

By Senator Martin

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A bill to be entitled

An act relating to preemption to the state; creating ss. 125.595, 166.0499, and 189.09, F.S.; providing legislative findings and intent; providing for preemption of all matters relating to the regulation of religious services and gatherings; prohibiting counties, municipalities, and special districts, respectively, from substantially burdening the free exercise of religion by adopting or enforcing certain ordinances, regulations, resolutions, rules, or other policies; requiring that religious services and gatherings, and parking relating to the attendance of such services and gatherings, be allowed on specified property; providing construction; providing that certain ordinances, regulations, resolutions, rules, and policies adopted or enforced by counties, municipalities, and special districts, respectively, are void and unenforceable; amending s. 553.79, F.S.; prohibiting a local enforcement agency from denying the issuance of a certificate of occupancy to an owner of residential or commercial structure based on noncompliance with Florida-friendly landscaping ordinances in certain circumstances; prohibiting a local enforcement agency from denying the issuance of a building permit for the alteration, modification, or repair of a single-family residential structure in certain circumstances; prohibiting a local enforcement agency from requiring a building permit for the construction of playground equipment, fences, or

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landscape irrigation systems on certain parcels;  
prohibiting a local enforcement agency from requiring  
a building permit to perform certain work; creating s.  
559.954, F.S.; defining the terms "local government"  
and "mutual benefit corporation"; providing that the  
regulation of mutual benefit corporations is preempted  
to the state; prohibiting local governments from  
enacting or enforcing certain ordinances, regulations,  
resolutions, rules, charter provisions, or other  
policies or from taking any action to license or  
otherwise regulate mutual benefit corporations in a  
specified manner; providing that certain ordinances,  
regulations, resolutions, rules, charter provisions,  
and policies are void and unenforceable; providing a  
civil cause of action; waiving sovereign immunity in  
accordance with specified laws; amending s. 559.955,  
F.S.; revising the criteria for a business to be  
considered a home-based business as it relates to  
local government regulation of parking; providing an  
effective date.

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

Section 1. Section 125.595, Florida Statutes, is created to  
read:

125.595 Ordinances, regulations, resolutions, rules, and  
policies relating to religious services and gatherings.-

(1) The Legislature finds that:

(a) The free exercise of religion is a fundamental right

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59 guaranteed by the United States Constitution and the State  
60 Constitution.

61 (b) The Legislature enacted the Religious Freedom  
62 Restoration Act of 1998 to protect a person's free exercise of  
63 religion from being substantially burdened by the state or  
64 government, which includes a county, special district,  
65 municipality, or any other subdivision of this state.

66 (c) Religious services and gatherings, whether held in  
67 traditional houses of worship, private residences, or commercial  
68 establishments, are an essential expression of the free exercise  
69 of religion.

70 (d) Counties have, at times, enacted or enforced  
71 ordinances, regulations, resolutions, rules, or other policies  
72 that substantially burden a person's exercise of religion by  
73 restricting religious services and gatherings, parking, or  
74 related services or activities.

75 (2) It is therefore the intent of the Legislature to:

76 (a) Preempt any ordinance, regulation, resolution, rule, or  
77 other policy that substantially burdens the free exercise of  
78 religion.

79 (b) Ensure uniform statewide protection for the free  
80 exercise of religion.

81 (3)(a)1. All matters relating to the regulation of  
82 religious services and gatherings are preempted to the state,  
83 and a county may not substantially burden the free exercise of  
84 religion by adopting or enforcing any ordinance, regulation,  
85 resolution, rule, or other policy to prohibit or restrict a  
86 person's ability to attend religious services or gatherings in  
87 areas zoned for residential or commercial use.

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88       2. Religious services and gatherings must be allowed on  
89 property within any area zoned for residential or commercial  
90 use, including, but not limited to, homes, community centers, or  
91 businesses, notwithstanding any local zoning or land-use  
92 restriction to the contrary.

93       (b)1. A county may not substantially burden the free  
94 exercise of religion by adopting or enforcing any ordinance,  
95 regulation, resolution, rule, or other policy to prohibit or  
96 restrict a person's ability to temporarily park a motor vehicle  
97 on a public right-of-way or a private driveway if such parking  
98 is related to the attendance of religious services or  
99 gatherings.

100       2. Parking relating to the attendance of religious services  
101 or gatherings must be allowed and consistent with public safety  
102 and access requirements.

103       (4) This section does not:

104       (a) Relieve a person from complying with applicable county  
105 building, fire, safety, or health standards.

106       (b) Authorize any use or conduct that could create a public  
107 nuisance.

108       (5) Any ordinance, regulation, resolution, rule, or other  
109 policy adopted or enforced by a county which conflicts with this  
110 section is void and unenforceable.

111       Section 2. Section 166.0499, Florida Statutes, is created  
112 to read:

113       166.0499 Ordinances, regulations, resolutions, rules, and  
114 policies relating to religious services and gatherings.-

115       (1) The Legislature finds that:

116       (a) The free exercise of religion is a fundamental right

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117 guaranteed by the United States Constitution and the State  
118 Constitution.

