

By Senator Lynn

7-67C-04

1                                   A bill to be entitled  
2           An act relating to family child care homes;  
3           amending ss. 125.0109 and 166.0445, F.S.;  
4           redesignating family day care homes as family  
5           child care homes; deleting provisions relating  
6           to the regulation of registered family child  
7           care homes under local zoning regulations;  
8           conforming provisions to the licensure statute;  
9           amending s. 402.27, F.S.; requiring licensed  
10          family child care homes and large family child  
11          care homes to provide specified information to  
12          resource and referral agencies; amending  
13          402.302, F.S.; defining the term "family child  
14          care homes"; amending s. 402.3051, F.S.;  
15          deleting references to registered family child  
16          care homes; conforming provisions to the  
17          licensure statute; amending s. 403.306, F.S.;  
18          requiring the department and local licensing  
19          agencies to provide information on large family  
20          child care homes; deleting reference to  
21          registered family care homes; conforming  
22          provisions to the licensure statute; amending  
23          s. 402.313, F.S.; requiring all family child  
24          care homes to be licensed; deleting provisions  
25          relating to registration of family child care  
26          homes; deleting provisions relating to  
27          voluntary licensing of family child care homes;  
28          requiring registered family child care homes to  
29          obtain a license by a specified date; requiring  
30          the Department of Children and Family Services  
31          to adopt rules for minimum licensing standards;

1           amending ss. 409.1671 and 627.70161, F.S. ;  
2           deleting provisions relating to registered  
3           family child care homes; conforming section to  
4           licensure statute; reenacting s. 400.953(3),  
5           F.S., relating to proof of compliance with  
6           background screening requirements, to  
7           incorporate the amendment to s. 402.313, F.S.,  
8           in references thereto; providing that the act  
9           will not take effect unless a specified number  
10          of positions are funded for licensing family  
11          child care homes; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Section 125.0109, Florida Statutes, is  
16 amended to read:

17           125.0109 Family child day care homes; local zoning  
18 regulation.--The operation of a residence as a family child  
19 day care home, as defined by law, ~~registered or~~ licensed with  
20 the Department of Children and Family Services constitutes  
21 ~~shall constitute~~ a valid residential use for purposes of any  
22 local zoning regulations, and the no-such regulation may not  
23 ~~shall~~ require the owner or operator of such family child day  
24 care home to obtain any special exemption or use permit or  
25 waiver, or to pay any special fee in excess of \$50, to operate  
26 in an area zoned for residential use.

27           Section 2. Section 166.0445, Florida Statutes, is  
28 amended to read:

29           166.0445 Family child day care homes; local zoning  
30 regulation.--The operation of a residence as a family child  
31 day care home, as defined by law, ~~registered or~~ licensed with

1 the Department of Children and Family Services constitutes  
2 ~~shall constitute~~ a valid residential use for purposes of any  
3 local zoning regulations, and the no-such regulation may not  
4 ~~shall~~ require the owner or operator of such family child day  
5 care home to obtain any special exemption or use permit or  
6 waiver, or to pay any special fee in excess of \$50, to operate  
7 in an area zoned for residential use.

8 Section 3. Subsection (10) of section 402.27, Florida  
9 Statutes, is amended to read:

10 402.27 Child care and early childhood resource and  
11 referral.--The Department of Children and Family Services  
12 shall establish a statewide child care resource and referral  
13 network. Preference shall be given to using the already  
14 established central agencies for subsidized child care as the  
15 child care resource and referral agency. If the agency cannot  
16 comply with the requirements to offer the resource information  
17 component or does not want to offer that service, the  
18 Department of Children and Family Services shall select the  
19 resource information agency based upon a request for proposal.  
20 At least one child care resource and referral agency must be  
21 established in each district of the department, but no more  
22 than one may be established in any county. Child care  
23 resource and referral agencies shall provide the following  
24 services:

25 (10) A child care facility licensed under s. 402.305  
26 and a licensed and registered family child day care home or  
27 large family child care home licensed under s. 402.313 or s.  
28 402.3131, respectively, homes must provide the statewide child  
29 care and resource and referral agencies with the following  
30 information annually:

31 (a) Type of program.

1 (b) Hours of service.

2 (c) Ages of children served.

3 (d) Fees and eligibility for services.

