

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

1  
 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 17 declarations and documents are not superseded by the  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 19 regulations are not are not superseded; providing an  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.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24 Section 1. Section 559.955, Florida Statutes, is created  
 25 to read:

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

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

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

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

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

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.

ENROLLED

CS/HB 403, Engrossed 1

2021 Legislature

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.