

Housing Protections for Family Child Care Providers

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Child Care Law Center

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We educate, advocate, and litigate to make child care a civil right.



- Resources for child care providers, parents, and the community
- Resources and technical assistance for legal aid organizations
- Local and state advocacy



Family Child Care Homes

Family child care providers:

- Offer child care **in their own home.**
- Are **licensed and regulated** by the California Department of Social Services, Community Care Licensing Division.
- Must comply with the **California Health & Safety Code** and the Office of the **State Fire Marshal guidance.**

Family Child Care Homes

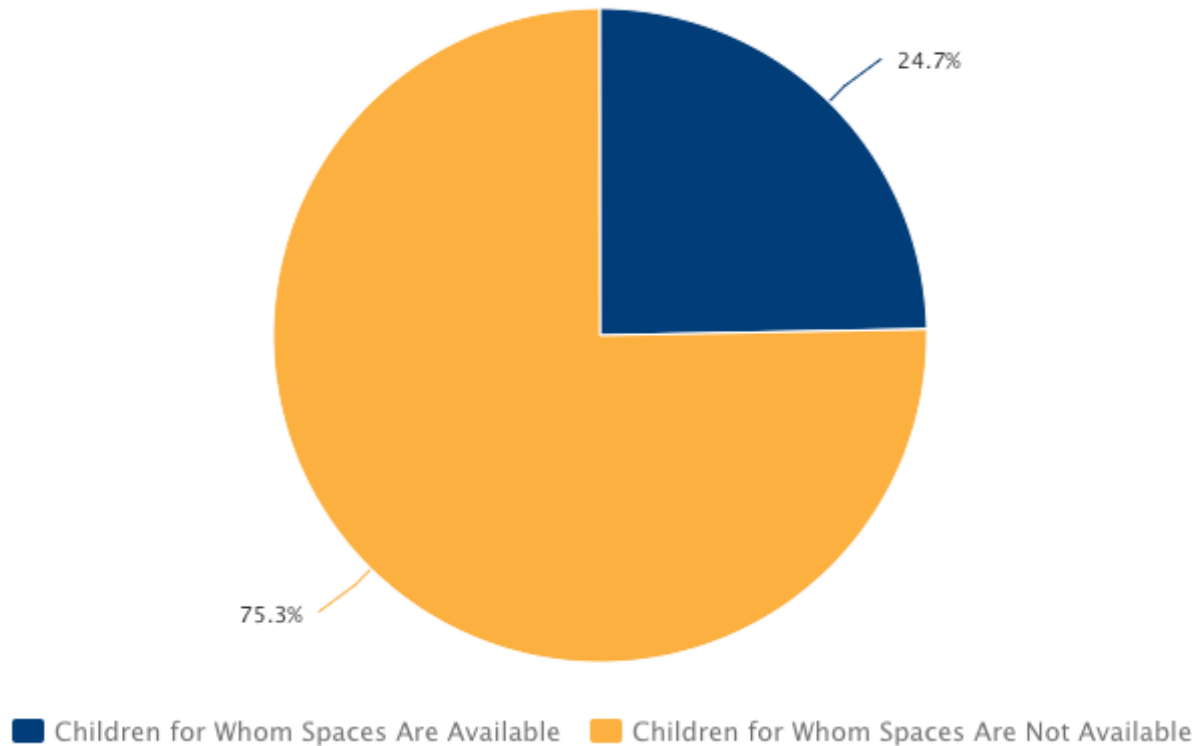
Family child care providers:

- May **rent, lease, or own** the home in which they provide child care.
- **Many parents prefer family child care** for their young children because it offers a warm, home environment, early morning, evening and weekend hours, and often meets the cultural and linguistic needs of children and families.

Child Care Shortage

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California only has enough licensed child care to meet the need of 24.7% of children with working parents



2021 data provided by the CA Resource & Referral Network, available at www.kidsdata.org

California Child Day Care Facilities Act

Cal. Health & Safety Code §§ 1597.30 et seq.

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- The intent of the law was to provide a comprehensive, quality system for licensing child daycare facilities to ensure a quality child care environment.
 - California Health and Safety Code
 - [Divison 2, Ch. 3.6 under the Child Day Care Facilities Act](#)



California Child Day Care Facilities Act

Cal. Health & Safety Code §§ 1597.30 et seq. (2 of 2)

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- Recognized the statewide concern of the lack of child care.
- Acknowledged that many parents prefer child care in their neighborhood.
- Addressed the growing need for child care because of more working parents.

Keeping Kids Close to Home Act

Senate Bill 234 (Skinner)

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Strengthens and clarifies housing protections for family child care providers in the Child Day Care Facilities Act, Cal. Health & Safety Code §§1597.30 et seq.

- All family child care homes **must be considered a residential use of property** for the purposes of all local ordinances. §§ 1597.42, 1597.43 (a), 1597.45(a).
- Family child care homes must be **allowed in all types of residential settings**. §§ 1597.41 (b)-(c), 1597.45(f).
- Clarifies that it is **unlawful to refuse to rent to someone because they operate a family child care home**. *Id.* §1597.41(b).

Keeping Kids Close to Home Act

- Added that “**remedies and procedures**” provided in the FEHA (Govt. Code §§ 12980 et seq.) are available to family child care providers, family child care applicants, and individuals who claim their protections have been denied under the relevant housing, zoning, and business protections sections of the Child Day Care Facilities Act. Cal. Health & Safety Code § 1597.41 (e).
- Requires the Office of the **State Fire Marshal to provide statewide guidance** for family child care homes and keep its code current with regards to regulation of family child care homes. § 1597.543.

