

By Senator Wilson

33-1496-04

See HB 351

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

11  
12 Be It Enacted by the Legislature of the State of Florida:

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

16           402.31302 Family day care homes; deed restrictions.--

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

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

30           (3) Condominiums, as defined in s. 718.103, timeshare  
31 property, as defined in s. 721.05, and cooperatives, as

1 defined in s. 719.103, are exempt from the provisions of this  
2 section.

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

6 (a) The Legislature finds that:

7 1. Family child care meets the transportation,  
8 scheduling, financial, and emotional needs of many working  
9 families by providing child care in an atmosphere most closely  
10 resembling the parents' own homes.

11 2. Family child care increases the availability of  
12 care for mixed age groups, including siblings in the same  
13 program, offering children enhanced communication and learning  
14 experiences.

15 (b) The legislative intent in enacting this section is  
16 to facilitate suitable care for young children by providing  
17 that working parents have the option of child care in a  
18 homelike, neighborhood setting, pursuant to ss. 166.0445,  
19 402.26, and 402.313.

20 (c) The Legislature supports the establishment of  
21 family day care homes by licensing them pursuant to s. 402.313  
22 and providing funding for their services through subsidized  
23 child care.

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

27 (e) It is in the public interest and a valid public  
28 policy for this Legislature to eliminate the use of deed  
29 restrictions, covenants, or similar binding agreements as  
30 barriers to the establishment or continued operation of  
31 licensed family day care homes.

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