

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 937
Health Care Committee Substitute Adopted 4/23/01
House Committee Substitute Favorable 5/30/01

Short Title: C.O.N.-Adult Care Homes Regulated.

(Public)

Sponsors:

Referred to:

March 29, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE DEVELOPMENT OF ADULT CARE HOMES
3 UNDER THE CERTIFICATE OF NEED LAW.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 131E-175 reads as rewritten:

6 "§ 131E-175. Findings of fact.

7 The General Assembly of North Carolina makes the following findings:

8

...

9 (8) That because persons who have received exemptions under Section
10 11.9(a) of S.L. 2000-67, as amended, and under Section 11.69(b) of
11 S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212,
12 and as amended by Section 1 of S.L. 1999-135, have had sufficient
13 time to complete development plans and initiate construction of beds
14 in adult care homes.

15 (9) That because with the enactment of this legislation, beds allowed
16 under the exemptions noted above and pending development will
17 count in the inventory of adult care home beds available to provide
18 care to residents in the State Medical Facilities Plan.

19 (10) That because State and county expenditures provide support for nearly
20 three-quarters of the residents in adult care homes through the State
21 County Special Assistance program, and excess bed capacity increases
22 costs per resident day, it is in the public interest to promote efficiencies
23 in delivering care in those facilities by controlling and directing their
24 growth in an effort to prevent underutilization and higher costs and
25 provide appropriate geographical distribution."

26 SECTION 2. G.S. 131E-176 reads as rewritten:

27 "§ 131E-176. Definitions.

1 As used in this Article, unless the context clearly requires otherwise, the following
2 terms have the meanings specified:

3 ...

4 (9b) "Health service facility" means a hospital; psychiatric facility;
5 rehabilitation facility; ~~long term care facility~~; nursing home facility;
6 adult care home; kidney disease treatment center, including
7 freestanding hemodialysis units; intermediate care facility for the
8 mentally retarded; home health agency office; chemical dependency
9 treatment facility; diagnostic center; oncology treatment center;
10 hospice, hospice inpatient facility, hospice residential care facility; and
11 ambulatory surgical facility.

12 (9c) "Health service facility bed" means a bed licensed for use in a health
13 service facility in the categories of (i) acute care beds; (ii) psychiatric
14 beds; (iii) rehabilitation beds; (iv) nursing ~~care~~ home beds; (v)
15 intermediate care beds for the mentally retarded; (vi) chemical
16 dependency treatment beds; (vii) hospice inpatient facility beds; ~~and~~
17 (viii) hospice residential care facility ~~beds~~; beds; and (ix) adult care
18 home beds.

19 ...

20 (12a) "Adult care home" means a facility with seven or more beds licensed
21 under G.S. 131D-2 or Chapter 131E of the General Statutes that
22 provides residential care for aged or disabled persons whose principal
23 need is a home which provides the supervision and personal care
24 appropriate to their age and disability and for whom medical care is
25 only occasional or incidental.

26 ...

27 (14d) ~~"Long term care facility" means a health service facility whose bed~~
28 ~~complement of health service facility beds is composed principally of~~
29 ~~nursing care facility beds.~~

30 ...

31 (17b) "Nursing home facility" means a health service facility whose bed
32 complement of health service facility beds is composed principally of
33 nursing home facility beds.

34"

35 **SECTION 3.** Section 11.69 of S.L. 1997-443, as amended by Section
36 12.16C(a) of S.L. 1998-212, and as further amended by Section 1 of S.L. 1999-135 as
37 amended by Section 11.9(a) of S.L. 2000-67, reads as rewritten:

38 "Section 11.69. (a) The General Assembly finds:

39 (1) That the cost of care for seventy percent (70%) of adult care home
40 residents is paid by the State and the counties;

- 1 (2) That the cost to the State for care for residents in adult care homes is
2 substantial, and high vacancy rates in adult care homes further
3 increases the cost of care;
- 4 (3) That the proliferation of unnecessary adult care home beds results in
5 costly duplication and underuse of facilities and may result in lower
6 quality service; and
- 7 (4) That it is necessary to protect the general welfare and lives, health, and
8 property of the people of the State to slow temporarily licensure of
9 adult care home beds pending a finding of a more definitive means of
10 developing and maintaining the quality of adult care home beds so that
11 unnecessary costs to the State do not result, adult care home beds are
12 available where needed, and that individuals who need care in adult
13 care homes may have access to quality care.

14 (b) Effective until ~~September 30, 2001~~, December 31, 2001, the Department of
15 Health and Human Services shall not approve the addition of any adult care home beds
16 for any type home or facility in the State, except as follows:

- 17 (1) Plans submitted for approval prior to May 18, 1997, may continue to
18 be processed for approval;
- 19 (2) Plans submitted for approval subsequent to May 18, 1997, may be
20 processed for approval if the individual or organization submitting the
21 plan demonstrates to the Department that on or before August 25,
22 1997, the individual or organization purchased real property, entered
23 into a contract to purchase or obtain an option to purchase real
24 property, entered into a binding real property lease arrangement, or has
25 otherwise made a binding financial commitment for the purpose of
26 establishing or expanding an adult care home facility. An owner of real
27 property who entered into a contract prior to August 25, 1997, for the
28 sale of an existing building together with land zoned for the
29 development of not more than 50 adult care home beds with a
30 proposed purchaser who failed to consummate the transaction may,
31 after August 25, 1997, sell the property to another purchaser and the
32 Department may process and approve plans submitted by the purchaser
33 for the development of not more than 50 adult care home beds. It shall
34 be the responsibility of the applicant to establish, to the satisfaction of
35 the Department, that any of these conditions have been met;
- 36 (3) Adult care home beds in facilities for the developmentally disabled
37 with six beds or less which are or would be licensed under G.S. 131D
38 or G.S. 122C may continue to be approved;
- 39 (4) If the Department determines that the vacancy rate of available adult
40 care home beds in a county is fifteen percent (15%) or less of the total
41 number of available beds in the county as of August 26, 1997, and no
42 new beds have been approved or licensed in the county or plans

