

Know the Law about Family Child Care Homes in California Rental Property - For Landlords

Disclaimer! This publication is for housing providers who own or manage *residential rental* property.

This group includes:

- Landlords,
- Property managers,
- Property owners,
- Homeowners Associations (HOAs), and
- Other housing providers.

The Child Care Law Center *does not* represent or provide legal advice to housing providers.

Family Child Care Homes

1. What is a “family child care home?”

- A “family child care home” is a licensed child care program run from a person’s home, rented or owned.¹ This person caring for the children in the program is called a “family child care provider.”
- The California Department of Social Services, Community Care Licensing Division (Community Care Licensing) licenses and regulates family child care homes. Local fire departments perform the fire inspection and clearance for large family child care applicants.²
- Family child care providers must follow state health, safety, and fire standards to be licensed.
- There are 2 types of family child care licenses – small and large family child care homes.³

- Cities, counties, and housing providers cannot regulate (create and enforce rules for) family child care homes.⁴
- Family child care providers provide nurturing home environments, flexible hours, and a convenient location in families’ neighborhoods.
- Family child care homes are families’ primary child care option for babies and toddlers.
- Family child care providers offer a diverse cultural and linguistic environment for children in their care.

Learn more about family child care homes by visiting [Community Care Licensing](https://www.cdss.ca.gov/inforesources/community-care-licensing/process) here <https://www.cdss.ca.gov/inforesources/community-care-licensing/process>.

Rental Applications

2. Can I refuse to rent to someone because they want to have a family child care home in my rental unit?

No. A housing provider *cannot* refuse to rent to someone *only* because they have or plan to have a licensed family child care home.⁵

All California renters are protected from housing discrimination under the [California Fair Employment and Housing Act](#) and the [Unruh Civil Rights Act](#).⁶ These laws protect renters from being denied a rental home because of the renter’s:

- Source of income (where and how they earn their income);

- Race;
- Color;
- National origin (including language use restrictions);
- Ancestry;
- Religion;
- Sex;
- Gender, gender identity, and gender expression;
- Sexual orientation;
- Marital status;
- Military or veteran status;
- Familial status (households with children under age 18 or individuals who are pregnant);
- Disability (mental and physical);
- Genetic information;
- Age;
- Citizenship;
- Primary language; **and**
- Immigration status.⁷

If a renter experiences housing discrimination, they have the right to:

- Sue the person violating their rights in court, **and**
- File a complaint with the Civil Rights Department.⁸

There are local and federal laws that also protect renters from housing discrimination.

Type of Rental Home

3. Can a renter run a family child care home in an apartment?

Yes. Renters can run a licensed small or large family child care home in a:

- Single-family home or duplex;
- Apartment, condominium, townhome; **or**
- Residential rental unit within other types of multi-family buildings.⁹

Notice to Housing Provider

4. Does a renter need my permission before having a family child care home?

No. Renters do not need their housing provider's permission to care for:

- Up to 6 children with a small family child care license, **or**
- Up to 12 children with a large family child care license.¹⁰

Housing providers *cannot* prohibit, restrict, or regulate the use of rental property for family child care.¹¹

This protection exists because family child care homes:

- Provide critical care to children ages 0-5 years old,
- Help parents and guardians work outside of the home and earn an income to support themselves and their families,
- Support local communities and economies with their work, **and**
- California has a tremendous child care shortage and needs more child care to meet families' needs.¹²

But if a renter wants to care for

- 7-8 children total with a small family child care license, **or**
- 13-14 children total with a large family child care license –

they must ask the property owner for permission before doing so.¹³

Renters can do so with [Community Care Licensing's Property Owner/Landlord Consent Form](#) (LIC 9149).¹⁴

5. Does a renter need to tell me that they run a family child care home?

Yes. Renters *must* tell their landlord or the property owner *in writing* that they plan to provide licensed family child care in the home.¹⁵

Renters can do so with [Community Care Licensing's Property Owner/Landlord Notification Family Child Care Home Form](#) (LIC 9151).¹⁶

6. When does a renter need to tell me that they run a family child care home?

If the renter is *starting* a family child care home, they must

- Tell their landlord or the property owner *in writing*,
- **At least 30 days** before they start providing child care.¹⁷

If the renter *already* has a family child care home and moves to a new home, they may have a different deadline to tell their landlord or property owner.¹⁸

If you have questions about this deadline, you can ask the renter about it.

