

1                                   **RESIDENTIAL FACILITIES FOR THE**  
2                                   **DISABLED AMENDMENTS**

3                                   2003 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Greg J. Curtis**

6 **This act modifies the Utah Municipal Code. The act modifies the permissible and**  
7 **required provisions of a municipal ordinance relating to residential facilities for persons**  
8 **with a disability. The act authorizes a limit on the number of occupants of a residential**  
9 **facility for persons with a disability if a similar limit is imposed on other facilities that are**  
10 **not residential facilities for persons with a disability. The act authorizes an ordinance to**  
11 **provide for residential facilities for persons with a disability to be excluded from a zoning**  
12 **area under certain circumstances and with certain limitations. The act authorizes the**  
13 **creation of a security plan for certain residential facilities for persons with a disability.**  
14 **The act also makes technical changes.**

15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

17           **10-9-605**, as last amended by Chapters 102 and 203, Laws of Utah 2001

18 *Be it enacted by the Legislature of the state of Utah:*

19           Section 1. Section **10-9-605** is amended to read:

20           **10-9-605. Residences for persons with a disability.**

21           (1) As used in this section:

22           (a) "Disability" is defined in Section 57-21-2.

23           (b) "Residential facility for persons with a disability" means a residence:

24           (i) in which more than one person with a disability resides; and

25           (ii) (A) is licensed or certified by the Department of Human Services under Title 62A,

26 Chapter 2, Licensure of Programs and Facilities; or

27           (B) is licensed or certified by the Department of Health under Title 26, Chapter 21,



28 Health Care Facility Licensing and Inspection Act.

29 (2) Each municipality shall adopt an ordinance for residential facilities for persons with  
30 a disability. [~~The~~]

31 (3) Each ordinance under Subsection (2):

32 (a) shall:

33 (i) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair  
34 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

35 (ii) to the extent required by federal law, provide that a residential facility for persons  
36 with a disability is a permitted use in any zoning area where similar residential dwellings that  
37 are not residential facilities for persons with a disability are allowed; [~~and~~]

38 (b) may require residential facilities for persons with a disability:

39 (i) if consistent with the statutory provisions referred to in Subsection [~~(2)~~] (3)(a)(i):

40 (A) to be reasonably dispersed throughout the municipality; [~~and~~]

41 (B) to be limited by number of occupants, if the limitation applies equally to similar  
42 uses that are not residential facilities for persons with a disability; and

43 [~~(B)~~] (C) for residential facilities for persons with a disability that are substance abuse  
44 facilities and are located within 500 feet of a school, to provide, in accordance with rules  
45 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of  
46 Programs and Facilities:

47 (I) a security plan satisfactory to local school district and law enforcement authorities;

48 [~~(I)~~] (II) 24-hour supervision for residents; and

49 [~~(II)~~] (III) other 24-hour security measures; and

50 (ii) to obtain permits that verify compliance with the same building, safety, and health  
51 regulations as are applicable in the same zoning area to similar uses that are not residential  
52 facilities for persons with a disability[-]; and

53 (c) may provide that a residential facility for persons with a disability that would likely  
54 create a fundamental change in the character of a residential neighborhood may be excluded  
55 from a zoning area:

56 (i) if the exclusion applies to similar uses that are not residential facilities for persons  
57 with a disability; and

58 (ii) unless the exclusion constitutes a failure to provide a reasonable accommodation to

59 the residential facility for persons with a disability.

60           ~~(3)~~ (4) The responsibility to license programs or entities that operate facilities for  
61 persons with a disability, as well as to require and monitor the provision of adequate services to  
62 persons residing in those facilities, shall rest with:

63           (a) for programs or entities licensed or certified by the Department of Human Services,  
64 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People  
65 with Disabilities; and

66           (b) for programs or entities licensed or certified by the Department of Health, the  
67 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and  
68 Inspection Act.

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**Legislative Review Note**  
**as of 2-11-03 11:27 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**

**Residential Facilities for the Disabled Amendments**

*20-Feb-03*

**Bill Number HB0137**

*12:04 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**