1 submitted for approval in accordance with subdivision (1) or (2) of this
2 section which would raise the vacancy rate above fifteen percent
3 (15%) in the county, then the department may accept and approve the
4 addition of beds in that county; or

- 5 (5) If a county board of commissioners determines that a substantial need
6 exists for the addition of adult care home beds in that county, the board
7 of commissioners may request that a specified number of additional
8 beds be licensed for development in their county. In making their
9 determination, the board of commissioners shall give consideration to
10 meeting the needs of Special Assistance clients. The Department may
11 approve licensure of the additional beds from the first facility that files
12 for licensure and subsequently meets the licensure requirements.

13 (b1) Any person who obtained an exemption under subsection (b) of this section
14 and has not obtained a license for the beds for which the exemption was granted shall no
15 longer be authorized to develop the beds, unless all of the following conditions are met:

- 16 (1) No later than June 1, 2002, the person granted the exemption shall
17 submit to the Department of Health and Human Services fully
18 executed copies of loan closing papers for a loan to the exempted
19 person or a letter from a certified public accountant which states that
20 liquid reserves have been placed in a separately identified account for
21 the exempted person that document sufficient funding to cover the
22 entire capital cost of the project for which the exemption was granted.
- 23 (2) No later than December 1, 2002, the person granted the exemption
24 shall submit to the Department of Health and Human Services
25 documentation from the builder or architect that the foundation and
26 footings of the facility for which the exemption was granted have been
27 completed.
- 28 (3) No later than December 1, 2003, the person granted the exemption
29 shall submit to the Department of Health and Human Services a copy
30 of the certificate of occupancy from the local building inspector for the
31 facility for which the exemption was granted.

32 (b2) Notwithstanding the provisions of subsection (b1) of this section, any person
33 who obtained an exemption under subsection (b) of this section for the construction of a
34 new building that is not connected to any other existing structure by more than a
35 protected walkway, and who obligated one or more Qualifying Financial Commitments
36 for the construction of the building of a value totaling at least twenty-five thousand
37 dollars (\$25,000), before January 1, 2001, may proceed to develop the beds and obtain a
38 license for the operation of the beds if all of the following conditions are met.
39 Exemptions that were received for increases in bed capacity of existing buildings must
40 meet the requirements set forth in subsection (b1) of this section.

- 41 (1) No later than the close of business on June 1, 2004, the person granted
42 the exemption shall submit to the Department of Health and Human

1 Services fully executed copies of loan closing papers for a loan to the
2 exempted person or a letter from a certified public accountant which
3 states that liquid reserves have been placed in a separately identified
4 account for the exempted person that document sufficient funding to
5 cover the entire capital cost of the project for which the exemption was
6 granted.

7 (2) Not later than the close of business on December 1, 2004, the person
8 granted the exemption shall submit to the Department of Health and
9 Human Services documentation from the builder or architect that the
10 foundation and footings of the facility for which the exemption was
11 granted have been completed.

12 (3) Not later than the close of business on December 1, 2005, the person
13 granted the exemption shall submit to the Department of Health and
14 Human Services a copy of the certificate of occupancy from the
15 building inspector for the facility for which the exemption was
16 granted.

17 For the purposes of this subsection, "Qualifying Financial Commitments" includes
18 any and all of the following expenses: (i) zoning fees and expenses; (ii) marketing and
19 other demographic research and studies; (iii) site preparation costs including soil testing
20 and soil boring costs; (iv) water and sewer improvements; (v) professional fees
21 associated with the foregoing activities and which are otherwise connected to the
22 development of the site, including accounting, architectural, engineering, and legal fees.

23 (c) The Department shall study the issue of high vacancy rates for adult care
24 home beds, including the impact of those vacancy rates on cost-effectiveness and
25 quality of care for the occupants of adult care homes and other facilities, and make
26 recommendations with respect to the need for establishing new procedures for
27 determining the State and county reimbursement amounts for Special Assistance
28 recipients, the need for the establishment of a certificate of need type process for adult
29 care homes, or any changes needed in the certificate of need process for any other
30 facilities to prevent high vacancy rates for adult care home beds. The Department also
31 shall study the issue of the availability of beds for Special Assistance clients and how
32 recent new bed development has impacted the availability, quality, and cost of beds
33 available for those clients. The Department shall report the results of its study, along
34 with the recommendations required by this section and any other proposals and
35 recommendations, to the Chairs of the House and Senate Appropriations Subcommittees
36 on Human Resources by February 1, 1998. The Department's report shall include any
37 observations or recommendations it deems appropriate with respect to correlations
38 between the vacancy rates and the condition or age of facilities.

39 (d) This section shall not apply to adult care home beds which are part of a
40 continuing care facility subject to the jurisdiction of or licensed by the Department of
41 Insurance pursuant to Article 64, Chapter 58 of the General Statutes.

42 (e) This section is effective when this act becomes law."

1 **SECTION 4.** The Department of Health and Human Services shall study
2 and make recommendations regarding the State Medical Facilities Planning
3 methodology that would be necessary in order to delineate the various populations
4 currently being served in facilities regulated as adult care homes according to the needs
5 of those populations. The Department shall report its findings and recommendations to
6 the State Health Care Coordinating Council not later than May 1, 2002.

7 **SECTION 5.** Sections 1 and 2 of this act become effective January 1, 2002.
8 The remainder of this act is effective when it becomes law.