

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS45546-LUa-153B

Short Title: Don't Zone Out Child Care.

(Public)

Sponsors: Senators Chaudhuri and Burgin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT THE RIGHTS OF HOMEOWNERS AND TENANTS TO OPERATE  
3 LICENSED FAMILY CHILD CARE HOMES BY LIMITING RESTRICTIONS BY  
4 HOMEOWNERS ASSOCIATIONS, LANDLORDS, AND LOCAL GOVERNMENTS.

5 Whereas, licensed family child care homes are a vital component of North Carolina's  
6 child care infrastructure, providing care for small groups of children in residential settings and  
7 serving families who depend on accessible, community-based care; and

8 Whereas, homeowners associations, landlords, and local government zoning  
9 regulations may impose restrictions that prevent qualified individuals who are homeowners or  
10 tenants from opening or operating licensed family child care homes, thereby reducing the  
11 availability of child care; and

12 Whereas, the State has a compelling interest in expanding child care access, and that  
13 interest is served by ensuring that residential property owners and tenants can operate licensed  
14 family child care homes without unreasonable interference from private covenants or restrictive  
15 local zoning requirements; and

16 Whereas, licensed family child care homes are consistent with residential use and  
17 shall be treated in zoning law as residential uses of property for purposes of land use regulation;  
18 Now, therefore,

19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** Chapter 110 of the General Statutes is amended by adding a new  
21 Article to read:

22 "Article 7A.

23 "Protection of Family Child Care Home Operations.

24 **"§ 110-107.25. Definitions.**

25 The following definitions apply in this Article:

26 (1) Family child care home. – The same meaning as set forth in G.S. 110-86(3)b.,  
27 limited to facilities licensed under G.S. 110-88.

28 (2) HOA governing document. – Any declaration, covenant, condition,  
29 restriction, bylaw, rule, or regulation of a homeowners association,  
30 condominium association, planned community, or similar entity that governs  
31 the use of residential property.

32 (3) Landlord. – The same meaning as set forth in G.S. 42-40(3).

33 (4) Licensed operator – Any person holding a valid license to operate a family  
34 child care home issued by the Secretary pursuant to G.S. 110-88, whether the  
35 person is a homeowner or a tenant residing at the licensed premises.

36 **"§ 110-107.26. HOA restrictions prohibited.**



\* D R S 4 5 5 4 6 - L U A - 1 5 3 B \*

1       (a) Any provision of an HOA governing document that prohibits, restricts, conditions, or  
2 penalizes the operation of a licensed family child care home by a member or resident who holds  
3 a valid license issued pursuant to G.S. 110-88 is void and unenforceable as contrary to the public  
4 policy of this State.

5       (b) A homeowners association or condominium association shall not do any of the  
6 following:

7           (1) Deny, suspend, revoke, or condition membership rights or community  
8 privileges solely on account of a member's operation of a licensed family child  
9 care home.

10          (2) Impose fees, assessments, fines, or penalties on a member solely on account  
11 of the member's operation of a licensed family child care home.

12          (3) Require approval or consent of the association as a condition of operating a  
13 licensed family child care home.

14       (c) Nothing in this section prohibits an association from enforcing rules of general  
15 applicability relating to parking, noise, exterior modifications, or use of common areas to the  
16 extent such rules do not impose requirements more burdensome on licensed family child care  
17 homes than on other residential uses.

18 **"§ 110-107.27. Landlord restrictions prohibited.**

19       (a) A landlord shall not include in any lease, rental agreement, or tenancy arrangement a  
20 provision that prohibits, restricts, or penalizes a tenant from operating a licensed family child  
21 care home at the leased premises.

22       (b) Any lease provision in violation of subsection (a) of this section is void and  
23 unenforceable as against public policy.

24       (c) A landlord shall not terminate a tenancy, refuse to renew a lease, or take any adverse  
25 action against a tenant solely because the tenant operates or intends to operate a licensed family  
26 child care home.

27       (d) A tenant operating a licensed family child care home remains responsible for  
28 compliance with all other applicable lease terms, including obligations regarding maintenance of  
29 the premises, liability, and insurance, and shall carry liability insurance in amounts sufficient to  
30 cover the operation of the child care home.

31       (e) A landlord may require a tenant to do the following:

32           (1) Provide written notice of the intent to operate a licensed family child care  
33 home.

34           (2) Provide a copy of any license issued pursuant to G.S. 110-88.

35           (3) Require the tenant to maintain adequate liability insurance coverage.

36 **"§ 110-107.28. Local government zoning; limitations.**

37       (a) For purposes of local land use and zoning regulation, a licensed family child care  
38 home shall be deemed a residential use of property and shall be permitted as a matter of right in  
39 any zoning district in which single-family or multi-family residential uses are permitted,  
40 including residential zones, mixed-use zones, or any other district that allows residential  
41 dwelling.

