

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2184

Introduced by Assembly Member Bogh

February 22, 2006

An act to amend Section 1566.3 of the Health and Safety Code, relating to residential facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2184, as amended, Bogh. Residential facilities: land use regulations.

Existing law specifies that no conditional use permit, zoning variance, or other zoning clearance is required of a residential facility, as defined, which serves 6 or fewer persons if such a permit, variance, or zoning clearance is not required of a family dwelling of the same type in the same zone. *Existing law provides that those provisions shall not be construed to forbid the application to a residential care facility of any local ordinance that deals with health, safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities that serve 6 or fewer persons from other family dwellings of the same type in the same zone, and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone.*

~~This bill would, instead, specify that a city, county, or other local public entity may require a conditional use permit, zoning variance, or other zoning clearance of a residential facility that serves 6 or fewer persons that is not required of a family dwelling of the same type in~~

~~the same zone~~ additionally provide that the aforementioned provisions shall not be construed to prohibit the application to a residential care facility of any ordinance that applies to homes of facilities not subject to licensure by a state agency.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1566.3 of the Health and Safety Code is
2 amended to read:

3 1566.3. (a) Whether or not unrelated persons are living
4 together, a residential facility that serves six or fewer persons
5 shall be considered a residential use of property for the purposes
6 of this article. In addition, the residents and operators of such a
7 facility shall be considered a family for the purposes of any law
8 or zoning ordinance which relates to the residential use of
9 property pursuant to this article, ~~except as provided in~~
10 ~~subdivision (e).~~

11 (b) For the purpose of all local ordinances, a residential
12 facility that serves six or fewer persons shall not be included
13 within the definition of a boarding house, rooming house,
14 institution or home for the care of minors, the aged, or the
15 mentally infirm, foster care home, guest home, rest home,
16 sanitarium, mental hygiene home, or other similar term which
17 implies that the residential facility is a business run for profit or
18 differs in any other way from a family dwelling.

19 (c) This section shall not be construed to prohibit any city,
20 county, or other local public entity from placing restrictions on
21 building heights, setback, lot dimensions, or placement of signs
22 of a residential facility which serves six or fewer persons as long
23 as such restrictions are identical to those applied to other family
24 dwellings of the same type in the same zone.

25 (d) This section shall not be construed to prohibit the
26 application to a residential care facility of any local ordinance
27 ~~which~~ that deals with health and safety, building standards,
28 environmental impact standards, or any other matter within the
29 jurisdiction of a local public entity if the ordinance does not
30 distinguish residential care facilities which serve six or fewer
31 persons from other family dwellings of the same type in the same

1 ~~zone~~; *zone* and if the ordinance does not distinguish residents of
2 the residential care facilities from persons who reside in other
3 family dwellings of the same type in the same zone, *or any*
4 *ordinance that applies only to homes or facilities not subject to*
5 *licensure by a state agency* .

6 (e) ~~A~~*No* conditional use permit, zoning variance, or other
7 zoning clearance ~~may~~ *shall* be required of a residential facility
8 which serves six or fewer persons which is not required of a
9 family dwelling of the same type in the same zone.

10 (f) Use of a family dwelling for purposes of a residential
11 facility serving six or fewer persons shall not constitute a change
12 of occupancy for purposes of Part 1. 5 (commencing with Section
13 17910) of Division 13 or local building codes. However, nothing
14 in this section is intended to supersede Section 13143 or 13143.6,
15 to the extent such sections are applicable to residential facilities
16 providing care for six or fewer residents.

17 (g) For the purposes of this section, “family dwelling,”
18 includes, but is not limited to, single-family dwellings, units in
19 multifamily dwellings, including units in duplexes and units in
20 apartment dwellings, mobilehomes, including mobilehomes
21 located in mobilehome parks, units in cooperatives, units in
22 condominiums, units in townhouses, and units in planned unit
23 developments.