

By the Committee on Children and Families; and Senator Garcia

586-1789B-05

1 A bill to be entitled

2 An act relating to community residential homes;

3 amending s. 419.001, F.S.; redefining the term

4 "community residential home" to include

5 dwelling units that are licensed to serve

6 residents who are clients of the Department of

7 Elderly Affairs, the Agency for Persons with

8 Disabilities, or the Department of Juvenile

9 Justice, in addition to clients of the

10 Department of Children and Family Services, or

11 dwelling units that are licensed by the Agency

12 for Health Care Administration; requiring that

13 a sponsoring entity of a community residential

14 home and the licensing entity provide

15 information to the local government concerning

16 other community residential homes located

17 within the area of a proposed home; requiring

18 that additional information be provided

19 concerning licensure; prohibiting a licensing

20 entity from issuing a license to a sponsoring

21 entity under certain circumstances; providing

22 an effective date.

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

26 Section 1. Section 419.001, Florida Statutes, is
27 amended to read:

28 419.001 Site selection of community residential
29 homes.--

30 (1) For the purposes of this section, the following
31 definitions shall apply:

1 (a) "Community residential home" means a dwelling unit
2 licensed to serve residents, as defined in paragraph (c), who
3 are clients of the Department of Elderly Affairs, the Agency
4 for Persons with Disabilities, the Department of Juvenile
5 Justice, or the Department of Children and Family Services, or
6 a dwelling unit licensed by the Agency for Health Care
7 Administration, and which provides a living environment for 7
8 to 14 unrelated residents who operate as the functional
9 equivalent of a family, including such supervision and care by
10 supportive staff as may be necessary to meet the physical,
11 emotional, and social needs of the residents.

12 ~~(b)~~ "Department" means ~~the Department of Children and~~
13 ~~Family Services.~~

14 ~~(b)(c)~~ "Local government" means a county as set forth
15 in chapter 7 or a municipality incorporated under the
16 provisions of chapter 165.

17 ~~(c)(d)~~ "Resident" means any of the following: a frail
18 elder as defined in s. 400.618; a physically disabled or
19 handicapped person as defined in s. 760.22(7)(a); a
20 developmentally disabled person as defined in s. 393.063; a
21 nondangerous mentally ill person as defined in s. 394.455(18);
22 or a child as defined in s. 39.01(14), s. 984.03(9) or (12),
23 or s. 985.03(8).

24 ~~(d)(e)~~ "Sponsoring agency" means an agency or unit of
25 government, a profit or nonprofit agency, or any other person
26 or organization which intends to establish or operate a
27 community residential home.

28 (2) Homes of six or fewer residents which otherwise
29 meet the definition of a community residential home shall be
30 deemed a single-family unit and a noncommercial, residential
31 use for the purpose of local laws and ordinances. Homes of

1 six or fewer residents which otherwise meet the definition of
2 a community residential home shall be allowed in single-family
3 or multifamily zoning without approval by the local
4 government, provided that such homes shall not be located
5 within a radius of 1,000 feet of another existing such home
6 with six or fewer residents. Such homes with six or fewer
7 residents shall not be required to comply with the
8 notification provisions of this section; provided, however,
9 that the sponsoring agency provides to the local government
10 prior to occupancy the most recently published compiled data
11 that identifies all community residential homes in the county
12 in which the proposed site is to be located in order to show
13 that no other community residential home is within a radius of
14 1,000 feet of the proposed home with six or fewer residents ~~or~~
15 ~~the department notifies the local government at the time of~~
16 ~~home occupancy that the home is licensed by the department.~~
17 The sponsoring agency or the licensing entity at the time of
18 home occupancy must notify the local government that the home
19 is licensed.

20 (3)(a) When a site for a community residential home
21 has been selected by a sponsoring agency in an area zoned for
22 multifamily, the agency shall notify the chief executive
23 officer of the local government in writing and include in such
24 notice the specific address of the site, the residential
25 licensing category, the number of residents, and the community
26 support requirements of the program. Such notice shall also
27 contain a statement from the licensing entity ~~district~~
28 ~~administrator of the department~~ indicating the need for and
29 the licensing status of the proposed community residential
30 home and specifying how the home meets applicable licensing
31 criteria for the safe care and supervision of the residents

1 ~~clients~~ in the home. The applicable licensing entity district
2 ~~administrator~~ shall also provide to the local government the
3 most recently published data compiled that identifies all
4 community residential homes in the county district in which
5 the proposed site is to be located. The local government
6 shall review the notification of the sponsoring agency in
7 accordance with the zoning ordinance of the jurisdiction.