119 (b) The Legislature enacted the Religious Freedom  
120 Restoration Act of 1998 to protect a person's free exercise of  
121 religion from being substantially burdened by the state or  
122 government, which includes a county, special district,  
123 municipality, or any other subdivision of this state.

124 (c) Religious services and gatherings, whether held in  
125 traditional houses of worship, private residences, or commercial  
126 establishments, are an essential expression of the free exercise  
127 of religion.

128 (d) Municipalities have, at times, enacted or enforced  
129 ordinances, regulations, resolutions, rules, or other policies  
130 that substantially burden a person's exercise of religion by  
131 restricting religious services and gatherings, parking, or  
132 related services or activities.

133 (2) It is therefore the intent of the Legislature to:

134 (a) Preempt any ordinance, regulation, resolution, rule, or  
135 other policy that substantially burdens the free exercise of  
136 religion.

137 (b) Ensure uniform statewide protection for the free  
138 exercise of religion.

139 (3)(a)1. All matters relating to the regulation of  
140 religious services and gatherings are preempted to the state,  
141 and a municipality may not substantially burden the free  
142 exercise of religion by adopting or enforcing any ordinance,  
143 regulation, resolution, rule, or other policy to prohibit or  
144 restrict a person's ability to attend religious services or  
145 gatherings in areas zoned for residential or commercial use.

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146       2. Religious services and gatherings must be allowed on  
147 property within any area zoned for residential or commercial  
148 use, including, but not limited to, homes, community centers, or  
149 businesses, notwithstanding any local zoning or land-use  
150 restriction to the contrary.

151       (b)1. A municipality may not substantially burden the free  
152 exercise of religion by adopting or enforcing any ordinance,  
153 regulation, resolution, rule, or other policy to prohibit or  
154 restrict a person's ability to temporarily park a motor vehicle  
155 on a public right-of-way or a private driveway if such parking  
156 is related to the attendance of religious services or  
157 gatherings.

158       2. Parking relating to the attendance of religious services  
159 or gatherings must be allowed and consistent with public safety  
160 and access requirements.

161       (4) This section does not:

162       (a) Relieve a person from complying with applicable  
163 municipal building, fire, safety, or health standards.

164       (b) Authorize any use or conduct that could create a public  
165 nuisance.

166       (5) Any ordinance, regulation, resolution, rule, or other  
167 policy adopted or enforced by a municipality which conflicts  
168 with this section is void and unenforceable.

169       Section 3. Section 189.09, Florida Statutes, is created to  
170 read:

171       189.09 Ordinances, regulations, resolutions, rules, and  
172 policies relating to religious services and gatherings.-

173       (1) The Legislature finds that:

174       (a) The free exercise of religion is a fundamental right

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175 guaranteed by the United States Constitution and the State  
176 Constitution.

177 (b) The Legislature enacted the Religious Freedom  
178 Restoration Act of 1998 to protect a person's free exercise of  
179 religion from being substantially burdened by the state or  
180 government, which includes a county, special district,  
181 municipality, or any other subdivision of this state.

182 (c) Religious services and gatherings, whether held in  
183 traditional houses of worship, private residences, or commercial  
184 establishments, are an essential expression of the free exercise  
185 of religion.

186 (d) Special districts have, at times, enacted or enforced  
187 ordinances, regulations, resolutions, rules, or other policies  
188 that substantially burden a person's exercise of religion by  
189 restricting religious services and gatherings, parking, or  
190 related services or activities.

191 (2) It is therefore the intent of the Legislature to:

192 (a) Preempt any ordinance, regulation, resolution, rule, or  
193 other policy that substantially burdens the free exercise of  
194 religion.

195 (b) Ensure uniform statewide protection for the free  
196 exercise of religion.

197 (3)(a)1. All matters relating to the regulation of  
198 religious services and gatherings are preempted to the state,  
199 and a special district may not substantially burden the free  
200 exercise of religion by adopting or enforcing any ordinance,  
201 regulation, resolution, rule, or other policy to prohibit or  
202 restrict a person's ability to attend religious services or  
203 gatherings in areas zoned for residential or commercial use.

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204       2. Religious services and gatherings must be allowed on  
205 property within any area zoned for residential or commercial  
206 use, including, but not limited to, homes, community centers, or  
207 businesses, notwithstanding any local zoning or land-use  
208 restriction to the contrary.

209       (b)1. A special district may not substantially burden the  
210 free exercise of religion by adopting or enforcing any  
211 ordinance, regulation, resolution, rule, or other policy to  
212 prohibit or restrict a person's ability to temporarily park a  
213 motor vehicle on a public right-of-way or a private driveway if  
214 such parking is related to the attendance of religious services  
215 or gatherings.

216       2. Parking relating to the attendance of religious services  
217 or gatherings must be allowed and consistent with public safety  
218 and access requirements.

219       (4) This section does not:

220       (a) Relieve a person from complying with applicable local  
221 building, fire, safety, or health standards.

222       (b) Authorize any use or conduct that could create a public  
223 nuisance.

224       (5) Any ordinance, regulation, resolution, rule, or other  
225 policy adopted or enforced by a special district which conflicts  
226 with this section is void and unenforceable.

