

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:

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  
 53 a 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  
 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 on a business or business entity unless:

75 (a) The local government has determined and publicly

76 stated that the regulation is justified because:

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

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

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

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

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

99 (d) The local government has completed a statement of  
100 estimated regulatory costs and determined that the regulation

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

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

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

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

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

116 a. The anticipated costs to implement and enforce the  
117 proposed regulation; and

118 b. The anticipated license fees to cover the anticipated  
119 costs;

120 5. The anticipated impact to small businesses as defined  
121 in s. 288.703;

122 6. The anticipated impact on business competitiveness,  
123 including the ability of persons doing business in the county to  
124 compete with persons doing business in other counties or  
125 markets;

126 7. The anticipated impact on economic growth and private  
127 sector job creation or employment;

128 8. The cost imposed on businesses and business entities as  
129 a result of the regulation; and

130 9. A good faith estimate of the transactional costs likely  
131 to be incurred by businesses and business entities required to  
132 comply with the proposed regulation.

133 (3) REGULATION EXPIRATION.-Any regulation of a business or  
134 business entity adopted or imposed before July 1, 2019, expires  
135 on July 1, 2021, and may only be readopted or continue to be  
136 imposed after meeting the criteria in subsection (2).

137 (4) PREEMPTION OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
138 AND LICENSING TO THE STATE.-The regulation and licensing of  
139 professions and occupations is expressly preempted to the state,  
140 and this section supersedes any local government regulation or  
141 licensing requirement of professions and occupations with the  
142 exception of the following:

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

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

148 (5) EXISTING REGULATION LIMIT.-A local government with a  
149 local regulation concerning a profession or occupation that is  
150 retained pursuant to paragraph (4) (a) or paragraph (4) (b) may

151 not impose additional regulations on that profession or  
152 occupation or modify such regulation except in accordance with  
153 this section.

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

158 Section 2. Paragraph (a) of subsection (4) of section  
159 489.117, Florida Statutes, is amended to read:

160 489.117 Registration; specialty contractors.—

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

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176 | installation, plastering, and stuccoing.

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