

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1174

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Residential Facilities

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1174 requires a radius of 1,200 feet between a community residential home licensed for 7 to 14 residents and a home licensed for 6 or fewer residents which otherwise meets the definition of community residential home. The bill does not impact community residential homes already licensed and in operation prior to July 1, 2016.

The bill is not expected to have a fiscal impact on the state.

II. Present Situation:

Community Residential Homes

Historically, community housing options for persons with disabilities, frail elderly persons, dependent or delinquent children, and persons with mental illnesses have been limited. Although the transition from providing services in large institutions to community-based programs began in the 1970s,¹ the availability of safe, appropriate, and affordable housing in Florida has been an

¹ Normalization and deinstitutionalization have long been held to provide benefits to individuals with special needs. Normalization is a social science theory based upon the proposition "that the quality of life increases as an individual's access to culturally typical activities and settings increases." Deinstitutionalization seeks to remove individuals from placement in the more restrictive environment of institutions to the less restrictive environment of mainstream society. Working in concert these two principles encourage the development of community-based living arrangements for individuals with special needs. See American Psychologist, *Normalization and Deinstitutionalization of Mentally Retarded Individuals:*

ongoing challenge. The primary obstacle was the opposition to establishing affordable housing or housing for persons with disabilities or special needs in residential neighborhoods. In an attempt to address this issue the Legislature enacted s. 419.001, F.S., which establishes the siting requirements applicable to local governments for community residential homes.

A community residential home is a home consisting of 7 to 14 unrelated residents who operate as the functional equivalent of a family, including supervision and care by supportive staff necessary to meet the physical, emotional, and social needs of the residents.² Residency in a community residential home is limited to individuals who are or have:³

- A “developmentally disability,” defined in s. 393.063, F.S., as a person with a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, down syndrome,⁴ spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely;
- “Frail elders,” defined in s. 429.65(9), F.S., as a functionally impaired elderly person who is 60 years of age or older and who has physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living and that impede the person’s capacity to live independently;
- “Handicapped,” defined in s. 760.22(7)(a), F.S., as a person who has a physical or mental impairment which substantially limits one or more major life activities, or has a record of having, or is regarded as having, such physical or mental impairment;
- Nondangerous persons who have a “mental illness,” defined in s. 394.455(18), F.S., as an impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person’s ability to meet the ordinary demands of living; or
- Children found to be dependent by a court as defined in ss. 39.01(15) and 984.03 F.S., or in need of services defined in ss. 984.03(9) and 985.03(8), F.S.

Community residential homes must be licensed by the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration (collectively the “licensing entities”).⁵

Local Government Approval of Proposed Community Residential Homes

A local government is responsible for the site approval of a proposed community residential home. A sponsoring agency⁶ is required to notify the chief executive officer of the local government in writing when a site for a community residential home has been selected in an area zoned for multifamily use.⁷ The notice must include the address of the site, the residential

Controversy and Facts, August 1987, Vol 42, No. 8, p. 809-816, available at: <http://mn.gov/mnddc/parallels2/pdf/80s/87/87-NDI-LAB.pdf> (last visited Feb. 7, 2016).

² Section 419.001(1)(a), F.S.

³ Section 419.001(1)(e), F.S.

⁴ Ch. 2016-3 L.O.F., s. 6 (amending s. 393.063(9), F.S., effective July 1, 2016).

⁵ Section 419.001(1)(b), F.S.

⁶ Section 419.001(1)(f), F.S., defines “sponsoring agency” as an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

⁷ Section 419.001(3)(a), F.S.

licensing category, the number of residents, and the community support requirements of the program. The notice must also contain a statement from the licensing entity indicating the licensing status of the home, and how the home meets applicable licensing criteria for the safe care and supervision of the residents. The sponsoring agency must provide the local government with the most recently published data that identifies all community residential homes in the district in which the proposed site is to be located. The local government reviews the notification from the sponsoring agency to determine if the siting is in accordance with local zoning ordinances.⁸ The local government has up to 60 days to approve or deny the siting of the home. If the local government does not respond within 60 days, the sponsoring agency may establish the home at the site selected.⁹

A local government may not deny the siting of a community residential home unless the site selected:

- Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area;
- Does not meet licensing criteria; or
- Would substantially alter the nature and character of the area by being located within a radius of:
 - 1,200 feet of another existing community residential home, if located in a multi-family zone; or
 - 500 feet of an area of single-family zoning.¹⁰

Florida law also addresses siting requirements for homes with 6 or fewer residents which otherwise meet the definition of a community residential home. These homes are considered a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances.¹¹ These homes are allowed in a single- or multi-family zoned area, and do not require approval by the local government provided:

- The home does not exist within a radius of 1,000 feet of another such home; and
- The sponsoring agency notifies the local government at the time of occupancy that the home is licensed.¹²

The law is silent as to which zoning requirement (within a radius of 1,200 feet or within a radius of 1,000 feet) applies when determining the proper distance between a community residential home licensed for 7- 14 residents and a home licensed for 6 or fewer residents which otherwise meets the definition of a community residential home.

III. Effect of Proposed Changes:

Section 1 amends s. 419.001(2), F.S., to require a radius of 1,200 feet between a community residential home licensed for 7 to 14 residents and a home licensed for 6 or fewer residents which otherwise meets the definition of a community residential home. The bill does not impact community residential homes already licensed and in operation prior to July 1, 2016.

⁸ *Id.*

⁹ Section 419.001(3)(b), F.S.

¹⁰ Section 419.001(3)(c), F.S.

¹¹ Section 419.001(2), F.S.

¹² *Id.*

Section 2 provides that the bill is effective on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may impact siting decisions of operators of community residential homes. Operators licensed for 7 to 14 residents who also operate a home licensed for 6 or fewer residents would have to locate the second home more than 1,200 feet from the larger home.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 419.001 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 26, 2016:

Provides that homes of six or fewer which otherwise meet the definition of a community residential home are not to be within a 1,200 foot radius of another existing community residential home in single-family or multifamily zoning.

- B. **Amendments:**

None.