Rental Agreements and Special Rules

7. Can a renter have a family child care home, even though our rental agreement says “no businesses?”

Yes. Even if a rental or lease agreement prohibits

- A child care, **or**
- Business or commercial activity in the home –

that part of the agreement *does not* apply to family child care homes.¹⁹

A housing provider *cannot* use a rental agreement or other contract to restrict or prohibit a renter’s licensed family child care home. Even if the renter signs it, that section of the agreement or contract is void and *cannot* be enforced under the law.²⁰

8. Can I tell a renter which days and times they are allowed to run their family child care home?

No. Housing providers *cannot* limit or set which days and times a renter can run their licensed family child care home.²¹

A renter can provide family child care during the day or evening, weekdays, and on weekends.

Community Care Licensing is the only authority that can tell a family child care provider when and how they run their family child care home.²²

9. Can I make special rules that only apply to renters who provide family child care?

No. It is *illegal* for a housing provider to create and enforce special rules that apply just to their renter who provides licensed family child care.

This is because housing providers cannot restrict, prohibit, or regulate licensed family child care homes.²³

Rent Increases

10. Can I increase a renter’s monthly rent because they run a family child care home?

No. It is *illegal* for a housing provider to increase their renter’s monthly rent *only* because they run a licensed family child care home.²⁴ Any increase in rent must be legal under local rent control and state laws.

California renters, including family child care providers, are protected from housing discrimination under the [California Fair Employment and Housing Act](#) and the [Unruh Civil Rights Act](#).²⁵ This includes the protection against an unlawful rent increase because of the renter’s:

- Source of income (where and how they earn their income);
- Race;
- Color;
- National origin (including language use restrictions);
- Ancestry;
- Religion;
- Sex;
- Gender, gender identity, and gender expression;
- Sexual orientation;
- Marital status;
- Military or veteran status;

- Familial status (households with children under age 18 or individuals who are pregnant);
- Disability (mental and physical);
- Genetic information;
- Age;
- Citizenship;
- Primary language; **and**
- Immigration status.²⁶

If a renter experiences housing discrimination, they have the right to:

- Sue the person violating their rights in court, **and**
- File a complaint with the Civil Rights Department.²⁷

There are local and federal laws that also protect renters from housing discrimination.

Insurance

11. Can I require a renter to get family child care liability insurance to run their family child care home?

No. Under California law, a housing provider *cannot* require a renter to get family child care liability insurance to run their licensed family child care home.²⁸

Family child care providers are not required to get family child care liability insurance.²⁹

Under the law, family child care providers *must*:

- Get family child care liability insurance that covers injuries to “clients and guests” amounting to \$100,000 per incident and \$300,000 in total;
- Get a bond amounting to \$300,000 in total; **or**
- Keep on file an [Affidavit Regarding Liability Insurance for Family Child Care Homes](#) (Affidavit LIC 282 Form) signed by each parent and guardian with a child in their care.³⁰

If a family child care provider *does not* get family child care liability insurance, they *must*:

- Inform all parents and guardians in their program that they do not have liability insurance,
- Have every parent and guardian sign the [Affidavit Regarding Liability Insurance for Family Child Care Homes](#) (Affidavit LIC 282 Form), **and**
- Keep the signed Affidavit LIC 282 Forms on file for Licensing to inspect during annual inspections.³¹

Section B of the Form is only for family child care providers who are renters. Section B tells families that the housing provider’s own liability insurance *does not* cover child care-related incidents.³²

Warning! Affidavit LIC 282 Forms have confidential information. A family child care provider *cannot* show or give completed Affidavit LIC 282 Forms to their housing provider.³³

12. Can I require a renter to add me to their family child care liability insurance policy?

Yes, but *only if* all these conditions are met:

