A bill to be entitled

An act relating to preemption of local regulations; creating s. 163.21, F.S.; providing definitions; prohibiting certain local governments from imposing or adopting certain regulations on businesses and business entities on or after a specified date; providing exceptions; specifying that certain regulations expire and may only be readopted or continue to be imposed after meeting specified criteria; preempting the regulation and licensing of professions and occupations to the state; providing exceptions; prohibiting local governments from imposing additional regulations or modifying regulations unless specified conditions are met; specifying that specified local regulations that do not meet specified criteria do not apply and may not be enforced; amending s. 489.117, F.S.; specifying that specified specialty contractors are not required to register with the Construction Industry Licensing Board; prohibiting local governments from requiring certain specialty contractors to obtain a license under specified circumstances; specifying job scopes for which a local jurisdiction may not require a license; providing an effective date.

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

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

CODING: Words stricken are deletions; words underlined are additions.
8-01765A-19

163.21 Regulation of businesses and business entities; regulation and licensing of professions and occupations preempted to state.—

(1) DEFINITIONS.—As used in this section:

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

(b) “Business entity” has the same meaning as in s. 112.312.

(c) “Local government” means a county, municipality, special district, or political subdivision of the state.

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

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

(f) “Publicly stated” or “published” means the posting of a statement or report on the local government’s website 14 days before any publicly noticed meeting to adopt any regulation of a business or business entity, or, if the local government does not have a website, the publishing of a statement or report in the local government’s meeting notice or agenda and publicly reading the statement or report at the meeting immediately.

Page 2 of 7

CODING: Words stricken are deletions; words underlined are additions.
before the vote to adopt the regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The resources necessary to implement and enforce the proposed regulation, including, but not limited to:
a. The anticipated costs to implement and enforce the proposed regulation; and
b. The anticipated license fees to cover the anticipated costs;
5. The anticipated impact to small businesses as defined in s. 288.703;
6. The anticipated impact on business competitiveness, including the ability of persons doing business in the county to compete with persons doing business in other counties or markets;
7. The anticipated impact on economic growth and private sector job creation or employment;
8. The cost imposed on businesses and business entities as a result of the regulation; and
9. A good faith estimate of the transactional costs likely to be incurred by businesses and business entities required to comply with the proposed regulation.

(3) EXEMPTION.—Any regulation expressly authorized by general law is exempt from the requirements of this section.

(4) REGULATION EXPIRATION.—Any regulation of a business or business entity adopted or imposed before July 1, 2019, expires on July 1, 2021, and may only be readopted or continue to be imposed after meeting the criteria in subsection (2), unless the regulation is expressly authorized by general law.

(5) PREEMPTION OF PROFESSIONAL AND OCCUPATIONAL REGULATION AND LICENSING TO THE STATE.—The regulation and licensing of professions and occupations is expressly preempted to the state, and this section supersedes any local government regulation or licensing requirement of professions and occupations with the
exception of the following:

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

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

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

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

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

489.117 Registration; specialty contractors.—

(4)(a) A person holding a local license whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board to perform contracting activities within the scope of such specialty license. A local government, as defined in s. 163.21(1), may not require a person to obtain a license for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in
s. 489.105(3)(a)-(o) and (q). For purposes of this section, job
scopes for which a local jurisdiction may not require a license
include, but are not limited to, painting, flooring, cabinetry,
interior remodeling, driveway or tennis court installation, and
decorative stone, tile, marble, granite, or terrazzo
installation, plastering, and stuccoing.

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