

RESOLUTION NO. 2021-022

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, VEHEMENTLY OPPOSING FLORIDA HOUSE BILL 403 AND FLORIDA SENATE BILL 266, PROPOSING TO ALLOW HOME BASED BUSINESSES IN ANY AREA ZONED FOR RESIDENTIAL USE AND PREEMPTING TO THE STATE ALL MANNER OF REGULATION OF HOME-BASED BUSINESSES TO THE DETRIMENT OF THE CONSTITUTIONAL POWER OF LOCAL HOME-RULE; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, HB 403/Giallombardo and SB 266/Perry propose to allow home-based businesses to operate in residentially zoned areas; and

WHEREAS, the proposed legislative measures generally define a home-based business as any business “operat[ing] in whole or in part from a residential property”, with a maximum of two employees, which complies with the local parking requirements and does not generate a substantial increase in traffic, noise, waste or recycling; and

WHEREAS, these bills allow the operation of home-based businesses from any zoning district which allows residential uses, provides no limitations on the types of businesses allowed and no standards to determine what constitutes a substantial increase to traffic, noise or waste;

WHEREAS, the proposals preempt to the State all manner of regulation over home-based businesses, including fees, expressly prohibiting local governments from enacting or enforcing any ordinance, policy or license, or taking any action to regulate home-based businesses;

WHEREAS, the proposals are an incursion into the exercise of one of the most significant regulatory powers of local self-governance and home-rule, the power to adopt zoning laws to regulate land uses and thereby create and preserve quality of life in our neighborhoods and communities;

WHEREAS, these bills propose to remove the power of local self-governance to protect our neighborhoods from the hands of electors and their local elected officials and appropriate that power to Tallahassee politicians;

WHEREAS, the broad brush one-size fits all approach fails to recognize the unique qualities and sensibilities of all communities, fails to address increased foot and vehicular traffic from customers, deliveries, and other noxious nuisances that shall undoubtedly impact the health, safety and welfare of residential neighborhoods, its residents, their schools, and other residential comforts; and

WHEREAS, HB 403/Giallombardo and SB 266/Perry allowing home-based businesses in residential neighborhoods would change the character and look and feel of Florida's neighborhoods as well as impact families' and their children's peaceable enjoyment of their home and neighborhoods; and

WHEREAS, local governments, through the exercise of their home-rule power, are in the best position to protect the quality of life, health, safety and welfare of their residents; and

WHEREAS, no other level of government is more available or responsive to the needs and demands of their constituents, than local government; and

WHEREAS, no other level of government is more responsible for the delivery of core public services than local government; and

WHEREAS, the Mayor and City Council of the City of Hialeah oppose a one-size-fits-all approach and vehemently oppose the derogation of the constitutional power of home-rule by Tallahassee politicians.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:


Section 1. The Mayor and the City Council of the City of Hialeah vehemently oppose and appeal to the Florida Legislature and the Governor to reject HB 403/Giallombardo and SB 266/Perry proposing to allow home-based businesses in any area zoned for residential use and preempting local governments from regulating home based businesses based on the unique characteristics of each community.

Section 2. The City Clerk is directed to send a certified copy of this Resolution to the Florida League of Cities, Miami-Dade League of Cities, Miami-Dade County Mayor and Board,

the Clerk for the Senate and House of Representatives, Representatives Giallombardo and Perry, the Governor, and such other authorities as may be appropriate.

Section 3. This resolution shall become effective upon signature of the Mayor of the City of Hialeah, Florida or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

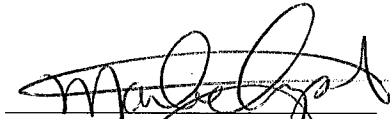
PASSED AND ADOPTED this 23 day of February, 2021.



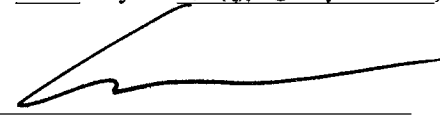
Jesus Tundidor
Council President

Attest:

Approved on this 2 day of March, 2021.

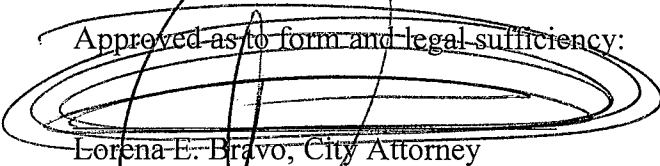


Marbelys Patjo, City Clerk



Mayor Carlos Hernandez

~~Approved as to form and legal sufficiency:~~



Lorena E. Bravo, City Attorney

Resolution was adopted by 6-0-1 vote with Councilmembers, De la Rosa, Garcia-Roves, Hernandez, Perez, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente absent.

With Item # H

HB 403

2021

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A bill to be entitled
An act relating to home-based businesses; creating s.
559.955, F.S.; specifying conditions under which a
business is considered a home-based business;
authorizing a home-based business to operate in a
residential zone under certain circumstances;
prohibiting a local government from certain actions
relating to the licensure and regulation of home-based
businesses; authorizing specified business owners to
challenge certain local government actions;
authorizing the prevailing party to recover specified
attorney fees and costs; providing an effective date.

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

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:

(a) The employees of the home-based business who work at
the residential dwelling also reside in the residential
dwelling, except that up to two employees who do not reside at

51 section.

52 (4) Any adversely affected current or prospective home-
53 based business owner may challenge any local government action
54 in violation of this section. The prevailing party in a
55 challenge may recover reasonable attorney fees and costs
56 incurred in challenging or defending the action, including
57 reasonable appellate attorney fees and costs.

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