

HB 0351

2004

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:

11
 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.

HB 0351

2004

30 (4) The Legislature intends that families have appropriate
 31 licensed family child care to protect the public health, safety,
 32 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.

HB 0351

2004

59

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