

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 1989, House Bill 1269¹ established the framework for what is currently s. 419.001, F.S. One of the purposes was to prevent or reduce inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care. The goal was to follow a deinstitutionalization model for placement of persons with special needs in the least restrictive setting and for the encouragement of placement of such individuals in community residential facilities.

Currently, s. 419.001, F.S., requires the local government to approve the location of certain residential homes which provide for a living environment for seven to fourteen unrelated residents. When a site for a community residential home has been selected by a sponsoring agency² in an area zoned for multifamily use, the agency must notify the Chief Executive Officer of the local government in writing. The local government then has up to 60 days to respond and if no response is given within 60 days, the sponsoring agency may establish the home at the site in question. Currently, homes with six or fewer residents are deemed a single family unit and do not require approval by the local government, provided that the home does not exist in a 1,000 feet radius of another six or fewer resident home.

Section 419.001(1)(d), F.S., defines a "resident" as a:

- "Developmentally disabled person" pursuant to s.393.063, F.S., which includes a person with a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- "Frail elder" pursuant to s. 400.618, F.S., which includes a functionally impaired person who is over the age of 60 who has physical and mental limitations that restricts the ability of that person to live independently and perform normal activities of daily living.

¹ chapter 89-372, L.O.F

² Section 419.001(1)(e), 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."

- “Physically disabled or handicapped person” pursuant to s. 760.22(7)(a), F.S., which includes a person that has a physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment.
- Nondangerous “mentally ill person” pursuant to s. 394.455(18), Florida Statutes, which includes 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 a person’s ability to meet the ordinary demands of living, regardless of etiology. For the purposes of this part, the term does not include retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.
- “Child” who is found to be dependent by the court pursuant to s. 39.01(14), F.S., and a “child” in need of services pursuant to ss. 984.03(9) and 985.03(8), F.S.

Effect of the PCS

The PCS amends subsections (1) and (2) of s. 419.001, F.S., to define a “planned residential community” as a planned unit development having amenities that are designed to serve residents who have developmental disabilities and may consist of two or more community residential homes that are contiguous to one another.

The PCS provides that homes that have six or fewer residents that would otherwise meet the definition of a community residential home that is within a planned residential community does not require local government approval regardless of their proximity to each other. This means that even if a home with 6 or fewer disabled residents locates within 1,000 feet of another home with 6 or fewer disabled residents or a community group home, it will not require additional local government approval.

These provisions will make it easier for homes with 6 or fewer disabled residents to locate within a planned unit development designed to serve residents who have developmental disabilities. This exemption makes it clear that these homes will not have to get local approval, but they will still have to provide notification to the local government.

The intent of the PCS is to allow the planning and development of special needs communities in areas adjacent to residential areas. Proponents of the PCS emphasize that this would not be an institutional setting, since other adults, including family members, friends, and other care-givers may also live in the community. Qualifying persons will still be eligible for Supported Living services, and proponents advocate that these “planned residential communities” would allow the service providers better access to their clients and save the state money by not requiring the providers to drive further distances to their clients.

B. SECTION DIRECTORY:

Section 1. Amends s. 419.001 to create a definition for a “planned residential community” and exempts them from local approval regardless of its proximity to other similar homes or community residential homes.

Section 2. Provides an effective date of July 1, 2009

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None

2. Expenditures:
None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES