



355386

LEGISLATIVE ACTION

Senate

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House

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Floor: 2/AD/2R

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04/28/2021 10:37 AM

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Senator Perry moved the following:

1 **Senate Substitute for Amendment (809848) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 559.955, Florida Statutes, is created to
7 read:

8 559.955 Home-based businesses; legislative findings and
9 intent; preemption.—

10 (1) It is the intent of the Legislature to encourage small
11 and home-based business enterprises. To that end, the



355386

12 Legislature finds that:

13 (a) Small and home-based businesses are a critical part of
14 the economy of this state and provide unique and valuable
15 benefits to the communities in which they are located.

16 (b) Residential property is often the most valuable asset
17 owned by a potential small business entrepreneur.

18 (c) Residential property can be put to beneficial use by
19 potential small business entrepreneurs in ways that are
20 consistent with residential use.

21 (2) (a) For purposes of this section, a business is
22 considered a home-based business if:

23 1. The business is subordinate to the use of the dwelling
24 unit for residential purposes. External modifications made to a
25 residential dwelling to accommodate a home-based business must
26 conform to the residential character and architectural
27 aesthetics of the neighborhood; and

28 2. The business activities comply with any local or state
29 regulations with respect to signage and equipment or processes
30 that create noise, vibration, heat, smoke, dust, glare, fumes,
31 or noxious odors.

32 (b) A home-based business must meet all of the following
33 requirements:

34 1. The employees of the business who work at the
35 residential dwelling must also reside in the residential
36 dwelling, except that up to a total of two employees or
37 independent contractors who do not reside at the residential
38 dwelling may work at the business.

39 2. Traffic and the need for parking generated by the
40 business may not be greater in volume than would normally be



355386

41 expected at a similar residence where no business is conducted.
42 Local governments may regulate the use of vehicles or trailers
43 operated or parked at the business or on a street right-of-way,
44 provided that such regulations are not more stringent than those
45 for a residence where no business is conducted. Vehicles and
46 trailers used in connection with the business must be parked in
47 legal parking spaces that are not located within the right-of-
48 way, on or over a sidewalk, or on any unimproved surfaces at the
49 residence. Local governments may regulate the parking or storage
50 of heavy equipment at the business which is visible from the
51 street or neighboring property. For purposes of this
52 subparagraph, the term "heavy equipment" means commercial,
53 industrial, or agricultural vehicles, equipment, or machinery.
54 The term includes, but is not limited to, semi-trailers,
55 tractors, construction equipment, earth-moving equipment, cement
56 mixers, and any other similar equipment or machinery classified
57 as commercial by the manufacturer.

58 3. Business activities related to hours of operation and
59 business activities conducted outside of the primary residential
60 structure, including exterior signage displays or exterior
61 storage, must comply with all local regulations. However, a
62 local government may not impose any restriction on hours of
63 operation between 9 a.m. and 6 p.m.

64 4. The activities of the business must be secondary to the
65 property's use as a residential dwelling.

66 5. All business activities must comply with any local,
67 state, and federal regulations with respect to the use, storage,
68 or disposal of any corrosive, combustible, or other hazardous or
69 flammable materials or liquids. Any local regulations on a



355386

70 business with respect to the use, storage, or disposal of any
71 corrosive, combustible, or other hazardous or flammable
72 materials or liquids may not be more stringent than those that
73 apply to a residence where no business is conducted.

74 6. Any business transactions conducted at the business must
75 not take place in view of the street.

76 (3) A home-based business:

77 (a) May operate in an area zoned for residential use; and

78 (b) Is subject to applicable business taxes under chapter
79 205 in the county and municipality in which the home-based
80 business is located.

81 (4) Local governments may not enact or enforce any
82 ordinance, regulation, or policy or take any action to otherwise
83 regulate a home-based business, other than as provided in this
84 section.

85 (5) Any adversely affected current or prospective home-
86 based business owner may challenge any local government action
87 in violation of this section. The prevailing party in a
88 challenge may recover reasonable attorney fees and costs
89 incurred in challenging or defending the action, including
90 reasonable appellate attorney fees and costs.

91 (6) (a) This section does not supersede any current or
92 future declaration of condominium adopted pursuant to chapter
93 718, cooperative document adopted pursuant to chapter 719, or
94 declaration of covenants adopted pursuant to chapter 720.

95 (b) This section does not prohibit local governments from
96 enacting or enforcing noise ordinances.

97 Section 2. This act shall take effect July 1, 2021.
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355386

99 ===== T I T L E A M E N D M E N T =====

100 And the title is amended as follows:

101 Delete everything before the enacting clause

102 and insert:

103 A bill to be entitled

104 An act relating to home-based businesses; creating s.
105 559.955, F.S.; providing legislative findings and
106 intent; specifying conditions under which a business
107 is considered a home-based business; providing
108 requirements for home-based businesses; defining the
109 term "heavy equipment"; authorizing a home-based
110 business to operate in an area zoned for residential
111 use; specifying that home-based businesses are subject
112 to certain business taxes; providing prohibitions and
113 authorizations for local governmental actions relating
114 to home-based businesses; authorizing adversely
115 affected current or prospective home-based business
116 owners to challenge certain local government actions;
117 authorizing the prevailing party in such challenge to
118 recover specified attorney fees and costs; providing
119 construction; providing an effective date.