



American Planning Association
Florida Chapter

Making Great Communities Happen

May 20, 2021

The Honorable Ron DeSantis
Office of the Governor
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Re: Veto Request of HB 403

Dear Governor DeSantis:

The Florida Chapter of the American Planning Association (APA Florida) respectfully requests that you veto HB 403. We believe that this bill is a significant preemption of local government home rule powers and their ability to balance competing property rights.

APA Florida is the state's largest professional planning organization. With almost 3,000 members working as planners for private developers and landowners, local governments, state and regional agencies, and interest groups, we support an integrated and coordinated planning system in Florida, including meaningful citizen participation, which promotes, protects and preserves well-planned neighborhoods, communities, cities and rural areas throughout Florida.

Over the past several years, the Legislature has pursued a clear movement from having strong state oversight in the comprehensive planning process in favor of primary reliance on the local government level. At the same time, however, preemption bills incrementally erode the foundation of local home rule powers on which this reliance is based.

HB 403 preempts the local regulation of home-based business and allows these businesses to operate in any area zoned for residential use. This significantly undermines the zoning and land development regulation authority of local governments, a fundamental function used at the local level to minimize incompatible uses and balance competing property rights. We acknowledge the value of home-based businesses, but it is critical to balancing the property rights of everyone that reasonable local authority remains in place. Across Florida, local governments have balanced the desire to operate a home-based business with the impacts on residential neighborhoods and residential property values through tailored ordinances or regulations that make sense for their community, including identifying businesses that are inherently incompatible with a residential neighborhood.

HB 403 removes this ability from local government and implements a limited number of criteria that must be met for business operation. This will have the effect of broadening the type of businesses that can operate in any neighborhood and removing elements, such as hours of operation and traffic generation, from being considered at the local level. The bill also provides that local governments may not enact or enforce any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business in a manner that is different from other businesses in a local government's jurisdiction. This essentially voids the community specific solutions that local governments have developed at the local level.

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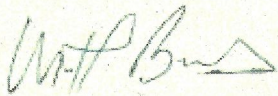
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Notwithstanding the substance of the bill, there is also a procedural concern. This bill was controversial in the Senate and only passed by a vote of 19-18. At the time of the vote, there were three senators on the floor who did not cast a vote, which appears to be a violation of Senate rules. The Senate subsequently requested the bill be returned for another vote, but the House adjourned sine die before responding to the Senate's request.

As stated in our member-adopted Legislative Platform, APA Florida is committed to legislation that balances public and private sector perspectives in state policy development that does not preempt local government authority. Additionally, APA Florida opposes preemption or incremental erosion of local planning, zoning, and regulatory authority.

Therefore, we respectfully request that you veto HB 403.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wyatt Bowers", with a stylized flourish at the end.

Wyatt F. Bowers, AICP
President