- The renter already has or is planning to get family child care liability insurance,
- The housing provider asks to be added to the policy *in writing*,
- The policy will not be canceled or not renewed if the housing provider is added, **and**
- The housing provider agrees to pay any extra cost to be added to the policy.³⁴

13. Can my homeowner’s insurance get canceled or not renewed because of my renter’s family child care home?

No. An insurance company *cannot* cancel or refuse to renew a homeowner’s insurance policy because the policyholder:

- Runs a licensed family child care home on the property, **or**
- Rents to someone who runs a licensed family child care home on the property.³⁵

Insurance companies can only cancel or not renew insurance policies for other legal reasons.³⁶ For more information, contact the [California Department of Insurance](#).

Eviction

14. Can I evict a renter because they have a family child care home?

No. It is *illegal* for a housing provider to evict a renter because they have or plan to have a licensed family child care home.³⁷

Having or planning to have a licensed family child care home is *not* a legal reason to evict a renter through a “fault” or “no fault” eviction in California.

All California renters are protected from housing discrimination under the [California Fair Employment and Housing Act](#) and the [Unruh Civil Rights Act](#).³⁸ These laws protect renters from being wrongfully evicted because of the renter’s:

- Source of income (where and how they earn their income);
- Race;
- Color;
- National origin (including language use restrictions);
- Ancestry;
- Religion;
- Sex;
- Gender, gender identity, and gender expression;
- Sexual orientation;
- Marital status;
- Military or veteran status;
- Familial status (households with children under age 18 or individuals who are pregnant);
- Disability (mental and physical);
- Genetic information;
- Age;
- Citizenship;
- Primary language; **and**
- Immigration status.³⁹

If a renter experiences an illegal eviction they have the right to:

- Sue the person violating their rights in court, **and**
- File a complaint with the Civil Rights Department.⁴⁰

There are local and federal laws that also protect renters from housing discrimination.

Residential or Business Use of Property?

15. Is a renter’s family child care home a “business” use of property?

No. Running a family child care home is a residential use of property under all state and local laws, not a business or commercial use of property.⁴¹

Your rental agreement with your renters might prohibit businesses run in the home. **But** agreement clauses that prohibit businesses or a commercial use of a rental home *do not* apply to family child care homes.⁴²

Warning! Many California cities and counties have outdated local laws that call family child care homes a “commercial use” of property.⁴³ Such laws are *incorrect*.

Read the Child Care Law Center’s [Know the Law about Senate Bill 234](#) for more information.

Wear and Tear

16. Will a renter’s family child care home cause wear and tear and increase my operating costs?

Cleanliness and safety:

Family child care providers *must* keep their homes clean and safe to keep their child care license. Family child care providers are also *heavily* regulated by the state of California. For example, Community Care Licensing monitors and regularly inspects family child care homes. These considerations tend to make family child care providers ideal renters.

Repairs:

Most rental homes need repairs overtime and housing providers are required to make certain repairs under the law. In fact, prompt repairs by housing providers will reduce the risk of liability for them *and* their renters.

Wear and tear:

No renter lives in a home without some wear and tear. If a renter pays a security deposit, those funds can be used for repairs beyond normal wear and tear or cleaning when the renter moves out.

Warning! Housing providers can only require a family child care provider to pay a security deposit equal to:

- 2 months' rent for an unfurnished unit,
or
- 3 months' rent for a furnished unit.⁴⁴

Starting **July 1, 2024**, housing providers can only charge a renter a security deposit equal to 1 month's rent, for both unfurnished *and* furnished units.⁴⁵

Neighbors

17. Will a renter's family child care home disturb neighbors?

Family child care providers care for a limited number of children. They are *not* the same

as larger preschools or child care centers. The noise of a family child care home is similar to the noise of a family with multiple children.

Family child care homes can be mindful of noise concerns, for example keeping the children indoors in the early morning and late evening.

Family child care providers, like all residents of your city or county, *must* follow local noise control rules, or "nuisance" laws.

Family child care homes usually do not cause extra traffic because they care for a limited number of children, and drop-off/pick-up times are typically staggered.

