



HB 0459

2003

1                                   A bill to be entitled  
 2           An act relating to family day care homes; creating s.  
 3           402.31302, F.S.; providing that no deed restrictions,  
 4           covenants, or similar binding agreements running with the  
 5           land shall prohibit the use of a residential dwelling as a  
 6           family day care home; providing exceptions; providing for  
 7           a burden of proof; providing legislative intent; providing  
 8           an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

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 12           Section 1. Section 402.31302, Florida Statutes, is created  
 13 to read:

14           402.31302 Family day care homes; deed restrictions.--

15           (1) No deed restrictions, covenants, or similar binding  
 16 agreements running with the land shall prohibit or have the  
 17 effect of prohibiting the use of a residential dwelling as a  
 18 family day care home as defined in s. 402.302, and licensed  
 19 under s. 402.313, unless prohibiting that use is necessary for  
 20 the preservation of the health, safety, and welfare of the other  
 21 residents in the neighborhood.

22           (2) The burden of proof shall be on the party seeking to  
 23 enforce the deed restriction to demonstrate, on a case-by-case  
 24 basis, that the restriction is necessary for the preservation of  
 25 the health, safety, and welfare of the residents of the  
 26 neighborhood who were meant to benefit from the restriction.

27           (3) Condominiums, as defined in s. 718.103, timeshare  
 28 property, as defined in s. 721.05, and cooperatives, as defined  
 29 in s. 719.103, are exempt from the provisions of this section.



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30       (4) The Legislature intends that families have  
31 appropriate, licensed family child care to protect the public  
32 health, safety, and welfare of Florida's children.

33       (a) The Legislature finds that:

34       1. Family child care meets the transportation, scheduling,  
35 financial, and emotional needs of many working families by  
36 providing child care in an atmosphere most closely resembling  
37 the parents' own homes.

38       2. Family child care increases the availability of care  
39 for mixed age groups, including siblings in the same program,  
40 offering children enhanced communication and learning  
41 experiences.

42       (b) The legislative intent in enacting this section is to  
43 facilitate suitable care for young children by providing that  
44 working parents have the option of child care in a homelike,  
45 neighborhood setting, pursuant to ss. 166.0445, 402.26, and  
46 402.313.

47       (c) The Legislature supports the establishment of family  
48 day care homes by licensing them pursuant to s. 402.313 and  
49 providing funding for their services through subsidized child  
50 care.

51       (d) The Legislature specifically exempts family day care  
52 homes from local zoning restrictions in residential areas  
53 pursuant to ss. 125.0109 and 166.0445.

54       (e) It is in the public interest and a valid public policy  
55 for this Legislature to eliminate the use of deed restrictions,  
56 covenants, or similar binding agreements as barriers to the  
57 establishment or continued operation of licensed family day care  
58 homes.

59       Section 2. This act shall take effect upon becoming a law.