SENATE, No. 1502

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)
Senator STEVEN V. OROHO
District 24 (Morris, Sussex and Warren)

SYNOPSIS

"Home-Based Jobs Creation Act"; classifies certain home businesses as accessory uses needing no use variances in residential zone; authorizes municipalities to limit or exclude certain warehousing, manufacturing, or retailing activities.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/22/2020)

AN ACT concerning municipal land use and supplementing chapter 55D of Title 40 of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Home-Based Jobs Creation Act."

2. The Legislature finds and declares:

a. Corporate restructuring and the rise of telecommunications have led to an increase in the number of individuals working out of their homes. According to the Small Business Administration Office of Advocacy, small businesses represent 99.7% of all employers. Home-based businesses make up about 53% of all small businesses. A national survey found that as many as 40 million people work at least part time at home, with about 8,000 businesses of this nature starting daily. In these economically challenging times, the need for home-based businesses can be expected to increase;

b. In New Jersey alone, 7,000 family home businesses are started each month. Over the past decade, New Jersey gained over a quarter million new home-based, service-oriented businesses. Two-thirds of all families having home businesses have school-aged children at home. Entrepreneurial owners have an average income of $65,000;

c. Many of these family home businesses are operating in violation of outmoded local ordinances. Many zoning ordinances permit family home businesses of recognized professionals, such as doctors, lawyers, and accountants, but prohibit other for-profit family home businesses under certain circumstances;

d. Most zoning ordinances enacted in the 1960s and 1970s were based on good intentions and focused on the protection of residential neighborhoods from the negative effects of industry; this occurred at a time when more than 75% of the working public then pursued businesses outside of the home;

e. One-third of all men and women who are downsized from their jobs start their own home businesses, which they thereafter work for one, two or more years, or until the economy improves. With the impact that current financial downsizing and the national economic downturn is having on New Jersey employment, it is important to provide a safe-haven for the temporarily unemployed, to enable them to provide for their own financial stability and to lessen the load on government to provide for them;

f. About 25% of newly started home businesses grow to the point where they will become employers and move the business out of the home;

g. The nation's changing economic structure and technological development have catalyzed the development of family home businesses. According to the Partnership for Work at Home, over 90% of such businesses do not create the traffic, pollution, noise, or the safety problems of other industries. New approaches in zoning are needed to ensure that this very important segment of the economy, which may lay the groundwork for the expansion of companies that later grow to "Fortune 100" or "Fortune 500" levels, and which generates many jobs and increased revenues to the State economy, is provided the opportunity for growth. Such growth cannot occur unless the Legislature ensures that family home businesses that fall within certain prescribed criteria are permitted as accessory uses in residential zones of municipalities; and

h. This act is intended to establish State guidelines for municipalities to follow in their treatment of family home businesses, in order to carefully balance the interests of family home businesses with the needs of the residential area in which they operate.

3. For the purposes of this act:

"Family home business" means any activity operated for pecuniary gain in, or directed from, a residential dwelling or unit by one or more family members residing within that dwelling or unit.

Notwithstanding any municipal ordinance to the contrary, upon the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), a family home business shall be an accessory use, not requiring a use variance pursuant to section 57 of P.L.1975, c.291 (C.40:55D-70), which is permitted in all residential zones of any municipality provided that:

a. the activity is compatible with the residential use of the property and surrounding residential uses;

b. the activity employs no employees other than family members residing in the dwelling or unit; however, a municipality, at its option, may permit the activity to employ employees other than family members, pursuant to ordinance;

c. the volume of invitees or guests who visit the residential dwelling or unit is not in excess of what is customary for residential use in the neighborhood;

d. there is no outside appearance of a family home business including, but not limited to, parking, signs, or lights;

e. the volume of deliveries or truck and other vehicular traffic is not in excess of what is normally associated with residential use in the neighborhood;

f. the activity uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, detectable by any neighbors;

g. the activity does not generate any solid waste or sewage discharge, in volume or type, that is not normally associated with residential use in the neighborhood; and

h. the activity does not involve any illegal activity.

In the case of a dwelling unit that is part of a common interest ownership community, which is a community in which at least some of the property is owned in common by all of the residents, the provisions of this section shall not be deemed to supersede any deed restriction, covenant, agreement, master deed, by-laws, or other documents that prohibit a family home business within a dwelling unit.

A municipality shall not be required to amend or modify an existing ordinance pertaining to family home businesses so long as no portion of the ordinance is in conflict with the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

4. In accordance with the purposes of this act, a municipality may establish, pursuant to ordinance:

a. standards that will apply in residential districts concerning the customary volume of invitees or guests;

b. standards for the volume of delivery or truck traffic that will be deemed acceptable in residential districts.

Any standards established pursuant to this section shall apply to all residences within the district.

5. A municipality pursuant to ordinance, may establish limitations for, or prohibit entirely, any family home businesses, including but not limited to those involving manufacturing, warehousing, retailing, or providing services, that it deems would be incompatible with the residential zones in which they are located. The types of activities or services prohibited or limited shall be set forth in detail in the ordinance.

6. The provisions of this act shall not be construed as limiting in any manner the powers of a municipality to protect the health, safety and welfare of its residents, including the investigation and elimination of nuisances.

7. This act shall take effect on the first day of the sixth month next following enactment.

STATEMENT

This bill would permit a family home business to exist in a residential zone as an accessory use and not require a use variance pursuant to section 57 of P.L.1975, c.291 (C.40:55D-70), provided that the following conditions are met:

(1) the activity is compatible with the residential use of the property and surrounding residential uses;

(2) the activity employs no employees other than family members residing in the dwelling or unit unless otherwise provided by ordinance;

(3) the volume of invitees or guests who visit the residential dwelling or unit is not in excess of what is customary for residential use in the neighborhood;

(4) there is no outside appearance of a family home business including, but not limited to, parking, signs or lights;

(5) the volume of deliveries or truck and other vehicular traffic is not in excess of what is normally associated with residential use in the neighborhood;

(6) the activity uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, detectable by any neighbors;

(7) the activity does not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood; and

(8) the activity does not involve any illegal activity.

In addition, the bill also provides that:

- the bylaws or deed restrictions pertaining to any common interest ownership community will not be deemed to be superseded by the bill's provisions;
- a municipality shall not be required to amend an existing ordinance pertaining to family home businesses provided that the ordinance does not contradict the provisions of the bill;
- a municipality, by ordinance, may establish standards that will apply in residential districts concerning the customary volume of invitees or guests and standards for the volume of delivery or truck traffic that will be deemed acceptable in residential districts; and
- a municipality will retain the power to regulate those certain warehousing, retailing, and manufacturing activities and services it wishes to limit or prohibit in residential zones.