4 Section 4. Subsections (3) and (7) of section 402.302,  
5 Florida Statutes, are amended to read:

6 402.302 Definitions.--

7 (3) "Child care personnel" means all owners,  
8 operators, employees, and volunteers working in a child care  
9 facility. The term does not include persons who work in a  
10 child care facility after hours when children are not present  
11 or parents of children in Head Start. For purposes of  
12 screening, the term includes any member, over the age of 12  
13 years, of a child care facility operator's family, or person,  
14 over the age of 12 years, residing with a child care facility  
15 operator if the child care facility is located in or adjacent  
16 to the home of the operator or if the family member of, or  
17 person residing with, the child care facility operator has any  
18 direct contact with the children in the facility during its  
19 hours of operation. Members of the operator's family or  
20 persons residing with the operator who are between the ages of  
21 12 years and 18 years shall not be required to be  
22 fingerprinted but shall be screened for delinquency records.  
23 For purposes of screening, the term shall also include persons  
24 who work in child care programs that ~~which~~ provide care for  
25 children 15 hours or more each week in public or nonpublic  
26 schools, summer day camps, family child ~~day~~ care homes, or  
27 those programs otherwise exempted under s. 402.316. The term  
28 does not include public or nonpublic school personnel who are  
29 providing care during regular school hours, or after hours for  
30 activities related to a school's program for grades  
31 kindergarten through 12. A volunteer who assists on an

1 intermittent basis for less than 40 hours per month is not  
2 included in the term "personnel" for the purposes of screening  
3 and training, provided that the volunteer is under direct and  
4 constant supervision by persons who meet the personnel  
5 requirements of s. 402.305(2). Students who observe and  
6 participate in a child care facility as a part of their  
7 required coursework shall not be considered child care  
8 personnel, provided the ~~such~~ observation and participation are  
9 on an intermittent basis and the students are under direct and  
10 constant supervision of child care personnel.

11 (7) "Family day care home" or "family child care home"  
12 means an occupied residence in which child care is regularly  
13 provided for children from at least two unrelated families and  
14 which receives a payment, fee, or grant for any of the  
15 children receiving care, whether or not operated for profit. A  
16 family child ~~day~~ care home shall be allowed to provide care  
17 for one of the following groups of children, which shall  
18 include those children under 13 years of age who are related  
19 to the caregiver:

20 (a) A maximum of four children from birth to 12 months  
21 of age.

22 (b) A maximum of three children from birth to 12  
23 months of age, and other children, for a maximum total of six  
24 children.

25 (c) A maximum of six preschool children if all are  
26 older than 12 months of age.

27 (d) A maximum of 10 children if no more than 5 are  
28 preschool age and, of those 5, no more than 2 are under 12  
29 months of age.

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1           Section 5. Paragraph (b) of subsection (1) and  
2 subsection (2) of section 402.3051, Florida Statutes, are  
3 amended to read:

4           402.3051 Child care market rate reimbursement; child  
5 care grants.--

6           (1) As used in this section, the term:

7           (b) "Market rate" means the price that a child care  
8 provider charges for daily, weekly, or monthly child care  
9 services. Market rate shall:

10           1. Be established for licensed child care facilities  
11 or facilities that are not subject to s. 402.305, licensed ~~or~~  
12 ~~registered~~ family child day care homes, licensed before-school  
13 and after-school child care programs, and unregulated care  
14 provided by a relative or other caretaker.

15           2. Differentiate among child care for children with  
16 special needs or risk categories, infants, toddlers, and  
17 preschool and school-age children.

18           3. Differentiate between full-time and part-time care.

19           4. Consider reductions in the cost of care for  
20 additional children in the same family.

21           (2) The department shall establish procedures to  
22 reimburse licensed or, ~~exempt, or registered~~ child care  
23 providers who hold a Gold Seal Quality Care designation at the  
24 market rate for child care services for children who are  
25 eligible to receive subsidized child care; and licensed or,  
26 ~~exempt, or registered~~ child care providers at the prevailing  
27 market rate for child care services for children who are  
28 eligible to receive subsidized child care, unless prohibited  
29 by federal law under s. 402.3015. The department shall  
30 establish procedures to reimburse providers of unregulated  
31 child care at not more than 50 percent of the market rate. The

1 payment system may not interfere with the parents' decision as  
2 to the appropriate child care arrangement, regardless of the  
3 level of available funding for child care. The child care  
4 program assessment tool may not be used to determine  
5 reimbursement rates.

6 Section 6. Subsection (3) of section 402.306, Florida  
7 Statutes, is amended to read:

8 402.306 Designation of licensing agency; dissemination  
9 by the department and local licensing agency of information on  
10 child care.--

11 (3) The department and local licensing agencies, or  
12 their ~~the~~ designees ~~thereof~~, shall coordinate and disseminate  
13 ~~be responsible for coordination and dissemination of~~  
14 information on child care to the community, ~~and shall make~~  
15 available Upon request, the department and each local  
16 licensing agency must make available to the public all  
17 licensing standards and procedures, ~~in addition to~~ the names  
18 and addresses of licensed child care facilities and, where  
19 applicable pursuant to ~~ss.s-~~402.313 and 402.3131, licensed  
20 or registered family child day care homes and large family  
21 child care homes.

