

DANIEL HENKEL
City Mayor



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"Home of the Boggy Bayou Mullet Festival"

May 17, 2021

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

Re: Veto Request for CS/HB 403 Home-Based Businesses

Dear Governor DeSantis:

On behalf of the citizens of the City of Niceville, my office, and City Council, I respectfully request that you veto CS/HB 403.

While the City of Niceville support entrepreneurship, they must balance the desire to operate a home-based business with the potential impacts on residential neighborhoods and residential property values. Zoning is an inherent function of local government. The primary purpose of zoning is to minimize incompatible uses and balance competing property rights. In practice, zoning is used to prevent new development or uses from unfairly interfering with existing uses.

The City of Niceville has crafted common-sense requirements regarding commercial uses of residential properties. Local ordinances account for the differing impacts on residential uses posed by specific business uses within a community. For example, low-intensity uses such as professional offices may be compatible with residential neighborhoods in some cases, while high-intensity uses such as a repair yard or a 24-hour gym may not be compatible under any condition.

During this session, the Florida League of Cities engaged in good faith negotiations with legislators and interested stakeholders to reach a reasonable compromise on home-based businesses. The result of those efforts was reflected in the Senate bill CS/CS/SB 266.

Unfortunately, the final product pending before you in CS/HB 403 drastically departs from this compromise. The bill was amended on the last day of session to remove essential elements needed to properly balance the desire to operate a home-based business with the potential adverse impacts on the property rights of surrounding homeowners.

Key provisions supported by the League of Cities and the City of Niceville that were included in CS/CS/SB 266 but were not included in CS/HB 403 include:

- The ability for the City of Niceville to set common-sense limitations on hours of operation. CS/HB 403 prohibits the City of Niceville from regulating a home-based business differently from other businesses in a commercial zone. The hours of operation for a business in a commercial district may not be appropriate for a business in a residential neighborhood.
- The ability for the City of Niceville to place limits on business signs, exterior storage and traffic generated by a home-based business. Again, these types of matters should be tailored to the residential setting where a home-based business operates rather than defaulting to the same regulations used in commercial or industrial zones.
- The ability for the City of Niceville to prohibit business activities from occurring within view of the street.

The passage of CS/HB 403 was extremely contentious in the Florida Senate, where on the last day of the 2021 Session, the bill narrowly passed on a 19-18 vote. In a clear violation of Senate rules, three senators who were present in the Senate chamber failed to record a vote. The Senate subsequently requested the House return the bill to allow the Senate to take a valid vote. The House adjourned sine die prior to responding to the Senate's request.

If allowed to become law, CS/HB 403 will be a significant preemption of Home Rule powers and the ability of the City of Niceville to balance competing property rights. Additionally, the bill will void existing local ordinances or regulations that have tailored unique solutions to homeowner and business concerns.

For these reasons, I and the City Council of the City of Niceville requests you veto CS/HB 403. Thank you for your leadership and your consideration on this matter.

Respectfully,

A handwritten signature in black ink that reads "Daniel Henkel". The signature is written in a cursive style with a large, looped initial "D".

Daniel Henkel
Mayor, City of Niceville