

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.