



HB 0383

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A bill to be entitled
 An act relating to assisted living facilities; amending s. 166.0445, F.S.; revising provisions relating to local zoning regulations for family day care homes; amending ss. 400.021, 400.402, 400.551, 400.618, 400.801, and 400.960, F.S.; requiring certain health care facilities, assisted living facilities, community residential homes, adult day care centers, adult family-care homes, homes for special services, and intermediate care facilities for the developmentally disabled to comply with local zoning regulations; amending ss. 400.4445 and 419.001 F.S.; providing that local zoning ordinances shall control with regard to site selection and location of facilities licensed under pt. III of ch. 400, F.S., and community residential homes and facilities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 166.0445, Florida Statutes, is amended to read:

166.0445 Family day care homes; local zoning regulation.--The operation of a residence as a family day care home, as defined by law, registered or licensed with the Department of Children and Family Services shall constitute a valid residential use subject to ~~for purposes of any~~ local zoning regulations; however, ~~and~~ no such regulation shall require the owner or operator of such family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee other than that required for similar uses in the



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31 local zoning regulations as amended from time to time ~~in excess~~
 32 ~~of \$50, to operate in an area zoned for residential use.~~

33 Section 2. Subsection (8) of section 400.021, Florida
 34 Statutes, is amended to read:

35 400.021 Definitions.--When used in this part, unless the
 36 context otherwise requires, the term:

37 (8) "Facility" means any institution, building, residence,
 38 private home, or other place that is in compliance with local
 39 zoning regulations, whether operated for profit or not,
 40 including a place operated by a county or municipality, which
 41 undertakes through its ownership or management to provide for a
 42 period exceeding 24-hour nursing care, personal care, or
 43 custodial care for three or more persons not related to the
 44 owner or manager by blood or marriage, who by reason of illness,
 45 physical infirmity, or advanced age require such services, but
 46 does not include any place providing care and treatment
 47 primarily for the acutely ill. A facility offering services for
 48 fewer than three persons is within the meaning of this
 49 definition if it holds itself out to the public to be an
 50 establishment which regularly provides such services.

51 Section 3. Subsection (6) of section 400.402, Florida
 52 Statutes, is amended to read:

53 400.402 Definitions.--When used in this part, the term:

54 (6) "Assisted living facility" or "community residential
 55 home" means any building or buildings, section or distinct part
 56 of a building, private home, boarding home, home for the aged,
 57 or other residential facility that is in compliance with local
 58 zoning regulations, whether operated for profit or not, which
 59 undertakes through its ownership or management to provide
 60 housing, meals, and one or more personal services for a period



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61 exceeding 24 hours to one or more adults who are not relatives
 62 of the owner or administrator.

63 Section 4. Section 400.4445, Florida Statutes, is amended
 64 to read:

65 400.4445 Compliance with local zoning requirements.--No
 66 facility licensed under this part may commence any construction
 67 which will expand the size of the existing structure unless the
 68 licensee first submits to the agency proof that such
 69 construction will be in compliance with applicable local zoning
 70 requirements. Facilities with a licensed capacity of less than
 71 15 persons shall comply with the provisions of chapter 419,
 72 unless the local government zoning regulations set forth site
 73 selection or site location regulations for community residential
 74 homes or community-based residential facilities, in which case
 75 the local zoning regulations shall govern.

76 Section 5. Subsection (1) of section 400.551, Florida
 77 Statutes, is amended to read:

78 400.551 Definitions.--As used in this part, the term:

79 (1) "Adult day care center" or "center" means any
 80 building, buildings, or part of a building that is in compliance
 81 with local zoning regulations, whether operated for profit or
 82 not, in which is provided through its ownership or management,
 83 for a part of a day, basic services to three or more persons who
 84 are 18 years of age or older, who are not related to the owner
 85 or operator by blood or marriage, and who require such services.

86 Section 6. Subsection (2) of section 400.618, Florida
 87 Statutes, is amended to read:

88 400.618 Definitions.--As used in this part, the term:

89 (2) "Adult family-care home" means a full-time, family-
 90 type living arrangement, in a private home that is in compliance



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91 with local zoning regulations, under which a person who owns or
 92 rents the home provides room, board, and personal care, on a 24-
 93 hour basis, for no more than five disabled adults or frail
 94 elders who are not relatives. The following family-type living
 95 arrangements are not required to be licensed as an adult family-
 96 care home:

97 (a) An arrangement whereby the person who owns or rents
 98 the home provides room, board, and personal services for not
 99 more than two adults who do not receive optional state
 100 supplementation under s. 409.212. The person who provides the
 101 housing, meals, and personal care must own or rent the home and
 102 reside therein.

103 (b) An arrangement whereby the person who owns or rents
 104 the home provides room, board, and personal services only to his
 105 or her relatives.

106 (c) An establishment that is licensed as an assisted
 107 living facility under part III.

108 Section 7. Paragraph (b) of subsection (1) of section
 109 400.801, Florida Statutes, is amended to read:

110 400.801 Homes for special services.--

111 (1) As used in this section, the term:

112 (b) "Home for special services" means a site that is in
 113 compliance with local zoning regulations where specialized
 114 health care services are provided, including personal and
 115 custodial care, but not continuous nursing services.

116 Section 8. Subsection (12) of section 400.960, Florida
 117 Statutes, is amended to read:

118 400.960 Definitions.--As used in this part, the term:

119 (12) "Intermediate care facility for the developmentally
 120 disabled" means a residential facility that is in compliance



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121 with local zoning regulations licensed and certified in
 122 accordance with state law, and certified by the Federal
 123 Government, pursuant to the Social Security Act, as a provider
 124 of Medicaid services to persons who are developmentally
 125 disabled.

126 Section 9. Subsection (11) of section 419.001, Florida
 127 Statutes, is amended to read:

128 419.001 Site selection of community residential homes.--

129 (11) Nothing in this section requires any local government
 130 to adopt a new ordinance if it has in place an ordinance
 131 governing the placement of community residential homes ~~that meet~~
 132 ~~the criteria of this section~~. State law on community residential
 133 homes shall control unless ~~controls over~~ local zoning ordinances
 134 set forth site selection or site location regulations for
 135 community residential homes or community-based residential
 136 facilities. Furthermore, ~~but~~ nothing in this section prohibits a
 137 local government from adopting more liberal standards for siting
 138 such homes.

139 Section 10. This act shall take effect upon becoming a
 140 law.