

## CHAPTER 2010-249

### House Bill No. 1045

An act relating to Palm Beach County; amending chapter 59-1698, Laws of Florida, as amended; revising and providing definitions; providing requirements for the operation and licensing of large family child care homes; providing for the issuance of provisional licenses to child care facilities, large family child care homes, and family day care homes; updating obsolete language; revising requirements for Child Care Advisory Council membership; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 59-1698, Laws of Florida, as amended by chapter 77-620, Laws of Florida, is amended to read:

Section 1. DEFINITIONS. The following words and phrases shall mean:

1.a. Children - Persons related to the operator of a facility regulated under this act under ~~13~~ 12 years of age, and all other persons under 18 years of age.

~~b.~~ Child Boarding Homes - ~~Any building or shelter in which, for 24 hours per day, custodial care is rendered to one to five children, inclusive, and which receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit, subject to the exemptions contained in Section 12 hereof.~~

~~2.e.~~ Family Day Care Home Facilities - ~~An occupied residence Any building or shelter in which custodial care is rendered to one to six five children, inclusive, for 2-24 hours per day and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit, subject to the exemptions contained in Section 9 12.~~

3. Large Family Child Care Home - An occupied residence in which custodial care is regularly provided for children, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for 2 years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of

children, which shall include those children under 13 years of age who are related to the caregiver:

a. A maximum of eight children from birth to 24 months of age.

b. A maximum of 12 children with no more than four children under 24 months of age.

4.d. Child Care Facility Facilities - Any building or shelter in which custodial care is rendered to six or more children, and for which the owner or operator receives a payment, fee, or grant for any of the children receiving care, whether or not operating for profit, or which is held out to the public to be an establishment which regularly provides child custodial services.

Section 2. PERMIT REQUIRED FOR ESTABLISHMENT, MAINTENANCE AND OPERATION. It shall be unlawful for any person, firm, or corporation to establish, maintain, or operate in Palm Beach County, Florida, a child care facility, large family child care boarding home, or family day care home facility without first obtaining a permit therefor from a board, to be designated as the Child Care Facilities Board, and without permanently posting such permit in the child care facility, large family child care boarding home, or family day care home facility. Such Child Care Facilities Board shall be composed of the Board of County Commissioners of Palm Beach County, hereafter referred to as the Board. The Chairman of the Board of County Commissioners of Palm Beach County shall be the Chairman of the Child Care Facilities Board, and the Board shall meet at least once every 3 three (3) months at a time and place designated by the Board.

Section 3. APPLICATION FOR PERMIT. Application for a permit to operate a child care facility, large family child care boarding home, or family day care home facility shall be made to the Board in writing, and on a form, and under regulations prescribed by the Board. The application shall state the name and address of the applicant, his or her occupational history and qualifications, the type and location of proposed operation, the number of persons to be accommodated, and such other information the Board may require.

Section 4. ISSUANCE OF LICENSE.

1. The Director of the Palm Beach County Health Department shall be charged with the administrative and financial responsibility of carrying out the duties of the Board, and the Director he or his or her representative shall inspect child care facilities, large family child care boarding homes, and family day care homes facilities as required by the Board. Said Board, when satisfied that minimum standards are met, shall issue a license in writing on a form prescribed by the Board. Such license shall be valid for a period of 1 one year unless revoked. It shall not be transferable or assignable.

2. The Board may issue a provisional license for child care facilities, large family child care homes, or family day care homes. A provisional license shall not be issued for a period that exceeds 6 months and may only be renewed by the Board one time for a period not to exceed 6 months.

3. A provisional license shall not be issued unless the child care facility, large family child care home, or family day care home is in compliance with the requirements for screening of child care personnel and the requirements for ensuring the health and safety of the children in care.

Section 5. REVOCATION OF LICENSE. The Board may revoke a license if it finds that the operator has failed to comply with any provisions of this Act, or of any rule or regulation issued hereunder.

Section 6. MINIMUM STANDARDS, REASONABLE RULES AND REGULATIONS TO BE PRESCRIBED BY THE BOARD.