Neighbors can learn more about family child care homes by visiting Community Care Licensing,
<https://www.cdss.ca.gov/inforesources/child-care-licensing>.

Learn about your legal responsibilities in Housing is Key's Guide to Residential Tenants' and Landlords' Rights and Responsibilities:

- In English [here](#).
- In Spanish [here](#).⁴⁶



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Legal Information – Not Legal Advice. This publication is meant to give you legal information; it is not legal advice. The Child Care Law Center is not your lawyer. The law changes often. For advice about your particular situation, contact a lawyer.

Endnotes: The citations below are linked to the California laws and your rights on this topic. Read them and/or contact your local law library. They can help you understand the laws.

Endnotes:

¹ [Cal. Health & Safety Code § 1596.78\(a\), \(d\)](#).

² [Cal. Health & Safety Code § 1597.55\(a\)](#).

³ [Cal. Health & Safety Code § 1596.78\(b\)-\(c\)](#).

⁴ Cal. Health & Safety Code §§ [1597.41\(a\)-\(b\)](#); [1597.45\(a\)-\(c\)](#).

⁵ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).

⁶ [Cal. Gov't Code §§ 12900-12996](#); [Cal. Civ. Code § 51](#).

⁷ [Cal. Gov't Code §§ 12955-12957](#); [Cal. Civ. Code § 51](#).

