

1 A bill to be entitled
 2 An act relating to family day care homes; creating s.
 3 402.31302, F.S.; providing that a deed restriction,
 4 covenants, or similar binding agreement running with the
 5 land may not prohibit the use of a residential dwelling as
 6 a family day care home; providing exceptions and a burden
 7 of proof; specifying certain accommodations and real
 8 property that are exempt from the act; providing
 9 legislative intent; providing an effective date.

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

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

15 402.31302 Family day care homes; deed restrictions.--

16 (1) The operation of a family day care home, as defined in
 17 s. 402.302 and licensed under s. 402.313, in a residential
 18 dwelling constitutes a valid residential use for the purpose of
 19 any deed restriction, covenant, or other similar binding
 20 agreement running with the land. A deed restriction, covenant,
 21 or similar binding agreement running with the land may not be
 22 interpreted so that the operation of a family day care home is
 23 considered a business, commercial activity, or trade and does
 24 not prohibit the use of a residential dwelling as a family day
 25 care home unless prohibiting the use is necessary to preserve
 26 the health, safety, and welfare of the other residents in the
 27 neighborhood.

28 (2) The burden of proof is on the party seeking to enforce
 29 the deed restriction to demonstrate, on a case-by-case basis,
 30 that the restriction is necessary to preserve the health,
 31 safety, and welfare of the residents of the neighborhood who
 32 were meant to benefit from the restriction.

33 (3) A condominium as defined in s. 718.103, timeshare
 34 property as defined in s. 721.05, or cooperative as defined in
 35 s. 719.103 is exempt from this section. A community as defined
 36 in s. 720.301, which includes in its declaration of covenants a
 37 prohibition against children residing in the community, is also
 38 exempt from this section.

39 (4) The Legislature intends that families have appropriate
 40 licensed family child care to protect the public health, safety,
 41 and welfare of the children in this state.

42 (a) The Legislature finds that:

43 1. Family child care meets the transportation, scheduling,
 44 financial, and emotional needs of many working families by
 45 providing child care in an atmosphere most closely resembling
 46 the parents' own homes.

47 2. Family child care increases the availability of care
 48 for mixed-age groups, including siblings in the same program,
 49 offering children enhanced communication and learning
 50 experiences.

51 (b) The legislative intent in enacting this section is to
 52 facilitate suitable care for young children by providing that
 53 working parents have the option of child care in a homelike,
 54 neighborhood setting, under ss. 166.0445, 402.26, and 402.313.

55 (c) The Legislature supports the establishment of family
56 day care homes by licensing the homes under s. 402.313 and
57 providing funding for day care services through subsidized child
58 care.

59 (d) The Legislature specifically exempts family day care
60 homes from local zoning restrictions in residential areas under
61 ss. 125.0109 and 166.0445.

62 (e) It is in the public interest and a valid public policy
63 for this Legislature to eliminate the use of deed restrictions,
64 covenants, or similar binding agreements as barriers to the
65 establishment or continued operation of licensed family day care
66 homes.

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