

**Senate Bill No. 1695**

CHAPTER 449

An act to amend Section 1597.40 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1695, Kopp. Child day care facilities: family day care homes.

Existing law provides for the licensure and regulation of child day care facilities, including family day care homes. Existing law also states the intent of the Legislature that family day care homes be required to be situated in residential surroundings, and to prohibit any restrictions relating to the use of single-family residences for family day care homes.

This bill would require a family day care home provider who operates the home on rental property to provide written notice to the landlord or property owner of the operation of the family day care home, as prescribed. The bill would also authorize a landlord or property owner to require a family day care home provider to pay an increased security deposit for operation of the family day care home.

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

SECTION 1. It is the intent of the Legislature that, except for the requirement of notice and the authorization for an increased security provided for in subdivision (d) of Section 1597.40, nothing in this act shall alter or amend existing law forbidding restrictions or prohibitions as to the use or occupancy of real property as a family day care home. It is further the intent of the Legislature that this act shall only apply to family day care for which a license is required, and shall not apply to any child day care facility that is exempt from licensure under Section 1596.792.

SEC. 2. Section 1597.40 of the Health and Safety Code is amended to read:

1597.40. (a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.



The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

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