8 (b) Pursuant to such review, the local government may:

9 1. Determine that the siting of the community
10 residential home is in accordance with local zoning and
11 approve the siting. If the siting is approved, the sponsoring
12 agency may establish the home at the site selected.

13 2. Fail to respond within 60 days. If the local
14 government fails to respond within such time, the sponsoring
15 agency may establish the home at the site selected.

16 3. Deny the siting of the home.

17 (c) The local government shall not deny the siting of
18 a community residential home unless the local government
19 establishes that the siting of the home at the site selected:

20 1. Does not otherwise conform to existing zoning
21 regulations applicable to other multifamily uses in the area.

22 2. Does not meet applicable licensing criteria
23 established and determined by the department, including
24 requirements that the home be located to assure the safe care
25 and supervision of all clients in the home.

26 3. Would result in such a concentration of community
27 residential homes in the area in proximity to the site
28 selected, or would result in a combination of such homes with
29 other residences in the community, such that the nature and
30 character of the area would be substantially altered. A home
31 that is located within a radius of 1,200 feet of another

1 existing community residential home in a multifamily zone
2 shall be an overconcentration of such homes that substantially
3 alters the nature and character of the area. A home that is
4 located within a radius of 500 feet of an area of
5 single-family zoning substantially alters the nature and
6 character of the area.

7 (4) All distance requirements in this section shall be
8 measured from the nearest point of the existing home or area
9 of single-family zoning to the nearest point of the proposed
10 home.

11 (5) If agreed to by both the local government and the
12 sponsoring agency, a conflict may be resolved through informal
13 mediation. The local government shall arrange for the
14 services of an independent mediator or may utilize the dispute
15 resolution process established by a regional planning council
16 pursuant to s. 186.509. Mediation shall be concluded within
17 45 days of a request therefor. The resolution of any issue
18 through the mediation process shall not alter any person's
19 right to a judicial determination of any issue if that person
20 is entitled to such a determination under statutory or common
21 law.

22 (6) The licensing entity may ~~department shall~~ not
23 issue a license to a sponsoring agency for operation of a
24 community residential home if the sponsoring agency does not
25 notify the local government of its intention to establish a
26 program, as required by subsection (3). A license issued
27 without compliance with the provisions of this section shall
28 be considered null and void, and continued operation of the
29 home may be enjoined.

30 (7) A dwelling unit housing a community residential
31 home established pursuant to this section shall be subject to

1 | the same local laws and ordinances applicable to other
2 | noncommercial, residential family units in the area in which
3 | it is established.

4 | (8) Nothing in this section shall be deemed to affect
5 | the authority of any community residential home lawfully
6 | established prior to October 1, 1989, to continue to operate.

7 | (9) Nothing in this section shall permit persons to
8 | occupy a community residential home who would constitute a
9 | direct threat to the health and safety of other persons or
10 | whose residency would result in substantial physical damage to
11 | the property of others.

12 | (10) The siting of community residential homes in
13 | areas zoned for single family shall be governed by local
14 | zoning ordinances. Nothing in this section prohibits a local
15 | government from authorizing the development of community
16 | residential homes in areas zoned for single family.

17 | (11) Nothing in this section requires any local
18 | government to adopt a new ordinance if it has in place an
19 | ordinance governing the placement of community residential
20 | homes that meet the criteria of this section. State law on
21 | community residential homes controls over local ordinances,
22 | but nothing in this section prohibits a local government from
23 | adopting more liberal standards for siting such homes.

24 | Section 2. This act shall take effect July 1, 2005.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 618
4 Revises the definition of "community residential home" to
5 specify that the residents of the dwelling are clients of the
6 Department of Elderly Affairs, the Agency for Persons with
7 Disabilities, and the Department of Juvenile Justice, as well
8 as the Department of Children and Families or a dwelling
9 licensed by the Agency for Health Care Administration.
10 Deletes the definition of "Department."
11 Requires the sponsoring agency to provide local government,
12 prior to occupancy, the most recently published compiled data
13 that identifies all community residential homes in the county
14 where the proposed site is to be located in order to show
15 there is no other community residential home within a radius
16 of 1,000 feet of the proposed home.
17 Directs the sponsoring agency, at the point of occupancy, to
18 notify the local government that the home is licensed.
19 Directs the licensing entity, rather than the district
20 administrator of the Department of Children and Family
21 Services, to provide a statement indicating the need for and
22 other licensing information pertaining to the proposed home,
23 and to provide to the local government the most recently
24 published compiled data that identifies all community
25 residential homes in the county.
26 Prohibits the licensing entity from issuing a license to a
27 sponsoring agency if that agency has failed to provide the
28 appropriate notifications to local government.
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