Family Child Care Provider Housing Protections

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Landlords, property managers, leasing agents, realtors, HOAs, mortgage companies, and homeowner's insurance companies CANNOT:

- Prevent or prohibit a tenant or homeowner from planning to or operating a family child care home (i.e. in lease agreements, HOA agreements, etc.).
Cal. Health & Safety Code § 1597.41(a)-(c).
- Providing child care in one's home is a residential use of property. § 1597.41(a)-(c).

Family Child Care Provider Housing Protections

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Landlords, property managers, leasing agents, and realtors CANNOT:

- Refuse to rent to a tenant **solely** because they want to or currently operate a family child care home. Cal. Health & Safety Code § 1597.41.
- Evict a tenant **solely** because they operate a family child care home. § 1597.41(a)-(c).



Family Child Care Provider Housing Protections

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- HOAs cannot remove a homeowner **solely** because they want to or currently operate a family child care home. Cal. Health & Safety Code § 1597.41(a)-(c).
- HOAs cannot refuse to sell or rent to an applicant **solely** because they are a family child care provider. § 1597.41(a)-(c).
- Mortgage companies, lenders, and other individuals cannot refuse to issue loans or sell **solely** because the applicant is a family child care provider.

Notice vs. Consent

Before providing care, renters must give property owners/landlords written **notice**, Cal. Health & Safety Code § 1597.41(d)(1):

- 30 days before opening a new family child care, or
- Less than 30 days if moving existing family child care.*

Renters must get property owners/landlords written **consent** (permission) when planning to care for two more school aged children. §§ 1597.465, 1597.44.

- More than 6 and up to 8 children with a small license.
- More than 12 and up to 14 children with a large license.

*CDSS Community Care Licensing determines if the “plus 2 children” meets health & safety requirements



Protections Against Unlawful Conduct by Insurance Providers

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Liability insurance is not required for the operation of a family child care homes, although it is **highly recommended**. Cal. Health & Safety Code § 1597.531.



Protections Against Unlawful Conduct by Insurance Providers

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If a landlord or HOA requests that a family child care provider add them to the provider's liability insurance policy, the provider **must** add them, if:

1. The provider already has or is getting a liability insurance policy;
2. The landlord or HOA asks in writing;
3. The provider's policy will not be cancelled if the landlord or HOA is added, and
4. Their landlord or HOA pays the higher premium amount, if there is one for adding them. Cal. Health & Safety Code § 1597.531(b).

Protections Against Unlawful Conduct by Insurance Providers

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Homeowner insurance companies **cannot**:

- Cancel or fail to renew a landlord's or family child care provider's policy solely because a family child care home is operated on the **property**. Cal. Ins. Code § 676, 676.1 (family child care provider policy holder); See *also* Cal. Health & Safety Code § 1597.41(a)-(c) (other civil rights laws may apply too).
- Refuse an application for or cancel an insurance policy based on the source of income of the individual or group of individuals residing at the **property**. Cal. Ins. Code § 679.74(a).

Protections From Local Government Regulation

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Cities and counties CANNOT regulate the use of licensed small or large family child care homes. Cal. Health & Safety Code §§ 1597.42, 1597.45.

- Cities and counties **cannot**:
 - Require zoning permits. §§ 1597.45(a).
 - Require business licenses (even at no cost) and business taxes. Cal. Health & Safety Code § 1597.45(b).
 - Create specific rules *only for* family child care homes. See Cal. Health & Safety Code § 1597.45(e).
 - Note: The only local authority that can regulate the use or condition of a family child care home is the fire department. The local fire department rules must comply with the state building code.

Protections From Local Government Regulation

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- **Exceptions:**
 - Requirements applied to ***all*** other residential homes, not just family child care homes. Cal. Health & Safety Code § 1597.45(e).
 - Local fire department fire clearance requirements for large family child care homes. § 1597.46.

The Keeping Kids Close to Home Act Does NOT Change

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- Special written property owner/landlord consent requirement. Cal. Health & Safety Code § 1597.465.
- Local zoning and building requirements that apply to all homes. § 1597.45(e)
- Other health and safety licensing requirements; or
- State Fire Marshal/local fire department fire clearance (State Form 850) requirements for large family child care licenses.

Resources

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- [Child Care Law Center - Providers' Housing Rights](#)
- [Know the Law about Family Child Care Homes in California Rental Properties](#)
- [6 Things California Homeowners Associations Should Know About Family Child Care Homes](#)
- [Know the Law for Cities and Counties](#)
- [Know the Law about Family Child Care Homes in California Rental Properties – For Landlords](#)
- [California Civil Rights Department Fact Sheet for Child Care Providers](#)
- [Office of the State Fire Marshal Guidance for Family Child Care Homes](#)



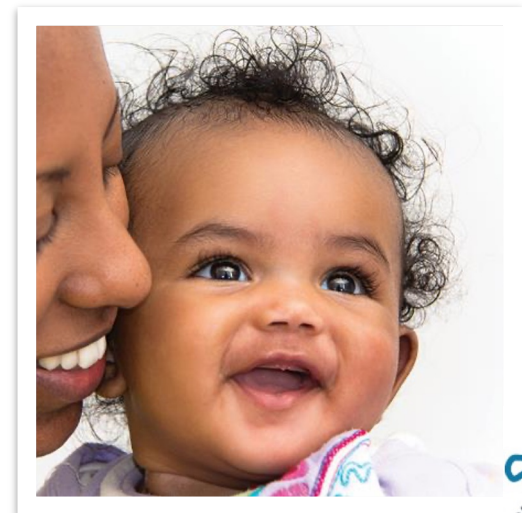
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- Publications:
<https://www.childcarelaw.org/>
- Information & Referral Service:
<https://www.childcarelaw.org/help/>

Contact us!

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Questions?