



LOOKING FOR A RENTAL UNIT

LOOKING FOR AND INSPECTING RENTAL UNITS

Looking for a rental unit

When you are looking for a rental unit, the most important things to think about are:

- The dollar limit that you can afford for monthly rent and utilities.
- The dollar limit that you can afford for all required fees and deposits (for example, application screening fees, holding, security, and pet deposits).
- If the property is located in a city or other area that limits the amount the rent can be increased each year (usually referred to as “**rent control**”).
- The location that you want.

In addition, you also should carefully consider the following:

- The type of rental unit that you want (for example, an apartment complex, a duplex, accessory dwelling unit (ADU), or a single-family house).
- The specifications or amenities that you want (such as, the number of bedrooms and bathrooms).
- Whether you want a month-to-month rental agreement or a rental agreement for a fixed-rental term.
- Access to schools, proximity to employment, stores, public transportation, medical facilities, libraries, child-care facilities, and other necessities and conveniences.
- The neighborhood (for example, its safety or available green spaces).
- The condition of the rental unit (see “Inspecting before you rent.”).
- Whether the unit is physically accessible or can be reasonably modified to allow a person with a disability to access and enjoy the housing.
- Other special requirements that you or your family members may have (for example, wheelchair access).
- What State and local tenant protection laws may apply to the unit.

You can obtain information on places to rent from many sources. Many websites list rental properties. Local newspapers carry classified advertisements on available rental units. In many areas, free weekly or monthly publications devoted to rental listings are available. Local real estate offices and property management companies often advertise rental listings. Bulletin boards in public buildings, local colleges, and places of worship often have notices about places for rent. You can also look for “For Rent” signs in the neighborhoods where you would like to live.

Note that landlords and housing providers cannot advertise or state a preference for tenants with certain sources of income. For example, an advertisement stating “No Section 8 tenants,” is unlawful.

Inspecting before you rent

Before you decide to rent, carefully inspect the rental unit with the landlord or the landlord’s agent. This will help you to see if the unit is a safe and healthy place for you to live and will give you a chance to request needed repairs before you move in. It will also protect you from being held responsible for conditions that already existed when you move in. Make sure that the unit has been well maintained. Use the inventory checklist as an inspection guide, and take notes about any needed repairs. Ask that you and the landlord (or agent) both sign the inventory checklist at the end to show you both agree with what it says. You can also take pictures of any issues on your phone. When you inspect the rental unit, look for the following problems:

- Cracks or holes in the floor, walls, or ceiling.

- Signs of leaking water or water damage in the floor, walls, or ceiling; this may include dry or wet spots, flaking, bubbling, or a damp or moldy smell.
- The presence of mold that might affect your or your family's health and safety. Mold may appear as dark spots on a wall or floor.
- Signs of rust in water appearing near the faucet. Bad smelling or discolored water coming from the faucet.
- Leaks in bathroom or kitchen fixtures.
- Lack of hot water.
- Windows and doors that do not open all the way or fail to shut securely.
- Inadequate lighting or insufficient electrical outlets.
- Inadequate heating or air conditioning.
- Inadequate ventilation or offensive odors.
- Defects in electrical wiring and fixtures.
- Damaged flooring.
- Damaged furnishings (if it is a furnished unit).
- Signs of insects, vermin, or rodents.
- Accumulated dirt and debris.
- Inadequate trash and garbage receptacles.
- Chipping paint in buildings, especially older buildings. Paint chipping could be indicative that the rental unit may be poorly maintained. Paint chips in older buildings sometimes contain lead, which can cause lead poisoning in children if eaten. If the rental unit was built before 1978, you should read the booklet, "Protect Your Family From Lead in Your Home," which is available by calling (800)-424-LEAD or online at <https://www.epa.gov/lead/protect-your-family-lead-your-home-english>.
- Signs of asbestos-containing materials in older buildings, such as flaking ceiling tiles, or crumbling pipe wrap or insulation. (Asbestos particles can cause serious health problems if inhaled or consumed.) For more information, go to www.epa.gov/asbestos.
- Any sign of hazardous substances, toxic chemicals, or other hazardous waste products in the rental unit or on the property.

Also, look at the exterior of the building and any common areas, such as hallways and courtyards. Does the building appear to be well-maintained? Are the common areas clean and orderly?

The quality of rental units can vary greatly. You should understand the positive and negative aspects of the unit and consider all of them before deciding whether to rent, and if the monthly rent is reasonable. Rental units without the amenities listed in this section (generally) are unlawful and violate the Health and Safety Code. They should not be rented, unless repaired by the owner first.

Ask the landlord who will be responsible for paying for utilities (gas, electric, water, and trash collection). You will probably be responsible for paying some, and possibly all, of these utilities. Try to find out how much money the previous tenant paid for utilities. This will help you calculate whether you can afford the total amount of the rent and utilities each month. With increasing energy costs, it is also important to consider whether the rental unit and its appliances are energy efficient.

