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1
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 a planned
13 residential community may not be located within a
14 certain distance from another planned residential
15 community; providing that community residential homes
16 located within a planned residential community may be
17 contiguous to one another; providing an effective
18 date.

19
20 WHEREAS, individuals who have development disabilities have
21 the same rights and freedoms as every other citizen in the
22 United States, and

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

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30 lives of such individuals and their families, and

31 WHEREAS, individuals who have developmental disabilities
32 should be able to select a home with the same freedom of choice
33 as other United States citizens, and

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

37

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

39

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

42 393.501 Rulemaking.—

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

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

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

58 Section 2. Subsection (5) of section 393.18, Florida

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59 Statutes, is amended, and subsection (6) is added to that
60 section, to read:

61 393.18 Comprehensive transitional education program.—A
62 comprehensive transitional education program is a group of
63 jointly operating centers or units, the collective purpose of
64 which is to provide a sequential series of educational care,
65 training, treatment, habilitation, and rehabilitation services
66 to persons who have developmental disabilities and who have
67 severe or moderate maladaptive behaviors. However, this section
68 does not require such programs to provide services only to
69 persons with developmental disabilities. All such services shall
70 be temporary in nature and delivered in a structured residential
71 setting, having the primary goal of incorporating the principle
72 of self-determination in establishing permanent residence for
73 persons with maladaptive behaviors in facilities that are not
74 associated with the comprehensive transitional education
75 program. The staff shall include behavior analysts and teachers,
76 as appropriate, who shall be available to provide services in
77 each component center or unit of the program. A behavior analyst
78 must be certified pursuant to s. 393.17.

79 (5) ~~This section shall authorize~~ Licensure is authorized
80 for comprehensive transitional education programs which by July
81 1, 1989:

82 (a) Were in actual operation; or

83 (b) Owned a fee simple interest in real property for which
84 a county or city government has approved zoning allowing for the
85 placement of the facilities described in this subsection, and
86 have registered an intent with the agency to operate a
87 comprehensive transitional education program. However, nothing

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88 prohibits ~~shall prohibit~~ the assignment by such a registrant to
89 another entity at a different site within the state, if so long
90 ~~as~~ there is compliance with the all criteria of this program and
91 local zoning requirements and ~~provided that~~ each residential
92 facility within the component centers or units of the program
93 authorized under this paragraph does not exceed a capacity of 15
94 persons.

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

99 (a) Provides residential services for children who have
100 developmental disabilities along with intensive behavioral
101 problems as defined by the agency; and

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

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

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

115 419.001 Site selection of community residential homes.—

116 (1) For the purposes of this section, the term following

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117 ~~definitions shall apply:~~

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

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

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

139 (d) "Planned residential community" means a local
140 government-approved, planned unit development that is under
141 unified control, is planned and developed as a whole, has a
142 minimum gross lot area of 8 acres, and has amenities that are
143 designed to serve residents with a developmental disability as
144 defined in s. 393.063 but that shall also provide housing
145 options for other individuals. The community shall provide

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146 choices with regard to housing arrangements, support providers,
147 and activities. The residents' freedom of movement within and
148 outside the community may not be restricted. For the purposes of
149 this paragraph, local government approval must be based on
150 criteria that include, but are not limited to, compliance with
151 appropriate land use, zoning, and building codes. A planned
152 residential community may contain two or more community
153 residential homes that are contiguous to one another. A planned
154 residential community may not be located within a 10-mile radius
155 of any other planned residential community.

156 (e)~~(d)~~ "Resident" means any of the following: a frail elder
157 as defined in s. 429.65; a person who has a handicap ~~physically~~
158 ~~disabled or handicapped person~~ as defined in s. 760.22(7)(a); a
159 developmentally disabled person who has a developmental
160 disability as defined in s. 393.063; a nondangerous ~~mentally ill~~
161 person who has a mental illness as defined in s. 394.455~~(18)~~; or
162 a child who is found to be dependent as defined in s. 39.01 or
163 s. 984.03, or a child in need of services as defined in s.
164 984.03 or s. 985.03.

165 (f)~~(e)~~ "Sponsoring agency" means an agency or unit of
166 government, a profit or nonprofit agency, or any other person or
167 organization which intends to establish or operate a community
168 residential home.

169 (4) Community residential homes, including homes of six or
170 fewer residents which would otherwise meet the definition of a
171 community residential home, which are located within a planned
172 residential community are not subject to the proximity
173 requirements of this section and may be contiguous to each
174 other. A planned residential community must comply with the

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175 applicable local government's land development code and other
176 local ordinances. A local government may not impose proximity
177 limitations between homes within a planned residential community
178 if such limitations are based solely on the types of residents
179 anticipated to be living in the community.

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