



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5512

Introduced 2/15/2012, by Rep. Sandy Cole - Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

765 ILCS 160/1-37 new

Amends the Common Interest Community Association Act. Provides that the operation of a licensed day care home, as defined in the Child Care Act of 1969, in a residential dwelling, is incidental to the primary residential use of the dwelling and constitutes a valid residential use for the purpose of any community instrument. Provides that a community instrument may not impose restrictions on a residential dwelling licensed as a day care home unless the restrictions are no more restrictive than those imposed by the Child Care Act of 1969 or rules adopted by the Department of Children and Family Services. Provides that a community instrument may not prohibit the use of a residential dwelling as a day care home unless prohibiting the use is necessary to preserve the health, safety, and welfare of the other residents in the community. Provides that the burden of proof is on the party seeking to enforce a community instrument to demonstrate, on a case-by-case basis, that the restrictions are necessary to preserve the health, safety, and welfare of the residents of the community. Provides that a condominium, timeshare, or cooperative is exempt from the provision.

LRB097 16797 AJO 61977 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Common Interest Community Association Act is  
5 amended by adding Section 1-37 as follows:

6 (765 ILCS 160/1-37 new)

7 Sec. 1-37. Community instruments; day care homes.

8 (a) The operation of a licensed day care home, as defined  
9 in the Child Care Act of 1969, in a residential dwelling, is  
10 incidental to the primary residential use of the dwelling and  
11 constitutes a valid residential use for the purpose of any  
12 community instrument. A community instrument may not be  
13 interpreted so that the operation of a family day care home is  
14 considered a business, commercial activity, or trade.

15 (b) A community instrument may not impose restrictions on a  
16 residential dwelling licensed as a day care home unless the  
17 restrictions are no more restrictive than those imposed by the  
18 Child Care Act of 1969 or rules adopted pursuant to that Act by  
19 the Department of Children and Family Services.

20 (c) A community instrument may not prohibit the use of a  
21 residential dwelling as a day care home unless prohibiting the  
22 use is necessary to preserve the health, safety, and welfare of  
23 the other residents in the community.

1       (d) The burden of proof is on the party seeking to enforce  
2       a community instrument to demonstrate, on a case-by-case basis,  
3       that the restrictions are necessary to preserve the health,  
4       safety, and welfare of the residents of the community who were  
5       meant to benefit from the restrictions or that the restrictions  
6       are no more restrictive than those imposed by the Child Care  
7       Act of 1969 or rules adopted pursuant to that Act by the  
8       Department of Children and Family Services.

9       (e) A condominium, timeshare, or cooperative is exempt from  
10      this Section.