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1 A bill to be entitled
2 An act relating to community residential homes;
3 amending s. 393.501, F.S.; prohibiting certain rules
4 adopted by the Agency for Persons with Disabilities
5 from restricting the number of facilities designated
6 as community residential homes located within a
7 planned residential community; amending s. 393.18,
8 F.S.; authorizing the agency to issue a license as a
9 comprehensive transitional education program to serve
10 children who have severe behavioral conditions;
11 amending s. 419.001, F.S.; defining the term "planned
12 residential community"; providing that community
13 residential homes located within a planned residential
14 community may be contiguous to one another; providing
15 an effective date.

16
17 WHEREAS, individuals who have development disabilities have
18 the same rights and freedoms as every other citizen in the
19 United States, and

20 WHEREAS, the Developmental Disabilities Assistance and Bill
21 of Rights Act of 2000, Pub. L. No. 106-402, found that
22 individuals who have developmental disabilities and their
23 families are the primary decisionmakers regarding the services
24 and supports such individuals and their families receive,
25 including choosing where the individuals live, and play
26 decisionmaking roles in policies and programs that affect the
27 lives of such individuals and their families, and

28 WHEREAS, individuals who have developmental disabilities
29 should be able to select a home with the same freedom of choice

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30 as other United States citizens, and

31 WHEREAS, such selection should have no bearing on
32 eligibility for services or supports that an individual may
33 otherwise be entitled to receive, NOW, THEREFORE,

34

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

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37 Section 1. Subsection (2) of section 393.501, Florida
38 Statutes, is amended to read:

39 393.501 Rulemaking.—

40 (2) Such rules must ~~shall~~ address the number of facilities
41 on a single lot or on adjacent lots, except that there is no
42 restriction on the number of facilities designated as community
43 residential homes located within a planned residential community
44 as those terms are defined in s. 419.001(1). In adopting rules,
45 an alternative living center and an independent living education
46 center, as described in s. 393.18, are ~~shall be~~ subject to ~~the~~
47 ~~provisions of~~ s. 419.001, except that such centers are ~~shall be~~
48 exempt from the 1,000-foot-radius requirement of s. 419.001(2)
49 if:

50 (a) The centers are located on a site zoned in a manner
51 that permits all the components of a comprehensive transitional
52 education center to be located on the site; or

53 (b) There are no more than three such centers within a
54 radius of 1,000 feet.

55 Section 2. Subsection (5) of section 393.18, Florida
56 Statutes, is amended, and subsection (6) is added to that
57 section, to read:

58 393.18 Comprehensive transitional education program.—A

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59 comprehensive transitional education program is a group of
60 jointly operating centers or units, the collective purpose of
61 which is to provide a sequential series of educational care,
62 training, treatment, habilitation, and rehabilitation services
63 to persons who have developmental disabilities and who have
64 severe or moderate maladaptive behaviors. However, this section
65 does not require such programs to provide services only to
66 persons with developmental disabilities. All such services shall
67 be temporary in nature and delivered in a structured residential
68 setting, having the primary goal of incorporating the principle
69 of self-determination in establishing permanent residence for
70 persons with maladaptive behaviors in facilities that are not
71 associated with the comprehensive transitional education
72 program. The staff shall include behavior analysts and teachers,
73 as appropriate, who shall be available to provide services in
74 each component center or unit of the program. A behavior analyst
75 must be certified pursuant to s. 393.17.

76 (5) ~~This section shall authorize~~ Licensure is authorized
77 for comprehensive transitional education programs which by July
78 1, 1989:

79 (a) Were in actual operation; or

80 (b) Owned a fee simple interest in real property for which
81 a county or city government has approved zoning allowing for the
82 placement of the facilities described in this subsection, and
83 have registered an intent with the agency to operate a
84 comprehensive transitional education program. However, nothing
85 prohibits ~~shall prohibit~~ the assignment by such a registrant to
86 another entity at a different site within the state, if so long
87 ~~as~~ there is compliance with the ~~all~~ criteria of this program and

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88 local zoning requirements and ~~provided that~~ each residential
89 facility within the component centers or units of the program
90 authorized under this paragraph does not exceed a capacity of 15
91 persons.

