

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1856

By: Leftwich

AS INTRODUCED

An Act relating to property; amending 60 O.S. 2001, Section 863, as amended by Section 1, Chapter 22, O.S.L. 2003 (60 O.S. Supp. 2005, Section 863), which relates to establishment of group homes; eliminating certain requirement of political subdivisions related to group homes; requiring certain permits; modifying certain notice requirements; changing definition; modifying spacing requirement; repealing 60 O.S. 2001, Section 864, which relates to deed prohibitions of group homes; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2001, Section 863, as amended by Section 1, Chapter 22, O.S.L. 2003 (60 O.S. Supp. 2005, Section 863), is amended to read as follows:

Section 863.

A. 1. a. ~~A group home is a residential use of property for the purposes of zoning and shall be treated as a permitted use in all residential zones or districts, including all single-family residential zones or districts of all political subdivisions of this state. No A~~ political subdivision ~~may~~ shall require that a group home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance different from those required for other dwellings of similar density in the same zone~~;~~ ~~provided, however,~~ prior to the establishment of a group home in any residential area within ~~a~~ the political subdivision~~, the owner of such home shall file with the political subdivision an application for~~

~~the establishment of such group home in such residential area.~~ The political subdivision shall provide for notice to be given to all affected real property owners. The notice shall contain a legal description of the property and the street address ~~or approximate location~~ of the group home.

- b. For the purposes of this section, the term "affected real property owners" shall mean all owners of real property which is located within ~~three hundred (300)~~ five hundred (500) feet of the exterior boundary of the property on which the group home is to be located. The political subdivision ~~may deny the application~~ shall refuse to issue or grant a conditional use permit, special use permit, special exception or variance if the owner of the group home fails to obtain a license from the Department of Human Services or if the group home fails to comply with the spacing requirements of subsection B of this section.

2. After the initial ~~approval~~ permitting process, the political subdivision shall have the right to require a rezoning application, special exception, or variance filing and a public hearing, ~~if such procedures are normally required for any other similar use in the zoning district.~~

B. 1. Any rules promulgated by the State Board of Health for purposes of implementing the Community Residential Living for Persons with Developmental or Physical Disabilities Act shall remain in effect until such rules are superseded by rules promulgated by the Commission for Human Services, pursuant to this section. At such time, rules promulgated by the State Board of Health shall terminate.

2. For the purposes of safeguarding the health and safety of persons with developmental or physical disabilities and avoiding an

over-concentration of group homes, either along or in conjunction with similar community-based residences, within one hundred eighty (180) days of the effective date of the Community Residential Living for Persons with Developmental or Physical Disabilities Act, the Commission for Human Services shall promulgate rules which shall encompass the following matters:

- a. limitations on the number of new group homes to be permitted on blocks, block faces, and other appropriate geographic areas, to ~~one thousand two hundred (1,200)~~ two thousand six hundred forty (2,640) feet between group homes, or similar community residential facilities serving persons in drug, alcohol, juvenile, child, parole, and other programs of treatment, care, supervision, or rehabilitation in a community setting; provided, however, this provision shall not apply to group homes located outside of the corporate limits of a municipality,
- b. assurance that adequate arrangements are made for the residents of group homes to receive such care and habilitation as is necessary and appropriate to their needs and to further their progress towards independent living,
- c. protection of the health and safety of the residents of group homes. Compliance with these rules shall not relieve the operator of any group home of the obligation to comply with the requirements or standards of a political subdivision pertaining to building, housing, health, fire, safety, and motor vehicle parking space that generally apply to single-family residences in the zoning district. No requirements for business licenses, gross receipt taxes, environmental impact studies, or clearances may

be imposed on such homes if such fees, taxes, or clearances are not imposed on all structures in the zoning district housing a like number of persons. A group home shall not be excluded from a single family zone as a result of requirements promulgated by the Commission,

- d. procedures by which a resident of a residential zoning district or the governing body of a political subdivision in which a group home is, or is to be, located may petition the Department of Human Services to deny an application for a license to operate a group home on the grounds that the operation of such a home would be in violation of the limits established pursuant to the provisions of subparagraph a of paragraph 2 of subsection B of this section, and
- e. fees for licenses or renewal of licenses required by this section.

C. In order to facilitate the implementation of subparagraph a of paragraph 2 of subsection B of this section, the Department shall maintain a list of the location, capacity, and current occupancy of all group homes. The Department shall ensure that this list shall not contain the names or other identifiable information about any residents of such home and that copies of this list shall be available upon request to any resident of this state and any state agency or political subdivision.

SECTION 2. REPEALER 60 O.S. 2001, Section 864, is hereby repealed.

SECTION 3. This act shall become effective November 1, 2006.

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