

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H3/9/21
A Bill

HOUSE BILL 1416

By: Representative Underwood
By: Senator M. Johnson

For An Act To Be Entitled

AN ACT TO ENCOURAGE HOME-BASED ENTREPRENEURSHIP; TO REMOVE UNNECESSARY BARRIERS TO WORKING FROM HOME; AND FOR OTHER PURPOSES.

Subtitle

TO ENCOURAGE HOME-BASED ENTREPRENEURSHIP;
AND TO REMOVE UNNECESSARY BARRIERS TO
WORKING FROM HOME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 14, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

14-1-104. Home-based businesses – Legislative findings and intent – Definitions.

(a) The General Assembly finds that:

(1) Small businesses often begin at home because of lower costs and increased flexibility;

(2) Home-based work plays a significant role in the economy as roughly half of all businesses in the United States operate primarily out of a residence; and

(3) Local government can hold back entrepreneurs and limit the economy of this state by enacting ordinances that require an individual to obtain a permit to operate a business in or work from the individual's own residence.

(b) It is the intent of the General Assembly that this section



strengthen home-based work and remove unnecessary barriers to working from home.

(c) As used in this section:

(1) "Home-based work" means any occupation performed or business conducted by a resident within a residence that is clearly incidental to and secondary to the principal use of the structure for residential dwelling purposes;

(2) "Legislative body" means the quorum court of a county or the council, board of directors, board of commissioners, or similar elected governing body of local government;

(3) "Local government" means a city of the first class, a city of the second class, or an incorporated town;

(4) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of a legislative body that prohibits or requires an individual to obtain approval from a local government before operating a home-based business from a residence or performing home-based work, including without limitation home occupation permits and licenses; and

(5) "Residence" means a permanent dwelling place, unit, or an accessory structure.

(d) Notwithstanding any other law, local government may license or regulate home-based work if the home-based work is not prohibited and shall only be restricted as to the following:

(1) Advertisements, signs, or other exterior evidence that a residence is being used for any purpose other than a residence;

(2) Nuisances, including without limitation odor, excessive dust, smoke, vibration, noise, light, heat, glare, or similar disturbances;

(3) Health, fire, and safety codes;

(4) Traffic, parking, building, and maintenance codes;

(5) Protections for children, elderly, and the infirm;

(6) Limitations on the number of employees, customers, and tenants at the residence;

(7) Prohibitions or limitations related to public health, safety, and welfare; and

(8) Licenses and regulations that apply to businesses without regard to location.

(e) This section does not supersede:

(1) An agreement between a homeowners' association and a homeowner; or

(2) Any valid deed restrictions.

(f) If a local government takes enforcement action against an individual for violating an ordinance, then the local government shall demonstrate that the ordinance is consistent with subsection (d) of this section.

SECTION 2. Arkansas Code § 14-17-209(a), concerning county zoning ordinances, is amended to read as follows:

(a)(1) The county planning board shall have authority to prepare, or to cause to be prepared, a zoning ordinance for all or part of the unincorporated area of the county, which ordinance shall include both a map and a text.

(2) The zoning ordinance may regulate:

(A) ~~the~~ The location, height, bulk, number of stories, and the size of building;

(B) ~~open~~ Open space;

(C) ~~lot~~ Lot coverage;

(D) ~~density~~ Density and distribution of population; and

(E) ~~the~~ The uses of land, buildings, and structures.

(3) ~~It~~ The zoning ordinance may require off-street parking and loading.

(4) ~~It~~ The zoning ordinance may provide for districts of compatible uses, for large-scale unified development, for the control and elimination of uses not in conformance with provisions of the ordinance, and for such other matters as are necessary to the health, safety, and general welfare of the county.

(5) The zoning ordinance shall designate districts or zones of such shape, size, or characteristics as deemed advisable for all, or part, of the unincorporated area of the county.

(6) The regulations imposed within each district or zone shall be uniform throughout the district or zone.

(7) The zoning ordinance shall allow and regulate home-based work as provided in § 14-1-104.

SECTION 3. Arkansas Code § 14-56-416(a)(3), concerning municipal zoning ordinances, is amended to add an additional subdivision to read as follows:

(F) The ordinance shall allow and regulate home-based work as provided in § 14-1-104.

/s/Underwood