22 Section 7. Section 402.313, Florida Statutes, is  
23 amended to read:

24 402.313 Family child day care homes.--

25 (1) Family child day care homes shall be licensed  
26 under this section. ~~act if they are presently being licensed~~  
27 ~~under an existing county licensing ordinance, if they are~~  
28 ~~participating in the subsidized child care program, or if the~~  
29 ~~board of county commissioners passes a resolution that family~~  
30 ~~day care homes be licensed. If no county authority exists for~~  
31 ~~the licensing of a family day care home, the department shall~~

1 ~~have the authority to license family day care homes under~~  
2 ~~contract for the purchase-of-service system in the subsidized~~  
3 ~~child care program.~~  
4 ~~(a) If not subject to license, family day care homes~~  
5 ~~shall register annually with the department, providing the~~  
6 ~~following information:~~  
7 ~~1. The name and address of the home.~~  
8 ~~2. The name of the operator.~~  
9 ~~3. The number of children served.~~  
10 ~~4. Proof of a written plan to provide at least one~~  
11 ~~other competent adult to be available to substitute for the~~  
12 ~~operator in an emergency. This plan shall include the name,~~  
13 ~~address, and telephone number of the designated substitute.~~  
14 ~~5. Proof of screening and background checks.~~  
15 ~~6. Proof of successful completion of the 30-hour~~  
16 ~~training course, as evidenced by passage of a competency~~  
17 ~~examination, which shall include:~~  
18 ~~a. State and local rules and regulations that govern~~  
19 ~~child care.~~  
20 ~~b. Health, safety, and nutrition.~~  
21 ~~c. Identifying and reporting child abuse and neglect.~~  
22 ~~d. Child development, including typical and atypical~~  
23 ~~language development; and cognitive, motor, social, and~~  
24 ~~self-help skills development.~~  
25 ~~e. Observation of developmental behaviors, including~~  
26 ~~using a checklist or other similar observation tools and~~  
27 ~~techniques to determine a child's developmental level.~~  
28 ~~f. Specialized areas, including early literacy and~~  
29 ~~language development of children from birth to 5 years of age,~~  
30 ~~as determined by the department, for owner-operators of family~~  
31 ~~day care homes.~~



1           ~~7. Proof that immunization records are kept current.~~

2           ~~8. Proof of completion of the required continuing~~  
3 ~~education units or clock hours.~~

4           ~~(a)~~(b) The department or local licensing agency may  
5 impose an administrative fine, not to exceed \$100, for failure  
6 to comply with licensure ~~or registration~~ requirements.

7           ~~(c) A family day care home not participating in the~~  
8 ~~subsidized child care program may volunteer to be licensed~~  
9 ~~under the provisions of this act.~~

10           ~~(b)~~(d) The department may provide technical assistance  
11 to counties and family child day care home providers to enable  
12 counties and family child day care providers to achieve  
13 compliance with family child day care homes standards.

14           (2) ~~This~~ Information shall be ~~included in a directory~~  
15 ~~to be~~ published annually by the department to inform the  
16 public of available child care facilities.

17           (3) Child care personnel in family child day care  
18 homes shall be subject to the applicable screening provisions  
19 contained in ss. 402.305(2) and 402.3055. For purposes of  
20 screening in family child day care homes, the term includes  
21 any member over the age of 12 years of a family child day  
22 care home operator's family, or persons over the age of 12  
23 years residing with the operator in the family child day care  
24 home. Members of the operator's family, or persons residing  
25 with the operator, who are between the ages of 12 years and 18  
26 years shall not be required to be fingerprinted, but shall be  
27 screened for delinquency records.

28           (4) Operators of family child day care homes must  
29 successfully complete an approved 30-clock-hour introductory  
30 course in child care, as evidenced by passage of a competency  
31 examination, before caring for children.

1           (5) In order to further develop their child care  
2 skills and, if appropriate, their administrative skills,  
3 operators of family child ~~day~~ care homes shall be required to  
4 complete an additional 1 continuing education unit of approved  
5 training or 10 clock hours of equivalent training, as  
6 determined by the department, annually.