42       (b) A local government shall not adopt or enforce any zoning ordinance, development  
43 regulation, or land use restriction that does any of the following:

44           (1) Subjects a licensed family child care home to requirements, conditions, or  
45 standards more burdensome than those applicable to other single-family or  
46 multi-family residential dwellings in the same zoning district.

47           (2) Imposes special use permit requirements, conditional use permit  
48 requirements, or other discretionary approval processes applicable to licensed  
49 family child care homes but not to other residential uses.

50           (3) Limits the number of licensed family child care homes permitted within a  
51 zoning district based solely on the child care use.

1           (4) Requires a licensed family child care home to comply with commercial or  
2 institutional zoning standards, including but not limited to commercial  
3 parking minimums, commercial signage requirements, or non-residential  
4 setback requirements.

5           (c) A local government may impose on a licensed family child care home only those  
6 development standards that would apply to the residential use of the property generally, including  
7 applicable building codes, fire codes, and health and sanitation requirements.

8           (d) Nothing in this section shall be construed to preempt or limit the application of  
9 standards adopted by the Child Care Commission or the Department of Health and Human  
10 Services governing the health, safety, and physical environment of licensed child care facilities.

11 **"§ 110-107.29. Remedies.**

12           (a) Any licensed operator whose rights under this Article are violated may bring a civil  
13 action in superior court for any of the following:

14               (1) Declaratory and injunctive relief.

15               (2) Actual damages.

16               (3) Reasonable attorney's fees and costs if the licensed operator is the prevailing  
17 party.

18           (b) The Attorney General may bring an action on behalf of the State to enforce the  
19 provisions of this Article.

20 **"§ 110-107.30. Application.**

21           This Article applies to all HOA governing documents, lease agreements, and local zoning  
22 ordinances adopted before, on, or after the effective date of this act. Any provision of a governing  
23 document, lease, or ordinance that conflicts with this Article is void and unenforceable to the  
24 extent of the conflict."

25           **SECTION 2.** Article 3 of Chapter 47F is amended by adding a new section to read:

26 **"§ 47F-3-123. Operation of a licensed family child care home.**

27           A homeowners association shall not prohibit, restrict, or penalize the operation of a licensed  
28 family child care home, as defined in G.S. 110-86(3)b., by a lot owner or tenant who holds a  
29 valid license issued pursuant to G.S. 110-88. Any provision of a declaration, covenant, bylaw, or  
30 rule of the association to the contrary is void and unenforceable. This subsection shall not be  
31 construed to prevent the association from enforcing rules of general applicability as provided in  
32 G.S. 110-107.26(c)."

33           **SECTION 3.** Nothing in this act is intended to abrogate reasonable health, safety,  
34 building code, or fire code requirements applicable to child care facilities.

35           **SECTION 4.(a)** There is appropriated from the General Fund to the Department of  
36 Health and Human Services, Division of Child Development and Early Education (Division), the  
37 sum of seventy-five thousand dollars (\$75,000) in nonrecurring funds for the 2025-2026 fiscal  
38 year to be used as follows:

39               (1) Develop and disseminate plain-language guidance for licensed family child  
40 care home operators regarding their rights under Article 7A of Chapter 110 of  
41 the General Statutes, as enacted by Section 1 of this act.

42               (2) Create model response templates and informational materials for use by  
43 licensed operators in disputes with homeowners associations, landlords, and  
44 local governments.

45               (3) Update the Department of Health and Human Services' public website,  
46 licensing portal, and printed materials to inform current and prospective  
47 licensees of the protections established by this act.

48           **SECTION 4.(b)** There is appropriated from the General Fund to the Department of  
49 Justice, Office of the Attorney General, the sum of one hundred thousand dollars (\$100,000) in  
50 nonrecurring funds for the 2025-2026 fiscal year to do each of the following:

- 1           (1)    Train attorneys and staff within the Consumer Protection Division or other  
2           appropriate division on the enforcement provisions of Article 7A of Chapter  
3           110 of the General Statutes, as enacted by Section 1 of this act.
- 4           (2)    Establish a complaint intake process for licensed family child care home  
5           operators alleging violations of G.S. 110-107.26, G.S. 110-107.27, or  
6           G.S. 110-107.28, as enacted by Section 1 of this act.
- 7           (3)    Prepare and publish an annual summary of complaints received and  
8           enforcement actions taken under this act, to be submitted to the Joint  
9           Legislative Oversight Committee on Health and Human Services no later than  
10          October 1 of each year.

11           **SECTION 5.** This act is effective when it becomes law and applies to all acts,  
12          ordinances, and agreements entered into on or after that date. For HOA governing documents  
13          and lease agreements existing before the effective date of this act, provisions contrary to this act  
14          are void and unenforceable as of the effective date.