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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/RS/2R

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04/28/2021 10:39 AM

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Senator Perry moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

559.955 Home-based businesses; local government
restrictions.-

(1) For purposes of this section, a business is considered
a home-based business if it operates, in whole or in part, from
a residential property and meets the following criteria:



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12 (a) The employees of the business who work at the
13 residential dwelling must also reside in the residential
14 dwelling, except that up to a total of two employees or
15 independent contractors who do not reside at the residential
16 dwelling may work at the business. The business may have
17 additional remote employees that do not work at the residential
18 dwelling.

19 (b) Parking related to the business activities of the home-
20 based business complies with local zoning requirements and the
21 need for parking generated by the business may not be greater in
22 volume than would normally be expected at a similar residence
23 where no business is conducted. Local governments may regulate
24 the use of vehicles or trailers operated or parked at the
25 business or on a street right-of-way, provided that such
26 regulations are not more stringent than those for a residence
27 where no business is conducted. Vehicles and trailers used in
28 connection with the business must be parked in legal parking
29 spaces that are not located within the right-of-way, on or over
30 a sidewalk, or on any unimproved surfaces at the residence.
31 Local governments may regulate the parking or storage of heavy
32 equipment at the business which is visible from the street or
33 neighboring property. For purposes of this paragraph, the term
34 "heavy equipment" means commercial, industrial, or agricultural
35 vehicles, equipment, or machinery.

36 (c) As viewed from the street, the use of the residential
37 property is consistent with the uses of the residential areas
38 that surround the property. External modifications made to a
39 residential dwelling to accommodate a home-based business must
40 conform to the residential character and architectural



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41 aesthetics of the neighborhood. The home-based business may not
42 conduct retail transactions at a structure other than the
43 residential dwelling; however, incidental business uses and
44 activities may be conducted at the residential property.

45 (d) The activities of the home-based business are secondary
46 to the property's use as a residential dwelling.

47 (e) The business activities comply with any relevant local
48 or state regulations with respect to signage and equipment or
49 processes that create noise, vibration, heat, smoke, dust,
50 glare, fumes, or noxious odors. Any local regulations on a
51 business with respect to noise, vibration, heat, smoke, dust,
52 glare, fumes, or noxious odors may not be more stringent than
53 those that apply to a residence where no business is conducted.

54 (f) All business activities comply with any relevant local,
55 state, and federal regulations with respect to the use, storage,
56 or disposal of any corrosive, combustible, or other hazardous or
57 flammable materials or liquids. Any local regulations on a
58 business with respect to the use, storage, or disposal of any
59 corrosive, combustible, or other hazardous or flammable
60 materials or liquids may not be more stringent than those that
61 apply to a residence where no business is conducted.

62 (2) A home-based business that operates from a residential
63 property as provided in subsection (1):

64 (a) May operate in an area zoned for residential use.

65 (b) May not be prohibited, restricted, regulated, or
66 licensed in a manner that is different from other businesses in
67 a local government's jurisdiction, except as otherwise provided
68 in this section.

69 (c) Is only subject to applicable business taxes under



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70 chapter 205 in the county and municipality in which the home-
71 based business is located.

72 (3) Local governments may not enact or enforce any
73 ordinance, regulation, or policy or take any action to license
74 or otherwise regulate a home-based business in violation of this
75 section.

76 (4) Any adversely affected current or prospective home-
77 based business owner may challenge any local government action
78 in violation of this section. The prevailing party in a
79 challenge may recover reasonable attorney fees and costs
80 incurred in challenging or defending the action, including
81 reasonable appellate attorney fees and costs.

82 Section 2. The application of this act shall not supersede
83 any current or future declaration or declaration of condominium
84 adopted pursuant to chapter 718, Florida Statutes, cooperative
85 document adopted pursuant to chapter 719, Florida Statutes, or
86 declaration or declaration of covenant adopted pursuant to
87 chapter 720, Florida Statutes.

88 Section 3. This act shall take effect July 1, 2021.

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

91 And the title is amended as follows:

92 Delete everything before the enacting clause
93 and insert:

94 A bill to be entitled
95 An act relating to home-based businesses; creating s.
96 559.955, F.S.; specifying conditions under which a
97 business is considered a home-based business; defining
98 the term "heavy equipment"; authorizing home-based



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99 businesses to operate in areas zoned for residential
100 use; specifying that home-based businesses are subject
101 to certain business taxes; prohibiting local
102 governments from taking certain actions relating to
103 the licensure and regulation of home-based businesses;
104 authorizing adversely affected current or prospective
105 home-based business owners to challenge certain local
106 government actions; authorizing the prevailing party
107 in such challenge to recover specified attorney fees
108 and costs; providing that certain existing and future
109 residential association declarations and documents are
110 not superseded by the act; providing an effective
111 date.