227       Section 4. Subsections (26), (27), (28), and (29) are added  
228 to section 553.79, Florida Statutes, to read:

229       553.79 Permits; applications; issuance; inspections.—

230       (26) A local enforcement agency may not deny the issuance  
231 of a certificate of occupancy to an owner of a residential or  
232 commercial structure based on noncompliance with a Florida-

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friendly landscaping ordinance adopted to implement s. 373.185 if the owner was issued a building permit for such structure within 1 year after the declaration of a state of emergency for a natural disaster for the county in which the structure is located.

(27) A local enforcement agency may not deny the issuance of a building permit for the alteration, modification, or repair of a single-family residential structure if such alteration, modification, or repair:

(a) Is completed within 1 year after the declaration of a state of emergency for a natural disaster for the county in which the structure is located;

(b) Is necessitated by damage to the structure caused by the natural disaster;

(c) Has a total cost that does not exceed more than 50 percent of the value of the structure;

(d) Does not affect more than 50 percent of the structure; and

(e) Does not alter the footprint of the structure.

(28) A local enforcement agency may not require a building permit for the construction of playground equipment, fences, or landscape irrigation systems on a parcel containing a single-family residential dwelling. However, a local government may require a building permit for any electrical work performed as part of the construction of playground equipment, fences, or landscape irrigation systems.

(29) A local enforcement agency may not require a building permit to perform any work that is valued at less than \$7,500 on a parcel containing a single-family residential dwelling. This

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subsection does not apply to a larger or major project in which  
a division of the project is made in amounts less than \$7,500. A  
local government may require a building permit for any  
electrical, plumbing, or structural work performed on a parcel  
containing a single-family residential dwelling regardless of  
the value of the work. For purposes of this subsection,  
structural work does not include the repair or replacement of  
exterior doors or windows.

Section 5. Section 559.954, Florida Statutes, is created to read:

559.954 Mutual benefit corporations; state preemption;  
local government restrictions.—

(1) As used in this section, the term:

(a) "Local government" has the same meaning as s.  
106.113(1).

(b) "Mutual benefit corporation" has the same meaning as  
described in s. 617.0505(1). The term includes private clubs  
such as a golf club, a marina club, a country club, a yacht  
club, a fraternal club, or any other similar entity that:

1. Maintains a defined membership structure.

2. Operates facilities or property for the use and benefit  
of its members.

3. Is not open to the general public, except as permitted  
by the club.

(2) The regulation of a mutual benefit corporation is  
preempted to the state.

(3) A local government may not enact or enforce any  
ordinance, regulation, resolution, rule, charter provision, or  
other policy or take any action to license or otherwise regulate

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291 a mutual benefit corporation in a manner that is different from  
292 other businesses in a local government's jurisdiction,  
293 including, but not limited to:

294 (a) Restricting, prohibiting, or regulating the ability of  
295 a mutual benefit corporation to host or allow events, rentals,  
296 or activities involving nonmembers;

297 (b) Restricting or regulating the ability of a mutual  
298 benefit corporation to determine who may access its property,  
299 including, but not limited to, guests, invitees, or event  
300 participants;

301 (c) Interfering with the internal governance, bylaws,  
302 membership policies, or contractual agreements of a mutual  
303 benefit corporation; or

304 (d) Imposing operational restrictions on events hosted by a  
305 mutual benefit corporation in a manner that is different from  
306 other businesses in a local government's jurisdiction.

307 (4) Any ordinance, regulation, resolution, rule, charter  
308 provision, or other policy enacted or enforced by a local  
309 government which conflicts with this section is void and  
310 unenforceable.

311 (5) Any person aggrieved or adversely affected by the  
312 enactment or enforcement of an ordinance, regulation,  
313 resolution, rule, charter provision, or other policy by a local  
314 government in violation of this section may bring a civil cause  
315 of action for:

316 (a) Declaratory or injunctive relief.

317 (b) Recover reasonable attorney fees and costs if the court  
318 finds the local government violated this section.

319 (6) In accordance with s. 13, Art. X of the State

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Constitution, the state, for its agencies or political subdivisions, waives sovereign immunity for causes of action based on the application of any ordinance, regulation, resolution, rule, charter provision, or other policy subject to this section, but only to the extent specified in subsection (5).

Section 6. Paragraph (b) of subsection (3) of section 559.955, Florida Statutes, is amended to read:

559.955 Home-based businesses; local government restrictions.—

(3) 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:

(b) Parking related to the business activities of the home-based business complies with local zoning requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. Local governments may regulate the use of vehicles or trailers operated or parked at the business or on a street right-of-way, provided that such regulations are not more stringent than those for a residence where no business is conducted. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street or neighboring property. However, local governments may not regulate the parking of vehicles or trucks on land zoned as

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residential if the parcel size is greater than 2 acres, and may  
not regulate the parking of trailers or heavy equipment on land  
zoned as residential if the parcel size is greater than 5 acres.

For purposes of this paragraph, the term "heavy equipment" means  
commercial, industrial, or agricultural vehicles, equipment, or  
machinery.

Section 7. This act shall take effect upon becoming a law.