

**By** the Committee on Children, Families, and Elder Affairs; and  
Senator Clemens

586-03366-13

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1                                   A bill to be entitled  
2           An act relating to substance abuse services; amending  
3           s. 397.311, F.S.; defining the term "sober house  
4           transitional living home" as it relates to the Hal S.  
5           Marchman Alcohol and Other Drug Services Act; amending  
6           s. 397.403, F.S.; requiring that an applicant seeking  
7           licensure for a proposed facility that would provide  
8           specified substance abuse services adhere to local,  
9           municipal, or county standards for zoning and  
10          occupancy; requiring such applicant to provide written  
11          notice to the chief executive officer of the  
12          appropriate local government before receiving  
13          licensure to operate a sober house transitional living  
14          home; requiring the applicant to stipulate certain  
15          criteria within the notice; exempting certain sober  
16          house transitional living homes from additional  
17          licensing as a service provider under ch. 397, F.S.,  
18          under certain circumstances; requiring the local  
19          government to review the notification and to determine  
20          if the proposed home and its site comply with certain  
21          requirements; requiring the local government to notify  
22          the applicant and the Department of Children and  
23          Families of its determination; requiring each sober  
24          house transitional living home in existence on a  
25          certain date to apply for licensure with the  
26          department and give notice to the local government by  
27          a specified date; requiring the local government to  
28          notify the existing sober house transitional living  
29          home and the department of its determination;

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30 exempting existing sober house transitional living  
31 homes from complying with the distance requirement  
32 under certain circumstances; providing conflict  
33 resolution by informal mediation under certain  
34 circumstances; requiring the local government to  
35 arrange for services of an independent mediator or  
36 initiate dispute resolution proceedings; providing  
37 procedures for the mediation; providing construction;  
38 providing that a local government is not required to  
39 adopt a local ordinance under certain circumstances;  
40 providing that state law prevails over a local  
41 ordinance; providing that a local government is not  
42 precluded from adopting ordinances that govern  
43 facilities that offer certain substance abuse  
44 services; providing that the department may adopt  
45 rules to establish penalties or fines for failure to  
46 obtain a license to operate a sober house transitional  
47 living home; providing an effective date.

48

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

50

51 Section 1. Paragraph (d) is added to subsection (18) of  
52 section 397.311, Florida Statutes, to read:

53 397.311 Definitions.—As used in this chapter, except part  
54 VIII, the term:

55 (18) Licensed service components include a comprehensive  
56 continuum of accessible and quality substance abuse prevention,  
57 intervention, and clinical treatment services, including the  
58 following services:

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59       (d) "Sober house transitional living home" means a  
60 residential dwelling unit that provides a peer-supported,  
61 managed, alcohol-free and drug-free living environment.

62       Section 2. Subsections (4) through (10) are added to  
63 section 397.403, Florida Statutes, to read:

64       397.403 License application.—

65       (4) An applicant for licensure under this section must  
66 adhere to local, municipal, or county standards for zoning and  
67 occupancy. After selection of a proposed site, but before  
68 receiving a license under this section, the person or entity  
69 that applies for licensure to operate a sober house transitional  
70 living home as defined in s. 397.311 shall provide written  
71 notice to the chief executive officer of the city or county that  
72 governs the area in which the home will be located. The  
73 applicant shall stipulate in the notice:

74       (a) That based upon the most recently published data  
75 compiled by the department, the proposed sober house  
76 transitional living home will not be located within 1,000 feet  
77 of another sober house transitional living home or within 1,000  
78 feet of a licensed service component as defined under s.  
79 397.311. The distance between the proposed sober house  
80 transitional living home and an existing sober house  
81 transitional living home or licensed service component must be  
82 measured from the nearest point of the existing sober house  
83 transitional living home or licensed service component to the  
84 nearest point of the proposed sober house transitional living  
85 home; and

86       (b) The maximum number of residents who will reside at the  
87 proposed home.

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88       (5) A proposed sober house transitional living home that is  
89 managed by or operated by an owner or wholly-owned subsidiary of  
90 a licensed service component as defined in s. 397.311 is exempt  
91 from subsection (4) if the owner or wholly-owned subsidiary  
92 provides to the department the location of the housing component  
93 on the license application for the licensed service component in  
94 order to avoid having to obtain an additional license for the  
95 proposed sober house transitional living home. A sober house  
96 transitional living home that is exempted by this subsection is  
97 not exempt from local, municipal, and county standards for  
98 zoning and occupancy.

99       (6) The city or county government may review the notice to  
100 determine whether the proposed sober house transitional living  
101 home complies with its zoning and occupancy standards and the  
102 distance requirements specified in paragraph (4) (a). In making  
103 its determination, the city or county government may also  
104 consider whether the site of the proposed home would result in  
105 an overconcentration of sober house transitional living homes in  
106 the proximate area of the proposed home. After making its  
107 determination, the city or county government shall notify the  
108 applicant and the department of its determination.

109       (7) No later than September 1, 2013, a residential dwelling  
110 unit that was operating as a sober house transitional living  
111 home on or before July 1, 2013, shall apply for licensure under  
112 this section and shall provide written notice to the city or  
113 county government as provided in subsection (4). The city or  
114 county government shall review the notice and notify the  
115 applicant and the department of its determination pursuant to  
116 subsection (6). A sober house transitional living home in

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117 existence before July 1, 2013, is exempt from complying with the  
118 distance requirements of paragraph (4) (a) if the existing sober  
119 house transitional living home continues to operate at the same  
120 location and continues to be owned and operated by the same  
121 person or entity that was the owner and operator on or before  
122 June 30, 2013.

123 (8) If the city or county government determines that an  
124 applicant's proposed sober house transitional living home or its  
125 site does not comply with subsection (4), subsection (5), or  
126 subsection (6), and if it is agreed to by both parties, a  
127 conflict may be resolved through informal mediation. The city or  
128 county government shall arrange for the services of an  
129 independent mediator or may initiate dispute resolution  
130 proceedings under s. 186.509. The mediation process must be  
131 concluded within 45 days after a request for mediation. This  
132 subsection may not be construed as altering the applicant's  
133 statutory or common law rights.

134 (9) This section does not require a city or county  
135 government to adopt a new ordinance if it has an existing  
136 ordinance that meets the criteria specified in subsection (4).  
137 State law that governs a sober house transitional living home as  
138 defined in s. 397.311 prevails over a local ordinance; however,  
139 a city or county government may adopt a more liberal ordinance  
140 that governs sober house transitional living homes.

141 (10) The department may adopt rules to establish penalties  
142 or fines for failure to obtain a license from the department to  
143 operate a sober house transitional living home.

144 Section 3. This act shall take effect July 1, 2013.