

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1387

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 6.1, Arizona Revised
3 Statutes, is amended by adding section 9-462.09, to read:

4 9-462.09. Restriction on regulation; home-based business;
5 exceptions; definitions

6 A. THE USE OF A RESIDENTIAL DWELLING FOR A HOME-BASED BUSINESS IS A
7 PERMITTED USE, EXCEPT THAT THIS PERMISSION DOES NOT SUPERSEDE ANY OF THE
8 FOLLOWING:

9 1. ANY DEED RESTRICTION, COVENANT OR AGREEMENT RESTRICTING THE USE
10 OF LAND, INCLUDING WITHOUT LIMITATION RESTRICTIONS TO RESIDENTIAL USE.

11 2. ANY MASTER DEED, BYLAW OR OTHER DOCUMENT APPLICABLE TO A COMMON
12 INTEREST OWNERSHIP COMMUNITY.

13 B. EXCEPT AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A
14 MUNICIPALITY MAY NOT PROHIBIT THE OPERATION OF A NO-IMPACT HOME-BASED
15 BUSINESS OR OTHERWISE REQUIRE A PERSON TO APPLY FOR, REGISTER FOR OR OBTAIN
16 ANY PERMIT, LICENSE, VARIANCE OR OTHER TYPE OF PRIOR APPROVAL FROM THE
17 MUNICIPALITY TO OPERATE A NO-IMPACT HOME-BASED BUSINESS. FOR THE PURPOSES
18 OF THIS SECTION, A RESIDENTIAL PROPERTY QUALIFIES FOR USE AS A NO-IMPACT
19 HOME-BASED BUSINESS IF ALL OF THE FOLLOWING APPLY:

20 1. THE EMPLOYEES OF THE BUSINESS ARE LIMITED TO THE FOLLOWING:

21 (a) RESIDENTS OF THE RESIDENTIAL DWELLING OR IMMEDIATE FAMILY
22 MEMBERS.

23 (b) IMMEDIATE FAMILY MEMBERS OF THE OWNER OF THE HOME-BASED
24 BUSINESS.

1 (c) NOT MORE THAN THREE INDIVIDUALS WHO ARE NOT RESIDENTS OF THE
2 RESIDENTIAL DWELLING.

3 2. THE BUSINESS ACTIVITIES ARE CHARACTERIZED BY ALL OF THE
4 FOLLOWING:

5 (a) ARE LIMITED TO THE SALE OF LAWFUL GOODS AND SERVICES.

6 (b) HAVE ZERO OR MORE CLIENTS ON THE PROPERTY AT ONE TIME.

7 (c) DO NOT GENERATE ON-STREET PARKING OR A SUBSTANTIAL INCREASE IN
8 TRAFFIC THROUGH THE RESIDENTIAL AREA.

9 (d) OCCUR INSIDE THE RESIDENTIAL DWELLING.

10 (e) ARE NOT VISIBLE FROM THE STREET.

11 (f) DO NOT VIOLATE ANY REGULATION ESTABLISHED PURSUANT TO
12 SUBSECTION C OF THIS SECTION.

13 C. A MUNICIPALITY MAY ESTABLISH REASONABLE REGULATIONS ON A
14 HOME-BASED BUSINESS IF THE REGULATIONS ARE TAILORED FOR ANY OF THE
15 FOLLOWING PURPOSES:

16 1. THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, INCLUDING
17 REGULATIONS RELATED TO FIRE AND BUILDING CODES, HEALTH AND SANITATION,
18 TRANSPORTATION OR TRAFFIC CONTROL, SOLID OR HAZARDOUS WASTE, POLLUTION AND
19 NOISE CONTROL.

20 2. ENSURING THAT THE BUSINESS ACTIVITY IS BOTH OF THE FOLLOWING:

21 (a) COMPATIBLE WITH THE RESIDENTIAL USE OF THE PROPERTY AND THE
22 SURROUNDING RESIDENTIAL USE.

23 (b) SECONDARY TO THE PROPERTY'S USE AS A RESIDENTIAL DWELLING.

24 3. LIMITING THE USE OF A HOME-BASED BUSINESS FOR ANY OF THE
25 FOLLOWING PURPOSES:

26 (a) SELLING DRUGS THAT ARE ILLEGAL UNDER STATE OR FEDERAL LAW.

27 (b) SELLING LIQUOR.

28 (c) OPERATING OR MAINTAINING A STRUCTURED SOBER LIVING HOME.

29 (d) PORNOGRAPHY.

30 (e) OBSCENITY.

31 (f) NUDE OR TOPLESS DANCING.

32 (g) OTHER ADULT-ORIENTED BUSINESSES.

