

By the Committee on Banking and Insurance

311-708-98

1                                   A bill to be entitled  
2           An act relating to insurance for family day  
3           care homes; creating s. 627.70161, F.S.;  
4           providing legislative intent; providing  
5           definitions; providing an exclusion from  
6           liability coverage under residential property  
7           insurance policies for losses arising out of  
8           the operation of a family day care home;  
9           prohibiting cancellation, refusal to renew, or  
10          denial of coverage for residential property  
11          insurance due to family day care operations;  
12          providing exceptions; providing an effective  
13          date.

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

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

19                   627.70161 Family day care insurance.--

20                   (1) PURPOSE AND INTENT.--The Legislature recognizes  
21 that family day care homes fulfill a vital role in providing  
22 child care in Florida. It is the intent of the Legislature  
23 that residential property insurance coverage should not be  
24 canceled, denied, or nonrenewed solely on the basis of the  
25 family day care services at the residence. The Legislature  
26 also recognizes that the potential liability of residential  
27 property insurers is substantially increased by the rendition  
28 of child care services on the premises. The Legislature  
29 therefore finds that there is a public need to specify that  
30 contractual liabilities that arise in connection with the  
31 operation of the family day care home are excluded from

1 residential property insurance policies unless they are  
2 specifically included in such coverage.

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

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

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

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

21 (a) Specifically covered in a policy; or

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

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

1           (a) The policyholder or applicant provides care for  
2 more children than authorized for family day care homes by s.  
3 402.302;

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

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

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

16           Section 2. This act shall take effect October 1, 1998,  
17 and applies to residential property insurance policies  
18 offered, sold, issued, or renewed on or after that date.

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20                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21   COMMITTEE SUBSTITUTE FOR  
22   Senate Bill 226

23 Provides that a residential property insurer is under no  
24 obligation to defend any claim arising out of the operations  
25 of the family day care home unless liability coverage for the  
26 family day care home is specifically provided in the policy or  
27 by a rider or an endorsement for business coverage.  
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