

FIRST REGULAR SESSION

HOUSE BILL NO. 978

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER.

2130H.01I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 64.008, 65.710, 71.990, and 89.500, RSMo, and to enact in lieu thereof three new sections relating to home-based work.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 64.008, 65.710, 71.990, and 89.500, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 64.008, 65.710, and 89.500, to read as follows:

64.008. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood, **whether performed by the resident on behalf of another person or entity or in connection with the resident's self-employment, so long as nonresident employees or coworkers are not regularly present and working at the residential property.**

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

(1) Prohibit mail order or telephone sales, **or other activities customarily related to the office,** for home-based work;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for home-based work, **except that any such zoning ordinance or regulation may impose reasonable prohibitions against work-**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **related activities producing or requiring additional light, noise, or other offensive**
18 **conditions detectable across property lines during the late evening and early morning**
19 **time periods; or**

20 (5) Restrict storage or the use of equipment that does not produce effects outside the
21 home or accessory structure.

22 3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates
23 home-based work shall not contain provisions that explicitly restrict or prohibit a particular
24 occupation.

25 4. The application of this section does not:

26 (1) Supersede any deed restriction, covenant, or agreement restricting the use of land
27 nor any master deed, ~~[by-law]~~ **bylaw**, or other document applicable to a common interest
28 ownership community;

29 (2) **Curtail a political subdivision's general ability to enact and enforce narrowly**
30 **tailored regulations to protect public health, safety, and welfare; or**

31 (3) **Affect any person's obligation to comply with a political subdivision's**
32 **nuisance, health, and safety ordinances, rules, and regulations.**

65.710. 1. As used in this section, the term "home-based work" means any lawful
2 occupation performed by a resident within a residential home or accessory structure, which is
3 clearly incidental and secondary to the use of the dwelling unit for residential purposes and
4 does not change the residential character of the residential building or adversely affect the
5 character of the surrounding neighborhood, **whether performed by the resident on behalf**
6 **of another person or entity or in connection with the resident's self-employment, so long**
7 **as nonresident employees or coworkers are not regularly present and working at the**
8 **residential property.**

9 2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates
10 home-based work shall not:

11 (1) Prohibit mail order or telephone sales, **or other activities customarily related to**
12 **the office**, for home-based work;

13 (2) Prohibit service by appointment within the home or accessory structure;

14 (3) Prohibit or require structural modifications to the home or accessory structure;

15 (4) Restrict the hours of operation for home-based work, **except that any such**
16 **zoning ordinance or regulation may impose reasonable prohibitions against work-**
17 **related activities producing or requiring additional light, noise, or other offensive**
18 **conditions detectable across property lines during the late evening and early morning**
19 **time periods; or**

20 (5) Restrict storage or the use of equipment that does not produce effects outside the
21 home or accessory structure.

22 3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates
23 home-based work shall not contain provisions that explicitly restrict or prohibit a particular
24 occupation.

25 4. The application of this section does not:

26 **(1) Supersede any deed restriction, covenant, or agreement restricting the use of land**
27 **nor any master deed, ~~by-law~~ bylaw, or other document applicable to a common interest**
28 **ownership community;**

29 **(2) Curtail a political subdivision's general ability to enact and enforce narrowly**
30 **tailored regulations to protect public health, safety, and welfare; or**

31 **(3) Affect any person's obligation to comply with a political subdivision's**
32 **nuisance, health, and safety ordinances, rules, and regulations.**

 89.500. 1. As used in this section, the term "home-based work" means any lawful
2 occupation performed by a resident within a residential home or accessory structure, which is
3 clearly incidental and secondary to the use of the dwelling unit for residential purposes and
4 does not change the residential character of the residential building or adversely affect the
5 character of the surrounding neighborhood, **whether performed by the resident on behalf**
6 **of another person or entity or in connection with the resident's self-employment, so long**
7 **as nonresident employees or coworkers are not regularly present and working at the**
8 **residential property.**

9 2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates
10 home-based work shall not:

11 **(1) Prohibit mail order or telephone sales, or other activities customarily related to**
12 **the office, for home-based work;**

13 **(2) Prohibit service by appointment within the home or accessory structure;**

14 **(3) Prohibit or require structural modifications to the home or accessory structure;**

15 **(4) Restrict the hours of operation for home-based work, except that any such**
16 **zoning ordinance or regulation may impose reasonable prohibitions against work-**
17 **related activities producing or requiring additional light, noise, or other offensive**
18 **conditions detectable across property lines during the late evening and early morning**
19 **time periods; or**

20 **(5) Restrict storage or the use of equipment that does not produce effects outside the**
21 **home or accessory structure.**

22 3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates
23 home-based work shall not contain provisions that explicitly restrict or prohibit a particular
24 occupation.