1. The Board shall make, ~~adopt promulgate~~, amend, and repeal such rules and regulations as are necessary to protect the health and safety of persons in child care facilities, large family child care boarding homes, or family day care homes facilities; prescribing standards for living quarters, including provisions pertaining to sanitary conditions, light, air, safety, protection from fire hazards, equipment, operation, qualifications and number of staff, and such other matters as may be appropriate to protect the life and health of the occupants thereof. Standards established by rules and regulations of the Board shall meet or exceed state minimum standards, to wit: standards established by the Department of Children and Family Health and Rehabilitative Services pursuant to chapter 402, Florida Statutes.

2. The Board may make, ~~adopt promulgate~~, amend, and repeal such rules and regulations as are necessary:

- a. To require facilities regulated hereunder to secure liability insurance and set minimum limits and standards for carriers; and,
- b. To establish fees for inspection and licensing under this Act.

No such rules and regulations of the Board shall be adopted or become effective until after a public hearing has been held by the Board pursuant to at least one notice published in a newspaper of general circulation in the County at least 10 ten ~~(10)~~ days prior to the hearing. When approved by the Board and filed with the Clerk of the County Commission, such rules and regulations shall have the force and effect of law. Until the Board adopts rules and regulations, the state standards aforementioned shall apply to all facilities regulated by this Act.

Section 7. CHILD CARE ADVISORY COUNCIL.

1. The Board shall appoint a Child Care Advisory Council which shall be appointed by the Board of County Commissioners no later than 60 sixty ~~(60)~~

days after the effective date of this Act. Members of the Council shall serve at the pleasure of the Board of County Commissioners. The Council shall be composed of seven (7) members consisting of the following:

a. Two (2) members who represent and operate as a private enterprise a facility regulated hereunder, one of whom operates a family day care home or large family child care home.

b. One (1) member who represents and operates a parochial facility regulated hereunder.

c. One (1) member who represents a consumer protection enforcement official.

d. One (1) member for fire protection, engineering, or technology.

e. One (1) member who, at the time of appointment, is was a parent of a child in a facility regulated hereunder.

f. One (1) member who represents the Department of Children and Family Health and Rehabilitative Services.

2. The Council shall advise the Board and make recommendations as to the issuance and revocation of licenses and as to rules and regulations necessary to protect the health and safety of persons in child care facilities, large family child care boarding homes, or family day care homes facilities.

Section 8. RIGHT OF ENTRY. Members of the Board and its representatives may enter and inspect child care facilities, large family child care boarding homes, or family day care homes facilities at reasonable hours, and may question such persons and investigate such facts, conditions, and practices or matters as may be necessary or appropriate to determine whether any person has violated any provisions of this Act, or of any rule or regulation issued hereunder.

Section 9. EXEMPTIONS. The provisions of this Act shall not apply to any public or nonpublic school which is in compliance with the compulsory school attendance law, chapter 232, Florida Statutes, any summer camp having children in full time residence, summer day camp, or vacation Bible school, or any foster home, home for mentally retarded or handicapped children, juvenile detention facility, hospital, or other similar institution otherwise regulated for health standards by a governmental agency. However, this section shall not be deemed to exempt institutions or facilities otherwise other wise regulated by the Department of Children and Family Health and Rehabilitative Services pursuant to s. 402.301, et seq., Florida Statutes, as it may from time to time be amended or transferred.

Section 10. CIVIL ENFORCEMENT. Any violation of this Act or the rules and regulations of the Board adopted promulgated pursuant hereto shall be subject to enforcement by the Palm Beach County Environmental Control Officer and the Palm Beach County Environmental Control Act,

chapter 70-862, Laws of Florida, as amended, and as it may in the future be amended or ~~reenacted~~ renacted.

Section 11. **CRIMINAL PENALTY.** Any person failing to comply with the provisions of this Act is guilty of a misdemeanor of the second degree punishable as provided by general law.

Section 12. **ADVERTISING BY FACILITIES.** It shall be unlawful for any person, persons, associations, partnerships, corporations, or institutions to offer or advertise to the public, in any way or by any medium whatsoever, large family child care boarding home, family day care home, facility or child care facility service ~~without unless it has first having~~ secured a license under the provisions of this Act. All advertisements advertising any such services shall include the license number of the license issued pursuant to this Act.

Section 13. **SEVERABILITY.** If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or invalid application and to this end the provisions of the Act are declared severable.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 2010.

Filed in Office Secretary of State May 26, 2010.