

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1403

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HUDSON.

3071H.01P

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 89.080 and 230.205, RSMo, and to enact in lieu thereof three new sections relating to political subdivisions.

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

Section A. Sections 89.080 and 230.205, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 71.990, 89.080, and 230.205, to read as follows:

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

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

3 **(2) "Home-based business", any business for the manufacture, provision, or sale**  
4 **of goods or services that is owned and operated by the owner or tenant of the residential**  
5 **dwelling.**

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

8 **(1) Any deed restriction, covenant, or agreement restricting the use of land; or**

9 **(2) Any master deed, bylaw, or other document applicable to a common interest**  
10 **ownership community.**

11 **3. Except as prescribed in subsection 4 of this section, a municipality shall not**  
12 **prohibit the operation of a no-impact home-based business or otherwise require a person**  
13 **to apply for, register for, or obtain any permit, license, variance, or other type of prior**  
14 **approval from the municipality to operate a no-impact home-based business. For the**

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.

15 purposes of this section, a residential property qualifies for use as a no-impact home-based  
16 business if:

17 (1) The business employs only:

18 (a) Residents of the residential dwelling;

19 (b) The total number of on-site employees and clients do not exceed the municipal  
20 occupancy limit for the residential property; and

21 (c) No more than three individuals who are not residents of the residential dwelling;

22 (2) The activities of the business:

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

24 (b) Do not generate on-street parking or cause a substantial increase in traffic  
25 through the residential area;

26 (c) Occur inside or in the yard of the residential dwelling;

27 (d) Are not visible from the street; and

28 (e) Do not violate any narrowly tailored regulation established under subsection  
29 4 of this section.

30 4. A municipality may establish reasonable regulations on a home-based business  
31 if the regulations are narrowly tailored for the purpose of:

32 (1) Protecting the public health and safety, including regulations related to fire and  
33 building codes, health and sanitation, transportation or traffic control, solid or hazardous  
34 waste, pollution, and noise control;

35 (2) Ensuring that the business activity is both:

36 (a) Compatible with the residential use of the property and surrounding properties;  
37 and

38 (b) Secondary to the property's use as a residential dwelling; or

39 (3) Limiting or prohibiting a home-based business whose business involves:

40 (a) Selling illegal drugs;

41 (b) Selling liquor;

42 (c) Operating or maintaining a structured sober living home;

43 (d) Pornography;

44 (e) Obscenity;

45 (f) Nude or topless dancing; or

46 (g) Other adult-oriented businesses.

47 5. No municipality shall require a person, as a condition of operating a home-based  
48 business, to:

49 (1) Rezone the property for commercial use;

50 (2) Obtain a home-based business license; or

51           **(3) Install or equip fire sprinklers in a single-family detached residential dwelling**  
52 **or any residential dwelling with no more than two dwelling units.**

53           **6. Whether a regulation complies with this section is a judicial question, and the**  
54 **municipality that enacts a regulation shall establish by clear and convincing evidence that**  
55 **the regulation complies with this section.**

89.080. Such local legislative body shall provide for the appointment of a board of  
2 adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections  
3 89.010 to 89.140 may provide that the board of adjustment may determine and vary their  
4 application in harmony with their general purpose and intent and in accordance with general or  
5 specific rules therein contained. The board of adjustment shall consist of five members, who  
6 shall be residents of the municipality except as provided in section 305.410. The membership  
7 of the first board appointed shall serve respectively, one for one year, one for two years, one for  
8 three years, one for four years, and one for five years. Thereafter members shall be appointed  
9 for terms of five years each. Three alternate members may be appointed to serve in the absence  
10 of or the disqualification of the regular members. All members and alternates shall be removable  
11 for cause by the appointing authority upon written charges and after public hearing. Vacancies  
12 shall be filled for the unexpired term of any member whose term becomes vacant. The board  
13 shall elect its own chairman who shall serve for one year. The board shall adopt rules in  
14 accordance with the provisions of any ordinance adopted pursuant to sections 89.010 to 89.140.  
15 Meetings of the board shall be held at the call of the chairman and at such other times as the  
16 board may determine. Such chairman, or in his absence the acting chairman, may administer  
17 oaths and compel the attendance of witnesses. All meetings of the board shall be open to the  
18 public. The board shall keep minutes of its proceedings, showing the vote of each member upon  
19 question, or, if absent or failing to vote, indicating such fact, and shall keep records of its  
20 examinations and other official actions, all of which shall be immediately filed in the office of  
21 the board and shall be a public record. **A record of** all testimony, objections thereto and rulings  
22 thereon, shall be:

23           **(1) Taken down by a reporter employed by the board for that purpose; or**

24           **(2) Made by a competent person utilizing any form of audiotape, videotape, or**  
25 **digital recording.**

230.205. 1. The alternative county highway commission provided by sections 230.200  
2 to 230.260 shall not become operative in any county unless adopted by a vote of the majority of  
3 the voters of the county voting upon the question at an election. All counties of this state which  
4 have adopted the alternative county highway commission may abolish it [~~and return to the county~~  
5 ~~highway commission provided for by sections 230.010 to 230.110]~~ by submitting the question

6 to a vote of the voters of the county in the manner provided by law **or by a vote of the**  
7 **governing body.**

8 2. Any county which does not adopt the alternative county highway commission  
9 provided by sections 230.200 to 230.260, or any county in which [~~a majority of the voters of the~~  
10 ~~county voting upon the question reject~~] the alternative county highway commission provided by  
11 sections 230.200 to 230.260 **is abolished** shall [~~retain~~] **adopt either** the county highway  
12 commission provided by sections 230.010 to 230.110 **or the provisions of sections 231.010 to**  
13 **231.130.**

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