

AMENDED IN SENATE APRIL 30, 1996

AMENDED IN SENATE MARCH 26, 1996

SENATE BILL

No. 1695

Introduced by Senator Kopp

February 21, 1996

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1695, as amended, 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 authorize a landlord to restrict or prohibit a tenant or lessee from using rental or leased premises as a family day care home for children, and to place conditions upon the use of the premises as a family day care home for children.~~

This bill would provide that this law shall not be construed to prohibit an owner of residential property from requiring a tenant who uses or intends to use the premises to conduct a family day care home business to notify the owner in writing 30 days prior to commencement of this use, and requiring the

tenant to pay additional security in an amount that is equal to or less than 2 month's rent.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 1597.40 of the Health and Safety
2 Code is amended to read:

3 1597.40. (a) It is the intent of the Legislature that
4 family day care homes for children should be situated in
5 normal residential surroundings so as to give children the
6 home environment which is conducive to healthy and
7 safe development. It is the public policy of this state to
8 provide children in a family day care home the same
9 home environment as provided in a traditional home
10 setting.

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

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

28 (c) Except as provided in subdivision (d), every
29 restriction or prohibition entered into, whether by way of
30 covenant, condition upon use or occupancy, or upon
31 transfer of title to real property, which restricts or
32 prohibits directly, or indirectly limits, the acquisition, use,



1 or occupancy of such property for a family day care home
2 for children is void.

3 ~~(d) Notwithstanding subdivision (c), a landlord may~~
4 ~~restrict or prohibit a tenant or lessee from using the rental~~
5 ~~or leased premises as a family day care home for children,~~
6 ~~or may place conditions upon the use of such premises as~~
7 ~~a family day care home for children.~~

8 *(d) Nothing in this section shall be construed to*
9 *prohibit an owner of residential property from requiring*
10 *a tenant who uses, or intends to use, the premises to*
11 *conduct a family day care home business to notify the*
12 *owner, or his or her agent, in writing 30 days prior to*
13 *commencement of such use. In addition, nothing in this*
14 *section shall be construed to prohibit an owner from*
15 *requiring that a tenant operating a family day care home*
16 *business pay an additional security, as defined in Section*
17 *1950.5 of the Civil Code, in an amount that is equal to or*
18 *less than two month's rent.*