1 D. A MUNICIPALITY MAY NOT REQUIRE A PERSON AS A CONDITION OF
2 OPERATING A HOME-BASED BUSINESS TO:

- 3 1. REZONE THE PROPERTY FOR COMMERCIAL USE.
4 2. OBTAIN A HOME-BASED BUSINESS LICENSE OR OTHER GENERAL BUSINESS
5 LICENSE.
6 3. INSTALL OR EQUIP FIRE SPRINKLERS IN A SINGLE-FAMILY DETACHED
7 RESIDENTIAL DWELLING OR ANY RESIDENTIAL DWELLING WITH NOT MORE THAN TWO
8 DWELLING UNITS IN VIOLATION OF SECTION 9-807.

9 E. WHETHER A REGULATION COMPLIES WITH THIS SECTION IS A JUDICIAL
10 QUESTION, AND THE MUNICIPALITY THAT ENACTED THE REGULATION SHALL ESTABLISH
11 THAT THE REGULATION COMPLIES WITH THIS SECTION.

12 F. THIS SECTION DOES NOT DIMINISH THE PRIVILEGES OR RIGHTS OF A
13 VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 9-500.39.

14 G. FOR THE PURPOSES OF THIS SECTION:

- 15 1. "GOODS" MEANS ANY MERCHANDISE, EQUIPMENT, PRODUCTS, SUPPLIES OR
16 MATERIALS.
17 2. "HOME-BASED BUSINESS" MEANS ANY BUSINESS FOR THE MANUFACTURE,
18 PROVISION OR SALE OF GOODS OR SERVICES THAT IS OWNED AND OPERATED BY THE
19 OWNER OR TENANT OF THE RESIDENTIAL DWELLING.
20 3. "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, SIBLING, PARENT,
21 GRANDPARENT, GRANDCHILD, STEPPARENT, STEPCHILD OR STEPSIBLING WHETHER
22 RELATED BY ADOPTION OR BLOOD.

23 Sec. 2. Section 11-820, Arizona Revised Statutes, is amended to
24 read:

25 11-820. Restriction on regulation; home-based business;
26 exceptions; definitions

27 ~~A. Any ordinance authorized by this chapter shall not restrict or~~
28 ~~otherwise regulate the owner of a home-based business that holds a valid~~
29 ~~license from:~~

30 A. THE USE OF A RESIDENTIAL DWELLING FOR A HOME-BASED BUSINESS IS A
31 USE PERMITTED BY RIGHT, EXCEPT THAT THIS PERMISSION DOES NOT SUPERSEDE ANY
32 OF THE FOLLOWING:

1 1. ANY DEED RESTRICTION, COVENANT OR AGREEMENT RESTRICTING THE USE
2 OF LAND, INCLUDING WITHOUT LIMITATION RESTRICTIONS TO RESIDENTIAL USE.

3 2. ANY MASTER DEED, BYLAW OR OTHER DOCUMENT APPLICABLE TO A COMMON
4 INTEREST OWNERSHIP COMMUNITY.

5 B. EXCEPT AS PRESCRIBED IN SUBSECTION C OF THIS SECTION, A COUNTY
6 MAY NOT PROHIBIT THE OPERATION OF A NO-IMPACT HOME-BASED BUSINESS OR
7 OTHERWISE REQUIRE A PERSON TO APPLY FOR, REGISTER FOR OR OBTAIN ANY PERMIT,
8 LICENSE, VARIANCE OR OTHER TYPE OF PRIOR APPROVAL FROM THE COUNTY TO
9 OPERATE A NO-IMPACT HOME-BASED BUSINESS. FOR THE PURPOSES OF THIS SECTION,
10 A RESIDENTIAL PROPERTY QUALIFIES FOR USE AS A NO-IMPACT HOME-BASED BUSINESS
11 IF ITS ACTIVITIES ARE LIMITED TO THE FOLLOWING:

12 1. Making residential property improvements to add doors, shelving
13 or display racks for use by the home-based business.

14 2. Displaying a temporary commercial sign on the residential
15 property during business hours, if the sign is not more than twenty-four
16 inches by twenty-four inches.

17 3. Selling or offering for sale any ~~LAWFUL~~ goods ~~OR SERVICES~~.

18 4. Generating traffic, ~~OR~~ parking ~~or delivery~~ activity that does
19 not cause on-street parking congestion or a substantial increase in traffic
20 through the residential area.

21 ~~5. Having more than one client on the property at one time.~~

22 ~~6.~~ 5. Employing any of the following:

23 (a) Residents of the ~~primary~~ RESIDENTIAL dwelling.

24 (b) Immediate family members OF THE OWNER OF THE HOME-BASED
25 BUSINESS.

