

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.