7           (6) Operators of family child ~~day~~ care homes shall be  
8 required to complete 0.5 continuing education unit of approved  
9 training in early literacy and language development of  
10 children from birth to 5 years of age one time. The year that  
11 this training is completed, it shall fulfill the 0.5  
12 continuing education unit or 5 clock hours of the annual  
13 training required in subsection (5).

14           (7) Operators of family child ~~day~~ care homes shall be  
15 required annually to complete a health and safety home  
16 inspection self-evaluation checklist developed by the  
17 department in conjunction with the statewide resource and  
18 referral program. The completed checklist shall be signed by  
19 the operator of the family child ~~day~~ care home and provided to  
20 parents as certification that basic health and safety  
21 standards are being met.

22           (8) Family child ~~day~~ care home operators may avail  
23 themselves of supportive services offered by the department.

24           (9) The department shall prepare a brochure on family  
25 child ~~day~~ care for distribution by the department and by local  
26 licensing agencies, if appropriate, to family child ~~day~~ care  
27 homes for distribution to parents utilizing such child care,  
28 and to all interested persons, including physicians and other  
29 health professionals; mental health professionals; school  
30 teachers or other school personnel; social workers or other  
31 professional child care, foster care, residential, or

1 institutional workers; and law enforcement officers. The  
2 brochure shall, at a minimum, contain the following  
3 information:

4 (a) A brief description of the requirements for family  
5 child day care licensure ~~registration~~, training, and  
6 fingerprinting and screening.

7 (b) A listing of those counties that license ~~require~~  
8 ~~licensure of~~ family child day care homes. Such counties shall  
9 provide an addendum to the brochure that provides a brief  
10 description of the licensure requirements or may provide a  
11 brochure in lieu of the one described in this subsection,  
12 provided it contains all the required information on licensure  
13 and the required information in the subsequent paragraphs.

14 (c) A statement indicating that information about the  
15 family child day care home's compliance with applicable state  
16 or local requirements can be obtained by telephoning the  
17 department office or the office of the local licensing agency,  
18 if appropriate, at a telephone number or numbers which shall  
19 be affixed to the brochure.

20 (d) The statewide toll-free telephone number of the  
21 central abuse hotline, together with a notice that reports of  
22 suspected and actual child physical abuse, sexual abuse, and  
23 neglect are received and referred for investigation by the  
24 hotline.

25 (e) Any other information relating to competent child  
26 care that the department or local licensing agency, if  
27 preparing a separate brochure, deems would be helpful to  
28 parents and other caretakers in their selection of a family  
29 child day care home.

30 (10) On an annual basis, the department shall evaluate  
31 the ~~registration and~~ licensure system for family child day

1 care homes. Such evaluation shall, at a minimum, address the  
2 following:

3 (a) The number of family child day care homes  
4 ~~registered and licensed~~ and the dates of such ~~registration and~~  
5 licensure.

6 (b) The number of children being served in ~~both~~  
7 ~~registered and licensed~~ family child day care homes and any  
8 available slots in such homes.

9 (c) The number of complaints received concerning  
10 family child day care, the nature of the complaints, and the  
11 resolution of such complaints.

12 (d) The training activities used ~~utilized~~ by child  
13 care personnel in family child day care homes for meeting the  
14 state or local training requirements.

15  
16 The evaluation shall be used ~~utilized~~ by the department in any  
17 administrative modifications or adjustments to be made in the  
18 licensure ~~registration~~ of family child day care homes or in  
19 any legislative requests for modifications to the system of  
20 licensure ~~registration~~ or to other requirements for family  
21 child day care homes.

22 (11) In order to inform the public of the state  
23 requirement for licensure ~~registration~~ of family child day  
24 care homes as well as the other requirements for such homes to  
25 legally operate in the state, the department shall institute a  
26 media campaign to accomplish this end. Such a campaign shall  
27 include, at a minimum, flyers, newspaper advertisements, radio  
28 advertisements, and television advertisements.

29 (12) Notwithstanding any other state or local law or  
30 ordinance, any family child day care home licensed pursuant to  
31 this chapter or pursuant to a county ordinance shall be

1 charged the utility rates accorded to a residential home. A  
2 licensed family child day care home may not be charged  
3 commercial utility rates.

4 (13) The department shall, by rule, establish minimum  
5 licensing standards for family child day care homes that are  
6 required to be licensed by county licensing ordinance or  
7 county licensing resolution or that voluntarily choose to be  
8 licensed. The standards should include requirements for  
9 staffing, training, maintenance of immunization records,  
10 minimum health and safety standards, reduced standards for the  
11 regulation of child care during evening hours by  
12 municipalities and counties, and enforcement of standards.