92 (6) Notwithstanding subsection (5), in order to maximize
93 federal revenues and provide for children needing special
94 behavioral services, the agency may authorize the licensure of a
95 facility that:

96 (a) Provides residential services for children who have
97 developmental disabilities along with significant behavioral
98 problems; and

99 (b) As of July 1, 2010, serve children who were served by
100 the child welfare system and who have an open case in the
101 automated child welfare system of the Department of Children and
102 Family Services.

103
104 The facility must be in compliance with all program criteria and
105 local zoning requirements and may not exceed a capacity of 15
106 children.

107 Section 3. Subsection (1) of section 419.001, Florida
108 Statutes, is amended, present subsections (4) through (11) of
109 that section are redesignated as subsections (5) through (12),
110 respectively, and a new subsection (4) is added to that section,
111 to read:

112 419.001 Site selection of community residential homes.—

113 (1) For the purposes of this section, the term following
114 definitions shall apply:

115 (a) "Community residential home" means a dwelling unit
116 licensed to serve residents, ~~as defined in paragraph (d),~~ who

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117 are clients of the Department of Elderly Affairs, the Agency for
118 Persons with Disabilities, the Department of Juvenile Justice,
119 or the Department of Children and Family Services or a ~~dwelling~~
120 ~~unit~~ licensed by the Agency for Health Care Administration which
121 provides a living environment for 7 to 14 unrelated residents
122 who operate as the functional equivalent of a family, including
123 such supervision and care by supportive staff as may be
124 necessary to meet the physical, emotional, and social needs of
125 the residents.

126 (b) "Licensing entity" or "licensing entities" means the
127 Department of Elderly Affairs, the Agency for Persons with
128 Disabilities, the Department of Juvenile Justice, the Department
129 of Children and Family Services, or the Agency for Health Care
130 Administration, all of which are authorized to license a
131 community residential home to serve residents, ~~as defined in~~
132 ~~paragraph (d)~~.

133 (c) "Local government" means a county as set forth in
134 chapter 7 or a municipality incorporated under the provisions of
135 chapter 165.

136 (d) "Planned residential community" means a local
137 government-approved, planned unit development that is under
138 unified control, is planned and developed as a whole, has a
139 minimum gross lot area of 8 acres, and has amenities that are
140 designed to serve residents with a developmental disability as
141 defined in s. 393.063 but that may also provide housing options
142 for other individuals. The community shall provide choices with
143 regard to housing arrangements, support providers, and
144 activities. The residents' freedom of movement within and
145 outside the community may not be restricted. For the purposes of

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146 this paragraph, local government approval must be based on
147 criteria that include, but are not limited to, compliance with
148 appropriate land use, zoning, and building codes. A planned
149 residential community may contain two or more community
150 residential homes that are contiguous to one another.

151 (e)~~(d)~~ "Resident" means any of the following: a frail elder
152 as defined in s. 429.65; a person who has a handicap physically
153 ~~disabled or handicapped person~~ as defined in s. 760.22(7)(a); a
154 ~~developmentally disabled person who has a developmental~~
155 disability as defined in s. 393.063; a nondangerous ~~mentally ill~~
156 person who has a mental illness as defined in s. 394.455~~(18)~~; or
157 a child who is found to be dependent as defined in s. 39.01 or
158 s. 984.03, or a child in need of services as defined in s.
159 984.03 or s. 985.03.

160 (f)~~(e)~~ "Sponsoring agency" means an agency or unit of
161 government, a profit or nonprofit agency, or any other person or
162 organization which intends to establish or operate a community
163 residential home.

164 (4) Community residential homes, including homes of six or
165 fewer residents which would otherwise meet the definition of a
166 community residential home, which are located within a planned
167 residential community are not subject to the proximity
168 requirements of this section and may be contiguous to each
169 other. A planned residential community must comply with the
170 applicable local government's land development code and other
171 local ordinances. A local government may not impose proximity
172 limitations between homes within a planned residential community
173 if such limitations are based solely on the types of residents
174 anticipated to be living in the community.

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Section 4. This act shall take effect July 1, 2010.