

CHAPTER 98-6

House Bill No. 3597

An act relating to insurance for family day care homes; creating s. 627.70161, F.S.; providing legislative intent; providing definitions; providing an exclusion from liability coverage under residential property insurance policies for losses arising out of the operation of a family day care home; prohibiting cancellation, refusal to renew, or denial of coverage for residential property insurance due to family day care operations; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 627.70161, Florida Statutes, is created to read:

627.70161 Family day care insurance.—

(1) PURPOSE AND INTENT.—The Legislature recognizes that family day care homes fulfill a vital role in providing child care in Florida. It is the intent of the Legislature that residential property insurance coverage should not be canceled, denied, or nonrenewed solely on the basis of the family day care services at the residence. The Legislature also recognizes that the potential liability of residential property insurers is substantially increased by the rendition of child care services on the premises. The Legislature therefore finds that there is a public need to specify that contractual liabilities that arise in connection with the operation of the family day care home are excluded from residential property insurance policies unless they are specifically included in such coverage.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Child care” means the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

(b) “Family day care home” means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for a profit.

(3) FAMILY DAY CARE; COVERAGE.—A residential property insurance policy shall not provide coverage for liability for claims arising out of, or in connection with, the operation of a family day care home, and the insurer shall be under no obligation to defend against lawsuits covering such claims, unless:

(a) Specifically covered in a policy; or

(b) Covered by a rider or endorsement for business coverage attached to a policy.

(4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An insurer may not deny, cancel, or refuse to renew a policy for residential property insurance solely on the basis that the policyholder or applicant operates a family day care home. In addition to other lawful reasons for refusing to insure, an insurer may deny, cancel, or refuse to renew a policy of a family day care home provider if one or more of the following conditions occur:

(a) The policyholder or applicant provides care for more children than authorized for family day care homes by s. 402.302;

(b) The policyholder or applicant fails to maintain a separate commercial liability policy or an endorsement providing liability coverage for the family day care home operations;

(c) The policyholder or applicant fails to comply with the family day care home licensure and registration requirements specified in s. 402.313; or

(d) Discovery of willful or grossly negligent acts or omissions or any violations of state laws or regulations establishing safety standards for family day care homes by the named insured or his representative which materially increase any of the risks insured.

Section 2. This act shall take effect October 1 of the year in which enacted, and applies to residential property insurance policies offered, sold, issued, or renewed on or after that date.

Approved by the Governor April 3, 1998.

Filed in Office Secretary of State April 3, 1998.