

By Senator Perry

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1 A bill to be entitled
2 An act relating to preemption of local regulations;
3 creating s. 163.21, F.S.; providing definitions;
4 prohibiting certain local governments from imposing or
5 adopting certain regulations on businesses and
6 business entities on or after a specified date;
7 providing exceptions; specifying that certain
8 regulations expire and may only be readopted or
9 continue to be imposed after meeting specified
10 criteria; preempting the regulation and licensing of
11 professions and occupations to the state; providing
12 exceptions; prohibiting local governments from
13 imposing additional regulations or modifying
14 regulations unless specified conditions are met;
15 specifying that specified local regulations that do
16 not meet specified criteria do not apply and may not
17 be enforced; amending s. 489.117, F.S.; specifying
18 that specified specialty contractors are not required
19 to register with the Construction Industry Licensing
20 Board; prohibiting local governments from requiring
21 certain specialty contractors to obtain a license
22 under specified circumstances; specifying job scopes
23 for which a local jurisdiction may not require a
24 license; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 163.21, Florida Statutes, is created to
29 read:

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30 163.21 Regulation of businesses and business entities;
31 regulation and licensing of professions and occupations
32 preempted to state.-

33 (1) DEFINITIONS.-As used in this section:

34 (a) "Business" means any activity regularly engaged in by
35 any person, or caused to be engaged in by any person, for the
36 purpose of private or public gain, benefit, or advantage. The
37 term includes goods and services and business entities.

38 (b) "Business entity" has the same meaning as in s.
39 112.312.

40 (c) "Local government" means a county, municipality,
41 special district, or political subdivision of the state.

42 (d) "Occupation" means a paid job, profession, work, line
43 of work, trade, employment, position, post, situation, business,
44 career, field, vocation, calling, or craft, or any other
45 activity undertaken by a person to earn a livelihood.

46 (e) "Profession" means a paid occupation that involves
47 prolonged or specialized training, knowledge, qualifications,
48 and skills. The term includes membership in a professional body
49 that is guided by a certain code of conduct established by the
50 professional body or a certificate of practice to engage in a
51 profession.

52 (f) "Publicly stated" or "published" means the posting of a
53 statement or report on the local government's website 14 days
54 before any publicly noticed meeting to adopt any regulation of a
55 business or business entity, or, if the local government does
56 not have a website, the publishing of a statement or report in
57 the local government's meeting notice or agenda and publicly
58 reading the statement or report at the meeting immediately

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59 before the vote to adopt the regulation.

60 (g) "Regulation" means a rule, directive, act, law, bylaw,
61 ordinance, pronouncement, mandate, command, injunction,
62 procedure, requirement, prescription, or guideline, and any
63 action or process of regulating or being regulated along with
64 any associated fee.

65 (h) "Transactional costs" are direct costs that are
66 ascertainable based upon standard business practices, and
67 include filing fees, the cost of obtaining a license, the cost
68 of procedures required to be employed in complying with the
69 proposed regulation, additional operating costs incurred, the
70 cost of monitoring and reporting, and any other costs necessary
71 to comply with the proposed regulation.

72 (2) BUSINESS AND BUSINESS ENTITY REGULATION.—On or after
73 July 1, 2019, a local government may not adopt or impose any new
74 regulation that is not expressly authorized by general law on a
75 business or business entity unless:

76 (a) The local government has determined and publicly stated
77 that the regulation is justified because:

78 1. The regulation is necessary to protect the public
79 health, safety, or welfare from significant and discernible harm
80 or damage and that the police power being exercised is only
81 being exercised to the extent necessary for that purpose;

82 2. The regulation is being regulated in a manner that does
83 not unnecessarily restrict entry into the business or adversely
84 affect the availability of the business' services to the public;
85 and

86 3. The least restrictive and most cost-effective regulatory
87 scheme is being used to regulate such business or business

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88 entity.

89 (b) The regulation has a sunset date or expires 2 years
90 after the date it was adopted or imposed. The regulation may not
91 be readopted or continue to be imposed without meeting the
92 requirements of this section.

93 (c) The local government has passed the regulation by a
94 two-thirds vote of the entire membership of the governing body.
95 However, a two-thirds vote of the entire membership of the
96 governing body is not required for zoning regulations,
97 regulations that increase building costs by less than \$750,
98 nuisance ordinances, and ordinances related to alcohol or
99 tobacco.

