

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

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

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

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

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 exception¹ 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

HB 3

2019

176 | installation, plastering, and stuccoing.

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