



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. **901**

July 4, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on July 4, 2006, the following bill was signed into law:

SB3247 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO CARE HOMES.
(ACT 270)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 3247
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO CARE HOMES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 46-15.3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) For the purpose of regulation under a county's life
4 safety code, building code, fire code, or any other ordinance of
5 similar purpose, a licensed adult family boarding home or
6 licensed care home [~~which~~] that provides living accommodations
7 for:

8 (1) The operator of the home and operator's family; and

9 (2) Up to [~~five~~] six other persons, not more than [~~two~~]
10 three of whom are incapable of self-preservation

11 because of age or physical or mental limitations[~~+~~],
12 shall be deemed a single-family dwelling occupied by a family."

13 SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The director shall adopt rules regarding adult
16 residential care homes in accordance with chapter 91 [~~which~~]

17 that shall be designed to:



- 1 (1) Protect the health, safety, and civil rights of
2 persons residing in facilities regulated;
- 3 (2) Provide for the licensing of adult residential care
4 homes; provided that the rules shall allow group
5 living in two categories of adult residential care
6 homes as licensed by the department of health:
- 7 (A) Type I allowing [~~group living by~~] five or fewer
8 [~~unrelated persons~~] residents; provided that up
9 to six residents may be allowed at the discretion
10 of the department to live in a type I home;
11 provided that the primary caregiver or home
12 operator is a certified nurse aide who has
13 completed a state-approved training program and
14 other training as required by the department; and
- 15 (B) Type II allowing six or more [~~persons~~] residents,
16 including but not limited to the mentally ill,
17 elders, [~~the handicapped,~~] persons with
18 disabilities, the developmentally disabled, or
19 totally disabled persons who are not related to
20 the home operator or facility staff[~~-~~];
- 21 [~~For purposes of this section:~~



1 ~~"Mentally ill person" means a mentally ill person~~
2 ~~as defined under section 334-1.~~

3 ~~"Elder" means an elder as defined under sections~~
4 ~~201G-1 and 201G-151.~~

5 ~~"Handicapped person" means an individual with a~~
6 ~~physical handicap as defined under section 515-2.~~

7 ~~"Developmentally disabled person" means a person~~
8 ~~with developmental disabilities as defined under~~
9 ~~section 333F-1.~~

10 ~~"Totally disabled person" means a person totally~~
11 ~~disabled as defined under section 235-1;]~~

12 (3) Comply with applicable federal laws and regulations of
13 Title XVI of the Social Security Act, as amended; and

14 (4) Provide penalties for the failure to comply with any
15 rule.

16 For the purposes of this subsection:

17 "Developmentally disabled" means a person with
18 developmental disabilities as defined under section 333F-1.

19 "Elder" has the same meaning as defined under section
20 201G-1.

21 "Mentally ill" means a mentally ill person as defined under
22 section 334-1.



1 "Persons with disabilities" means persons having a
2 disability under section 515-2.

3 "Totally disabled person" has the same meaning as a person
4 totally disabled as defined under section 235-1."

5 SECTION 3. Section 321-15.62, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The director of health shall adopt rules regarding
8 expanded adult residential care homes in accordance with chapter
9 91 [~~which~~] that shall implement a social model of health care
10 designed to:

- 11 (1) Protect the health, safety, civil rights, and rights
12 of choice of [~~the persons to reside~~] residents in a
13 nursing facility or in home- or community-based care;
- 14 (2) Provide for the licensing of expanded adult
15 residential care homes for persons who are certified
16 by the department of human services, a physician,
17 advanced practice registered nurse, or registered
18 nurse case manager as requiring skilled nursing
19 facility level or intermediate care facility level of
20 care who have no financial relationship with the home
21 care operator or facility staff; provided that the
22 rules shall allow group living in the following two



1 categories of expanded adult residential care homes as
2 licensed by the department of health:

3 (A) [~~Type~~] A type I home shall consist of five or
4 [~~less~~] fewer residents with no more than two
5 nursing facility level residents; provided that
6 more nursing facility level residents may be
7 allowed at the discretion of the department; and
8 provided further that up to six residents may be
9 allowed at the discretion of the department to
10 live in a type I home; provided that the primary
11 caregiver or home operator is a certified nurse
12 aide who has completed a state-approved training
13 program and other training as required by the
14 department; and

15 (B) [~~Type~~] A type II home shall consist of six or
16 more residents, with no more than twenty per cent
17 of the home's licensed capacity as nursing
18 facility level residents; provided that more
19 nursing facility level residents may be allowed
20 at the discretion of the department;

21 provided further that the department shall exercise
22 its discretion for a resident presently residing in a



1 [Type] type I or [Type] type II home, to allow the
2 resident to remain as an additional nursing facility
3 level resident based upon the best interests of the
4 resident. The best interests of the resident shall be
5 determined by the department after consultation with
6 the resident, the resident's family, primary
7 physician, case manager, primary caregiver, and home
8 operator;

9 (3) Comply with applicable federal laws and regulations of
10 Title XVI of the Social Security Act, as amended; and

11 (4) Provide penalties for the failure to comply with any
12 rule."

13 SECTION 4. Section 346-331, Hawaii Revised Statutes, is
14 amended by amending the definition of "community care foster
15 family home" or "home" to read as follows:

16 ""Community care foster family home" or "home" means a home
17 that, for the purposes of this part:

18 (1) Is regulated by the department in accordance with
19 rules that are equitable in relation to rules that
20 govern expanded adult residential care homes;

21 (2) Is issued a certificate of approval by the department
22 or its designee to provide, for a fee, twenty-four-

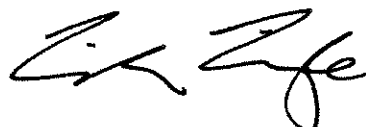


1 hour living accommodations, including personal care
 2 and homemaker services, for not more than two adults
 3 at any one time, at least one of whom shall be a
 4 medicaid recipient, who are at the nursing facility
 5 level of care, who are unrelated to the foster family,
 6 and who are receiving the services of a licensed home
 7 and community-based case management agency; provided
 8 that the department, in its discretion, may certify a
 9 home for a third adult who is at the nursing level of
 10 care and a medicaid recipient; provided that the
 11 primary and substitute caregivers are certified nurse
 12 aides who have completed a state-approved training
 13 program and other training as required by the
 14 department; and

15 (3) Does not include expanded adult residential care homes
 16 or assisted living facilities, which shall continue to
 17 be licensed by the department of health."

18 SECTION 5. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2007.



GOVERNOR OF THE STATE OF HAWAII


Approved this day: JUL - 4 2006

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


President of the Senate



Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


Speaker, House of Representatives


Clerk, House of Representatives