

TEXAS HUMAN RESOURCES CODE

CHAPTER 123. COMMUNITY HOMES FOR DISABLED PERSONS LOCATION ACT

§ 123.001. SHORT TITLE. This chapter may be cited as the Community Homes for Disabled Persons Location Act.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.002. DEFINITION. In this chapter, "person with a disability" means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

- (1) an orthopedic, visual, speech, or hearing impairment;
- (2) Alzheimer's disease;
- (3) pre-senile dementia;
- (4) cerebral palsy;
- (5) epilepsy;
- (6) muscular dystrophy;
- (7) multiple sclerosis;
- (8) cancer;
- (9) heart disease;
- (10) diabetes;
- (11) mental retardation;
- (12) autism; or
- (13) emotional illness.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.003. ZONING AND RESTRICTION DISCRIMINATION AGAINST COMMUNITY HOMES PROHIBITED. (a) The use and operation of a community home that meets the qualifications imposed under this chapter is a use by right that is authorized in any district zoned as residential.

(b) A restriction, reservation, exception, or other provision in an instrument created or amended on or after September 1, 1985, that relates to the transfer, sale, lease, or use of property may not prohibit the use of the property as a community home.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.004. QUALIFICATION AS COMMUNITY HOME. To qualify as a community home, an entity must comply with Sections 123.005 through 123.008 and be:

- (1) a community-based residential home operated by:
 - (A) the Texas Department of Mental Health and Mental Retardation;
 - (B) a community center organized under Subchapter A, Chapter 534, Health and Safety Code, that provides services to persons with disabilities;
 - (C) an entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or
 - (D) an entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or
- (2) an assisted living facility licensed under Chapter 247, Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 491, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 233, § 6, eff. Sept. 1, 1999.

§ 123.005. REQUIRED SERVICES. A community home shall provide the following services to persons with disabilities who reside in the home:

- (1) food and shelter;
- (2) personal guidance;
- (3) care;
- (4) habilitation services; and
- (5) supervision.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.006. LIMITATION ON NUMBER OF RESIDENTS. (a) Not more than six persons with disabilities and two supervisors may reside in a community home at the same time.

(b) The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.007. LICENSING REQUIREMENTS. A community home must meet all applicable licensing requirements.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.008. LOCATION REQUIREMENT. A community home may not be established within one-half mile of an existing community home.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.009. LIMITATION ON NUMBER OF MOTOR VEHICLES.

Except as otherwise provided by municipal ordinance, the residents of a community home may not keep for the use of the residents of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

Added by Acts 1991, 72nd Leg., ch. 16, § 12.01(a), eff. Aug. 26, 1991.

§ 123.010. ENSURING THE SAFETY OF RESIDENTS. The Texas

Department of Mental Health and Mental Retardation shall make every reasonable effort to ensure the safety of community home residents and the residents of a neighborhood that is affected by the location of a community home.

Added by Acts 1993, 73rd Leg., ch. 646, § 14, eff. Aug. 30, 1993.