26 (c) ~~One or two~~ NOT MORE THAN THREE individuals who are not residents
27 of the ~~primary~~ RESIDENTIAL dwelling or immediate family members.

28 ~~B. This section does not preclude a county from imposing reasonable~~
29 ~~operating requirements on a home-based business or a residential property~~
30 ~~used by a home-based business.~~

31 6. BUSINESS ACTIVITIES THAT ARE CHARACTERIZED BY ALL OF THE
32 FOLLOWING:

1 (a) HAVE ZERO OR MORE CLIENTS ON THE PROPERTY AT ONE TIME.

2 (b) OCCUR INSIDE THE RESIDENTIAL DWELLING.

3 (c) ARE NOT VISIBLE FROM THE STREET.

4 (d) DO NOT VIOLATE ANY NARROWLY TAILORED REGULATION ESTABLISHED
5 PURSUANT TO SUBSECTION C OF THIS SECTION.

6 C. A COUNTY MAY ESTABLISH REASONABLE REGULATIONS ON A HOME-BASED
7 BUSINESS IF THE REGULATIONS ARE NARROWLY TAILORED FOR ANY OF THE FOLLOWING
8 PURPOSES:

9 1. THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY, INCLUDING
10 REGULATIONS RELATED TO FIRE AND BUILDING CODES, HEALTH AND SANITATION,
11 TRANSPORTATION OR TRAFFIC CONTROL, SOLID OR HAZARDOUS WASTE, POLLUTION AND
12 NOISE CONTROL.

13 2. ENSURING THAT THE BUSINESS ACTIVITY IS BOTH OF THE FOLLOWING:

14 (a) COMPATIBLE WITH THE RESIDENTIAL USE OF THE PROPERTY AND THE
15 SURROUNDING RESIDENTIAL USE.

16 (b) SECONDARY TO THE PROPERTY'S USE AS A RESIDENTIAL DWELLING.

17 3. LIMITING THE USE OF A HOME-BASED BUSINESS FOR ANY OF THE
18 FOLLOWING PURPOSES:

19 (a) SELLING DRUGS THAT ARE ILLEGAL UNDER STATE OR FEDERAL LAW.

20 (b) SELLING LIQUOR.

21 (c) OPERATING OR MAINTAINING A STRUCTURED SOBER LIVING HOME.

22 (d) PORNOGRAPHY.

23 (e) OBSCENITY.

24 (f) NUDE OR TOPLESS DANCING.

25 (g) OTHER ADULT-ORIENTED BUSINESSES.

26 D. A COUNTY MAY NOT REQUIRE A PERSON AS A CONDITION OF OPERATING A
27 HOME-BASED BUSINESS TO:

28 1. REZONE THE PROPERTY FOR COMMERCIAL USE.

29 2. OBTAIN A HOME-BASED BUSINESS LICENSE OR OTHER GENERAL BUSINESS
30 LICENSE.

1 3. INSTALL OR EQUIP FIRE SPRINKLERS IN A SINGLE-FAMILY DETACHED
2 RESIDENTIAL DWELLING OR ANY RESIDENTIAL DWELLING WITH NOT MORE THAN TWO
3 DWELLING UNITS IN VIOLATION OF SECTION 11-861.

4 E. WHETHER A REGULATION COMPLIES WITH THIS SECTION IS A JUDICIAL
5 QUESTION, AND THE COUNTY THAT ENACTED THE REGULATION SHALL ESTABLISH BY
6 CLEAR AND CONVINCING EVIDENCE THAT THE REGULATION COMPLIES WITH THIS
7 SECTION.

8 F. THIS SECTION DOES NOT DIMINISH THE PRIVILEGES OR RIGHTS OF A
9 VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 11-269.17.

10 ~~E.~~ G. For the purposes of this section:

11 1. "Goods" means any merchandise, equipment, products, supplies or
12 materials.

13 2. "Home-based business" means any business for the ~~limited~~
14 manufacture, provision or sale of goods or services that is owned and
15 operated by the owner or tenant of the residential property.

16 3. "Immediate family member" means a spouse, child, sibling, parent,
17 grandparent, grandchild, stepparent, stepchild or stepsibling whether
18 related by adoption or blood.

19 ~~4. "License" means any permit, certificate, approval, registration,~~
20 ~~charter or similar form of authorization that is required by law and that~~
21 ~~is issued by any agency, department, board or commission of this state or~~
22 ~~of any political subdivision of this state for the purpose of operating a~~
23 ~~business in this state or to an individual who provides a service to any~~
24 ~~person and the license is required to perform that service."~~

25 Amend title to conform

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