13 Section 8. Each family child care home that is  
14 registered with the Department of Children and Family Services  
15 on June 30, 2004, must obtain a license from the department as  
16 required under section 402.313, Florida Statutes, by July 1,  
17 2005.

18 Section 9. Paragraph (b) of subsection (5) of section  
19 409.1671, Florida Statutes, is amended to read:

20 409.1671 Foster care and related services;  
21 privatization.--

22 (5)

23 (b) Substitute care providers who are licensed under  
24 s. 409.175 and have contracted with a lead agency authorized  
25 under this section shall also be authorized to provide  
26 ~~registered or~~ licensed family child day care homes under s.  
27 402.313, if consistent with federal law and if the home has  
28 met the requirements of s. 402.313.

29 Section 10. Section 627.70161, Florida Statutes, is  
30 amended to read:

31 627.70161 Family child day care home insurance.--

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

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

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

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

27           (3) FAMILY CHILD DAY CARE; COVERAGE.--A residential  
28 property insurance policy shall not provide coverage for  
29 liability for claims arising out of, or in connection with,  
30 the operation of a family child day care home, and the insurer  
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1 shall be under no obligation to defend against lawsuits  
2 covering such claims, unless:  
3 (a) Specifically covered in a policy; or  
4 (b) Covered by a rider or endorsement for business  
5 coverage attached to a policy.  
6 (4) DENIAL, CANCELLATION, REFUSAL TO RENEW  
7 PROHIBITED.--An insurer may not deny, cancel, or refuse to  
8 renew a policy for residential property insurance solely on  
9 the basis that the policyholder or applicant operates a family  
10 child day care home. In addition to other lawful reasons for  
11 refusing to insure, an insurer may deny, cancel, or refuse to  
12 renew a policy of a family child day care home provider if one  
13 or more of the following conditions occur:  
14 (a) The policyholder or applicant provides care for  
15 more children than authorized for family child day care homes  
16 by s. 402.302;  
17 (b) The policyholder or applicant fails to maintain a  
18 separate commercial liability policy or an endorsement  
19 providing liability coverage for the family child day care  
20 home operations;  
21 (c) The policyholder or applicant fails to comply with  
22 the family child day care home licensure ~~and registration~~  
23 requirements specified in s. 402.313; or  
24 (d) Discovery of willful or grossly negligent acts or  
25 omissions or any violations of state laws or regulations  
26 establishing safety standards for family child day care homes  
27 by the named insured or his or her representative which  
28 materially increase any of the risks insured.  
29 Section 11. For the purpose of incorporating the  
30 amendment made by this act to section 402.313, Florida  
31

1 Statutes, in references thereto, subsection (3) of section  
2 400.953, Florida Statutes, is reenacted to read:

3           400.953 Background screening of home medical equipment  
4 provider personnel.--The agency shall require employment  
5 screening as provided in chapter 435, using the level 1  
6 standards for screening set forth in that chapter, for home  
7 medical equipment provider personnel.

8           (3) Proof of compliance with the screening  
9 requirements of s. 110.1127, s. 393.0655, s. 394.4572, s.  
10 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s.  
11 985.407 or this part must be accepted in lieu of the  
12 requirements of this section if the person has been  
13 continuously employed in the same type of occupation for which  
14 he or she is seeking employment without a breach in service  
15 that exceeds 180 days, the proof of compliance is not more  
16 than 2 years old, and the person has been screened by the  
17 Department of Law Enforcement. An employer or contractor shall  
18 directly provide proof of compliance to another employer or  
19 contractor, and a potential employer or contractor may not  
20 accept any proof of compliance directly from the person  
21 requiring screening. Proof of compliance with the screening  
22 requirements of this section shall be provided, upon request,  
23 to the person screened by the home medical equipment provider.

24           Section 12. This act shall not take effect unless  
25 sufficient funds are allocated in a specific appropriation or  
26 in the General Appropriations Act for the 2004-2005 fiscal  
27 year to fund 30 additional positions for licensing family  
28 child care homes.

29           Section 13. This act shall take effect July 1, 2004.  
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SENATE SUMMARY

Redesignates family day care homes as family child care homes. Deletes provisions relating to the regulation of registered family child care homes by local zoning regulations. Provides a definition for the term "family child care homes." Requires licensed family child care homes and large family child care homes to provide specified information. Deletes references to registered family child care homes to conform provisions to changes made by the act. Requires all family child care homes to be licensed. Deletes provisions relating to voluntary licensing of family child care homes. Requires family child care homes registered under the former statute to be licensed by July 1, 2005. Requires the Department of Children and Family Services to adopt rules for minimum licensing standards. (See bill for details.)