

By Senator Martin

33-00731A-26

20261444

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

33-00731A-26

20261444

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

33-00731A-26

20261444

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.

33-00731A-26

20261444

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

33-00731A-26

20261444

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.

33-00731A-26

20261444

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

33-00731A-26

20261444

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.

33-00731A-26

20261444

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-

33-00731A-26

20261444

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

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

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

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

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

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

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

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

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

33-00731A-26

20261444

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

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

272 559.954 Mutual benefit corporations; state preemption;
273 local government restrictions.-

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

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

276 106.113(1).

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

281 1. Maintains a defined membership structure.

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

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

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

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

33-00731A-26

20261444

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

33-00731A-26

20261444

320 Constitution, the state, for its agencies or political
321 subdivisions, waives sovereign immunity for causes of action
322 based on the application of any ordinance, regulation,
323 resolution, rule, charter provision, or other policy subject to
324 this section, but only to the extent specified in subsection
325 (5).

326 Section 6. Paragraph (b) of subsection (3) of section
327 559.955, Florida Statutes, is amended to read:

328 559.955 Home-based businesses; local government
329 restrictions.—

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

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

33-00731A-26

20261444

349 residential if the parcel size is greater than 2 acres, and may
350 not regulate the parking of trailers or heavy equipment on land
351 zoned as residential if the parcel size is greater than 5 acres.
352 For purposes of this paragraph, the term "heavy equipment" means
353 commercial, industrial, or agricultural vehicles, equipment, or
354 machinery.

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