25 4. The application of this section does not:

26 (1) Supersede any deed restriction, covenant, or agreement restricting the use of land
27 nor any master deed, ~~[by-law]~~ **bylaw**, or other document applicable to a common interest
28 ownership community;

29 (2) **Curtail a political subdivision's general ability to enact and enforce narrowly**
30 **tailored regulations to protect public health, safety, and welfare; or**

31 (3) **Affect any person's obligation to comply with a political subdivision's**
32 **nuisance, health, and safety ordinances, rules, and regulations.**

~~[71.990. 1. As used in this section, the following terms mean:~~

2 ~~(1) "Goods", any merchandise, equipment, products, supplies, or~~
3 ~~materials;~~

4 ~~(2) "Home-based business", any business operated in a residential~~
5 ~~dwelling that manufactures, provides, or sells goods or services and that is~~
6 ~~owned and operated by the owner or tenant of the residential dwelling.~~

7 ~~2. Any person who resides in a residential dwelling may use the~~
8 ~~residential dwelling for a home-based business unless such use is restricted by:~~

9 ~~(1) Any deed restriction, covenant, or agreement restricting the use of~~
10 ~~land; or~~

11 ~~(2) Any master deed, bylaw, or other document applicable to a~~
12 ~~common interest ownership community.~~

13 ~~3. Except as prescribed under subsection 4 of this section, a political~~
14 ~~subdivision shall not prohibit the operation of a no impact, home-based~~
15 ~~business or otherwise require a person to apply for, register for, or obtain any~~
16 ~~permit, license, variance, or other type of prior approval from the political~~
17 ~~subdivision to operate a no impact, home-based business. For the purposes of~~
18 ~~this section, a home-based business qualifies as a no impact, home-based~~
19 ~~business if:~~

20 ~~(1) The total number of employees and clients onsite at one time does~~
21 ~~not exceed the occupancy limit for the residential dwelling; and~~

22 ~~(2) The activities of the business:~~

23 ~~(a) Are limited to the sale of lawful goods and services;~~

24 ~~(b) May involve having more than one client on the property at one~~
25 ~~time;~~

26 ~~(c) Do not cause a substantial increase in traffic through the residential~~
27 ~~area;~~

28 ~~(d) Do not violate any parking regulations established by the political~~
29 ~~subdivision;~~

30 ~~(e) Occur inside the residential dwelling or in the yard of the~~
31 ~~residential dwelling;~~

32 ~~(f) Are not visible from the street; and~~

33 ~~(g) Do not violate any narrowly tailored regulation established under~~
34 ~~subsection 4 of this section.~~

35 ~~4. A political subdivision may establish reasonable regulations on a~~
36 ~~home-based business if the regulations are narrowly tailored for the purpose~~
37 ~~of:~~

38 ~~(1) Protecting the public health and safety, including regulations~~
39 ~~related to fire and building codes, health and sanitation, transportation or~~
40 ~~traffic control, solid or hazardous waste, pollution, and noise control; or~~
41 ~~(2) Ensuring that the business activity is compliant with state and~~
42 ~~federal law and paying applicable taxes.~~
43 ~~5. No political subdivision shall require a person, as a condition of~~
44 ~~operating a home-based business, to:~~
45 ~~(1) Rezone the property for commercial use;~~
46 ~~(2) Obtain a home-based business license; or~~
47 ~~(3) Install or equip fire sprinklers in a single family detached~~
48 ~~residential dwelling or any residential dwelling with no more than two~~
49 ~~dwelling units.~~
50 ~~6. Whether a regulation complies with this section is a judicial~~
51 ~~question.]~~

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