

Assembly Bill No. 2019

Passed the Assembly August 16, 2012

Chief Clerk of the Assembly

Passed the Senate August 13, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1527.6 and 1527.8 of the Health and Safety Code, and to add Section 676.75 to the Insurance Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2019, Hill. Foster care.

Existing law establishes within the State Department of Social Services the Foster Family Home and Small Family Home Insurance Fund, consisting of moneys appropriated by the Legislature, for the purposes of paying, on behalf of foster family homes and small family homes, as defined, claims of foster children, their parents, guardians, or guardians ad litem resulting from occurrences peculiar to the foster care relationship and the provision of foster care services. Existing law requires the department to approve or reject a claim within 180 days after it is presented and requires the department, or a designated agency, to notify the claimant of its decision.

This bill would provide that any applicable statute of limitations for a cause of action that arises from the same occurrence for which a claim has been filed with the fund shall be tolled from the date the claim against the fund has been filed until the date the person has been notified that his or her claim with the fund has been approved or rejected.

Existing law states the intent of the Legislature to maintain the Foster Family Home and Small Family Home Insurance Fund at an adequate level to meet anticipated liabilities.

This bill would instead require that the fund be maintained at an adequate level to meet anticipated liabilities.

Existing law prohibits an admitted insurer, as specified, from, among other things, refusing to accept an application for, or canceling, certain insurance policies solely on the basis that an applicant or policyholder is engaged in foster home activities in a licensed foster family home or licensed small family home, as defined.

This bill would also prohibit an admitted insurer from, among other things, refusing to accept an application for, or canceling,

certain insurance policies solely on the basis that an applicant or policyholder is engaged in foster home activities in a certified family home, as defined, and make related changes.

The people of the State of California do enact as follows:

SECTION 1. Section 1527.6 of the Health and Safety Code is amended to read:

1527.6. (a) A claim against the fund shall be filed with the fund in accordance with claims procedures and on forms prescribed by the State Department of Social Services or its designated contract agency.

(b) A claim against the fund filed by a foster parent or a third party shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim, subject to subdivision (a) of Section 352 of the Code of Civil Procedure as that section applies to a minor. If a claim is not submitted to the fund within the applicable time, there shall be no recourse against the fund.

(c) (1) The department shall approve or reject a claim within 180 days after it is presented.

(2) The department or an agency designated pursuant to Section 1527.1 shall notify a claimant of the decision to approve or reject a claim within 15 days of the decision.

(d) (1) A person shall not bring a civil action against a foster parent for which the fund is liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed.

(2) An applicable statute of limitations for a cause of action that arises out of the same occurrence for which a claim has been filed with the fund shall be tolled from the date the claim against the fund has been filed until the date the department, or an agency designated pursuant to Section 1527.1, has notified the person that the department has either rejected or approved the claim.

SEC. 2. Section 1527.8 of the Health and Safety Code is amended to read:

1527.8. The fund established pursuant to Section 1527.1 shall be maintained at an adequate level to meet anticipated liabilities.

SEC. 3. Section 676.75 is added to the Insurance Code, to read:

676.75. (a) No admitted insurer, licensed to issue and issuing homeowner's or tenant's policies, as described in Section 122, shall (1) fail or refuse to accept an application for that insurance or to issue that insurance to an applicant or (2) cancel that insurance, solely on the basis that the applicant or policyholder is engaged in foster home activities in a certified family home, as defined in Section 1506 of the Health and Safety Code.

(b) Coverage under policies described in subdivision (a) with respect to a foster child shall be the same as that provided for a natural child. However, unless specifically provided in the policy, there shall be no coverage expressly provided in the policy for any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.

(c) It is against public policy for a policy of homeowner's or tenant's insurance subject to this section to provide liability coverage for any of the following losses:

(1) An insurer shall not be liable, under a policy of insurance subject to this section, to any governmental agency for damage arising from occurrences peculiar to the foster care relationship and the provision of foster care services.

(2) Alienation of affection of a foster child.

(3) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.

(4) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.

(d) There shall be no penalty for violations of this section prior to January 1, 2013.

(e) Insurers may provide a special endorsement to a homeowners' or tenants' policy covering claims related to foster care that are not excluded by subdivision (c).

(f) Insurers may provide by a separate policy for some or all of the claims related to foster care that are excluded by subdivision (c).

Approved _____, 2012

Governor