipment"; authorizing home-based businesses to
9 operate in areas zoned for residential use; specifying
10 that home-based businesses are subject to certain
11 business taxes; authorizing adversely affected current
12 or prospective home-based business owners to challenge
13 certain local government actions; authorizing the
14 prevailing party in such challenge to recover
15 specified attorney fees and costs; providing that
16 certain existing and future residential association
17 declarations and documents are not superseded by the
18 act; providing that certain local laws, ordinances, or
19 regulations are not are not superseded; providing an
20 effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 559.955, Florida Statutes, is created
25 to read:

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26 559.955 Home-based businesses; local government
27 restrictions.—

28 (1) Local governments may not enact or enforce any
29 ordinance, regulation, or policy or take any action to license
30 or otherwise regulate a home-based business in violation of this
31 section.

32 (2) A home-based business that operates from a residential
33 property as provided in subsection (3):

34 (a) May operate in an area zoned for residential use.

35 (b) May not be prohibited, restricted, regulated, or
36 licensed in a manner that is different from other businesses in
37 a local government's jurisdiction, except as otherwise provided
38 in this section.

39 (c) Is only subject to applicable business taxes under
40 chapter 205 in the county and municipality in which the home-
41 based business is located.

42 (3) For purposes of this section, a business is considered
43 a home-based business if it operates, in whole or in part, from
44 a residential property and meets the following criteria:

45 (a) The employees of the business who work at the
46 residential dwelling must also reside in the residential
47 dwelling, except that up to a total of two employees or
48 independent contractors who do not reside at the residential
49 dwelling may work at the business. The business may have
50 additional remote employees that do not work at the residential

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51 dwelling.

52 (b) Parking related to the business activities of the
53 home-based business complies with local zoning requirements and
54 the need for parking generated by the business may not be
55 greater in volume than would normally be expected at a similar
56 residence where no business is conducted. Local governments may
57 regulate the use of vehicles or trailers operated or parked at
58 the business or on a street right-of-way, provided that such
59 regulations are not more stringent than those for a residence
60 where no business is conducted. Vehicles and trailers used in
61 connection with the business must be parked in legal parking
62 spaces that are not located within the right-of-way, on or over
63 a sidewalk, or on any unimproved surfaces at the residence.
64 Local governments may regulate the parking or storage of heavy
65 equipment at the business which is visible from the street or
66 neighboring property. For purposes of this paragraph, the term
67 "heavy equipment" means commercial, industrial, or agricultural
68 vehicles, equipment, or machinery.

69 (c) As viewed from the street, the use of the residential
70 property is consistent with the uses of the residential areas
71 that surround the property. External modifications made to a
72 residential dwelling to accommodate a home-based business must
73 conform to the residential character and architectural
74 aesthetics of the neighborhood. The home-based business may not
75 conduct retail transactions at a structure other than the

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76 residential dwelling; however, incidental business uses and
77 activities may be conducted at the residential property.

78 (d) The activities of the home-based business are
79 secondary to the property's use as a residential dwelling.

80 (e) The business activities comply with any relevant local
81 or state regulations with respect to signage and equipment or
82 processes that create noise, vibration, heat, smoke, dust,
83 glare, fumes, or noxious odors. Any local regulations on a
84 business with respect to noise, vibration, heat, smoke, dust,
85 glare, fumes, or noxious odors may not be more stringent than
86 those that apply to a residence where no business is conducted.

87 (f) All business activities comply with any relevant
88 local, state, and federal regulations with respect to the use,
89 storage, or disposal of any corrosive, combustible, or other
90 hazardous or flammable materials or liquids. Any local
91 regulations on a business with respect to the use, storage, or
92 disposal of any corrosive, combustible, or other hazardous or
93 flammable materials or liquids may not be more stringent than
94 those that apply to a residence where no business is conducted.

95 (4) Any adversely affected current or prospective home-
96 based business owner may challenge any local government action
97 in violation of this section. The prevailing party in a
98 challenge may recover reasonable attorney fees and costs
99 incurred in challenging or defending the action, including
100 reasonable appellate attorney fees and costs.

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101 (5) The application of this section does not supersede:

102 (a) Any current or future declaration or declaration of
103 condominium adopted pursuant to chapter 718, cooperative
104 document adopted pursuant to chapter 719, or declaration or
105 declaration of covenant adopted pursuant to chapter 720.

106 (b) Local laws, ordinances, or regulations related to
107 transient public lodging establishments, as defined in s.
108 509.013(4)(a)1., that are not otherwise preempted under chapter
109 509.

110 Section 2. This act shall take effect July 1, 2021.