100 (d) The local government has completed a statement of
101 estimated regulatory costs and determined that the regulation
102 does not impose regulatory costs on the business or business
103 entity that could be reduced by the adoption of a less costly
104 alternative. The statement of estimated regulatory costs must be
105 published 14 days before the adoption or imposition of the
106 regulation and must include the following:

107 1. A determination as to whether the overall cost-
108 effectiveness and economic impact of the proposed regulation,
109 including the indirect costs to consumers, will be favorable;

110 2. An estimate of the number of businesses or business
111 entities that would be subject to the regulation;

112 3. An estimate of the cost of regulation, including the
113 indirect costs to consumers, and the method proposed to finance
114 the regulation;

115 4. The resources necessary to implement and enforce the
116 proposed regulation, including, but not limited to:

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- 117 a. The anticipated costs to implement and enforce the
118 proposed regulation; and
- 119 b. The anticipated license fees to cover the anticipated
120 costs;
- 121 5. The anticipated impact to small businesses as defined in
122 s. 288.703;
- 123 6. The anticipated impact on business competitiveness,
124 including the ability of persons doing business in the county to
125 compete with persons doing business in other counties or
126 markets;
- 127 7. The anticipated impact on economic growth and private
128 sector job creation or employment;
- 129 8. The cost imposed on businesses and business entities as
130 a result of the regulation; and
- 131 9. A good faith estimate of the transactional costs likely
132 to be incurred by businesses and business entities required to
133 comply with the proposed regulation.
- 134 (3) EXEMPTION.—Any regulation expressly authorized by
135 general law is exempt from the requirements of this section.
- 136 (4) REGULATION EXPIRATION.—Any regulation of a business or
137 business entity adopted or imposed before July 1, 2019, expires
138 on July 1, 2021, and may only be readopted or continue to be
139 imposed after meeting the criteria in subsection (2), unless the
140 regulation is expressly authorized by general law.
- 141 (5) PREEMPTION OF PROFESSIONAL AND OCCUPATIONAL REGULATION
142 AND LICENSING TO THE STATE.—The regulation and licensing of
143 professions and occupations is expressly preempted to the state,
144 and this section supersedes any local government regulation or
145 licensing requirement of professions and occupations with the

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146 exception of the following:

147 (a) Any local government regulation of professions or
148 occupations adopted or imposed before July 1, 2019. However, any
149 such regulation expires on July 1, 2021.

150 (b) A regulation expressly authorized by general law or
151 ratified by the Legislature before July 1, 2021.

152 (6) EXISTING REGULATION LIMIT.—A local government with a
153 local regulation concerning a profession or occupation that is
154 retained pursuant to paragraph (5) (a) or paragraph (5) (b) may
155 not impose additional regulations on that profession or
156 occupation or modify such regulation except in accordance with
157 this section.

158 (7) REGULATIONS NOT AUTHORIZED.—Any local regulation of a
159 business, business entity, profession, or occupation that is not
160 authorized under this section or otherwise expressly authorized
161 by general law does not apply and may not be enforced.

162 Section 2. Paragraph (a) of subsection (4) of section
163 489.117, Florida Statutes, is amended to read:

164 489.117 Registration; specialty contractors.—

165 (4) (a) A person ~~holding a local license~~ whose job scope
166 does not substantially correspond to either the job scope of one
167 of the contractor categories defined in s. 489.105(3) (a)-(o), or
168 the job scope of one of the certified specialty contractor
169 categories established by board rule, is not required to
170 register with the board ~~to perform contracting activities within~~
171 ~~the scope of such specialty license.~~ A local government, as
172 defined in s. 163.21(1), may not require a person to obtain a
173 license for a job scope which does not substantially correspond
174 to the job scope of one of the contractor categories defined in

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175 s. 489.105(3)(a)-(o) and (q). For purposes of this section, job
176 scopes for which a local jurisdiction may not require a license
177 include, but are not limited to, painting, flooring, cabinetry,
178 interior remodeling, driveway or tennis court installation, and
179 decorative stone, tile, marble, granite, or terrazzo
180 installation, plastering, and stuccoing.

181 Section 3. This act shall take effect July 1, 2019.