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- ⁸ [Cal. Gov't Code §§ 12980 et seq.](#) See also, [Cal. Health & Safety Code § 1597.41\(e\)](#).
- ⁹ [Cal. Health & Safety Code §§ 1596.78\(d\); 1597.45\(e\)](#).
- ¹⁰ See [Cal. Health & Safety Code § 1596.78\(b\)-\(c\)](#). See also, [Cal. Health & Safety Code § 1597.41\(d\)\(1\)](#) (Family child care providers only need to give their landlord or the property owner written notice that they will operate a family child care home.).
- ¹¹ [Cal. Health and Safety Code § 1597.41\(a\)-\(c\)](#).
- ¹² See [Cal. Health & Safety Code § 1596.72\(a\), \(e\)-\(g\)](#). See also, [Cal. Health & Safety Code § 1596.73\(e\)-\(f\)](#).
- ¹³ [Cal. Health & Safety Code § 1597.44\(d\), § 1597.465\(d\)](#).
- ¹⁴ Cal. Dep't of Soc. Serv., Cmty. Care Licensing Div., LIC 9149, [Property Owner/Landlord Consent Family Child Care Home](#) (2014).
- ¹⁵ [Cal. Health & Safety Code § 1597.41\(d\)\(1\)](#). (An applicant for a family child care home license must certify under penalty of perjury that they have given notice to their landlord. See Cal. Dep't of Soc. Serv., Cmty. Care Licensing Div., LIC 279, [Application For A Family Child Care Home License](#) (2009)).
- ¹⁶ Cal. Dep't of Soc. Serv., Cmty. Care Licensing Div., LIC 9151, [Property Owner/Landlord Notification Family Child Care Home](#) (2014).
- ¹⁷ [Cal. Health & Safety Code § 1597.41\(d\)\(1\)](#).
- ¹⁸ [Cal. Health & Safety Code § 1597.41\(d\)\(2\)](#).
- ¹⁹ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#). See also, [Cal. Health & Safety Code § 1597.42](#) (The use of a family child care home, operated under state law, in a residentially zoned area, "shall be considered a residential use of property for the purposes of all local ordinances, regulations, and rules, and shall not fundamentally alter the nature of the underlying residential use.").
- ²⁰ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#). See also, [Cal. Health & Safety Code § 1597.42](#) (The use of a family child care home, operated under state law, in a residentially zoned area, "shall be considered a residential use of property for the purposes of all local ordinances, regulations, and rules, and shall not fundamentally alter the nature of the underlying residential use.").
- ²¹ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).
- ²² See [Cal. Health & Safety Code § 1597.40](#) ("Local laws, regulations, or rules shall not directly or indirectly prohibit or restrict the use of a facility as a family daycare home..."). See also, [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).
- ²³ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).
- ²⁴ See [Cal. Civ. Code § 1942.5\(c\)](#) (It is illegal to increase the rent in retaliation for a tenant's lawful and peaceable exercise of any legal right.).
- ²⁵ [Cal. Gov't Code §§ 12900-12996; Cal. Civ. Code § 51](#).
- ²⁶ [Cal. Gov't Code §§ 12955-12957; Cal. Civ. Code § 51](#).
- ²⁷ [Cal. Gov't Code §§ 12980 et seq.](#) See also, [Cal. Health & Safety Code § 1597.41\(e\)](#).
- ²⁸ See [Cal. Health & Safety Code § 1597.531\(a\)](#); see also, [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).
- ²⁹ See [Cal. Health & Safety Code § 1597.531\(a\)](#); see also, [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#).
- ³⁰ [Cal. Health & Safety Code § 1597.531\(a\)](#).
- ³¹ [Cal. Health & Safety Code § 1597.531\(a\)](#).
- ³² [Cal. Health & Safety Code § 1597.531\(a\)](#).
- ³³ See Cal. Code of Regs., tit. 22 § 101221(c) (Families' and children's names are considered confidential information. Section 101221 requires that family child care providers keep all information and records regarding children confidential.).
- ³⁴ [Cal. Health & Safety Code § 1597.531\(b\)](#) (These same liability insurance rules apply when a family child care home is operating on premises which share common space that is governed by a Homeowners Association.).
- ³⁵ [Cal. Ins. Code § 676.1\(a\)-\(b\)](#). See [Cal. Ins. Code § 676](#). ("If the landlord's homeowner's insurance policy has been in effect for at least 60 days, or is a renewal policy, it may be canceled or not renewed only for: premium nonpayment, conviction of the named insured of a crime, fraud, grossly negligent acts or omissions or physical changes in the insured property which result in the property becoming uninsurable." The opening of a family child care home is not considered a "physical change in the insured property" justifying cancellation or nonrenewal.). See also, [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#) (prohibiting the use of any contract to regulate, restrict, or prohibit the operation of a licensed family child care home.).
- ³⁶ [Cal. Ins. Code § 676.1\(a\)-\(b\)](#). See also [Cal. Ins. Code § 676](#). (If the landlord's homeowner's insurance policy has been in effect for at least 60 days, or is a renewal policy, it may only be canceled or not renewed for: premium nonpayment, conviction of the named insured of a crime, fraud, grossly negligent acts or omissions or physical changes in the insured property which result in the property becoming uninsurable." The opening of a family child care home is not considered a "physical change in the insured property" justifying cancellation or nonrenewal.).
- ³⁷ [Cal. Health & Safety Code § 1597.41\(a\)-\(c\)](#); see [Cal. Civ. Code § 1942.5\(a\)](#) (An eviction or threat of eviction in retaliation for a renter's lawful and peaceable exercise of any legal right is a violation of law.).
- ³⁸ [Cal. Gov't Code §§ 12900-12996; Cal. Civ. Code § 51](#).
- ³⁹ [Cal. Gov't Code §§ 12955-12957; Cal. Civ. Code § 51](#).
- ⁴⁰ [Cal. Gov't Code §§ 12980 et seq.](#) See also, [Cal. Health & Safety Code § 1597.41\(e\)](#).

⁴¹ [Cal. Health & Safety Code § 1597.43\(a\)](#) (“Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses.”). See [Cal. Health & Safety Code § 1597.42](#).

⁴² [Cal. Health & Safety Code § 1597.43\(a\)](#). See also, [Cal. Health & Safety Code § 1597.42](#).

⁴³ See Cal. Health & Safety Code §§ [1597.42](#); [1597.43\(a\)](#).

⁴⁴ [Cal. Civ. Code § 1950.5\(c\)](#).

⁴⁵ [Cal. Civ. Code § 1950.5\(c\)\(1\)](#).

⁴⁶ Cal. Dep’t of Real Estate & Cal. Dep’t of Consumer Aff., [California Tenants – A Guide to Residential Tenants’ and Landlords’ Rights and Responsibilities](#). RE 26 (2022).