If the rental unit is a house or duplex with a yard, ask the landlord who will be responsible for taking care of the yard. If you will be responsible for the yardwork, ask whether the landlord will supply necessary equipment, such as a lawn mower and a hose. However, regardless of what the lease states, a landlord is always responsible for making sure the outdoor area is clean and free of debris and garbage.¹⁵ At the same time, the tenant has a duty to keep the premises that they occupy and use clean and sanitary.¹⁶

During your initial viewing of the rental unit, you will have the chance to see how your potential landlord reacts to any concerns and/or questions that you raise. At the same time, the landlord will learn how you likely will handle potential problems. While you may not reach agreement on every issue, how you get along during the initial viewing process will help both of you decide whether you will become a tenant.

If you find problems like those listed above, discuss them with the landlord. If the problems

are ones that the landlord is required by law to repair, find out when the landlord intends to make the repairs. If you decide to rent the unit, it is recommended to include any repair promises made by the landlord as part of the written rental agreement, including the date by which the landlord will complete the necessary repairs.

If you think you may rent the unit, make note of any problems you observe when looking at the unit, including taking pictures and video. Be sure to address these issues when you perform a “walk-through” with the landlord before or just after moving so they are included on the inventory checklist (see Inventory Checklist). If the Landlord promises to make some of the repairs before you move in, be sure to confirm this in writing to avoid any problems later. You can write the promises down and ask the landlord to sign or send an email or text about the issue(s), requesting a reply as acknowledgement.” However, it is recommended that you make any repair promises a part of the written rental agreement to avoid any problems later.

Generally, the landlord will have a detailed move-in walkthrough form that the landlord will provide to all parties prior to the tenant moving in their possessions.

Finally, you should walk or drive around the neighborhood during the day, and again in the evening, to get a feel for the neighborhood. Ask neighbors whether they like living in the area. If the rental unit is in an apartment complex, ask some of the tenants how they get along with the landlord and the other tenants. Ask other tenants if the landlord has evicted tenants in the past or has served many eviction notices on other tenants. You may also want to ask how quickly the landlord responds to requests for repairs. If you are concerned about safety, ask neighbors and tenants if they know of any problems and whether they think the area is safe.

THE RENTAL APPLICATION

Before renting to you, most landlords will ask you to fill out a written **rental application**. A rental *application* is different from a **rental agreement**. The rental application is like a job or credit application that the landlord will use to decide whether to rent to you.

A rental application usually asks for the following information:

- The names, addresses, and telephone numbers of your current and past employers.
NOTE: Because California’s fair housing law prohibits discrimination on the basis of source of income, tenants who will pay some or all of the rent from other than employment income must be given the opportunity to provide verification of their income from those non-employment sources.
- The names, addresses, and telephone numbers of your current and past landlords.
- The names, addresses, and telephone numbers of people whom you want to use as references.
- Criminal history information.
- Tax identification number, which may be Social Security number.
- Your driver’s license number.

There may be instances where an applicant cannot provide a social security or driver license number. In such cases, an applicant may provide a “government-issued” photo identification such as a passport or a foreign driver license instead which would allow the landlord to verify the applicant’s identity without inquiring about the applicant’s immigration status, which is prohibited under the law.

Beginning in 2023, applicants will be able to submit a reusable tenant screening report with their applications instead of repeatedly paying for consumer background checks.¹⁷ The report should include their a) name, b) contact information, c) verification of employment, d) last known address, and e) eviction history. Landlords are not required to accept these reports, but if they do, they are not permitted to collect an application screening fee or fee for accessing the report.

Criminal History

Generally, a housing provider may check the criminal history of an applicant, although there are some types of criminal history information that providers may not seek or consider. Effective January 1, 2020, are new California regulations interpreting California anti-discrimination laws that prohibit landlords from considering certain types of criminal history including: 1) arrests that did not lead to a conviction 2) participation in a pretrial or post-trial diversion program 3) any record of a conviction that has been sealed by the court, or 4) any conviction that came from the juvenile justice system.¹⁸ The regulations also prohibit landlords from having “blanket bans” on all applicants with criminal histories.¹⁹ Instead, landlords must look at the individual circumstances involving a conviction to decide whether it is directly related to an applicant’s ability to be a good tenant.²⁰ For more information please visit: <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2020/04/CriminalHistoryWebinarRemediated.pdf>.

If a housing provider intends to deny someone housing (or otherwise take an adverse action against someone) based on past criminal history, it must be based on a past criminal conviction. The law requires the landlord to follow certain guidelines. Most importantly, the conviction the landlord is concerned about must be a “directly-related conviction.” This means a criminal conviction that has a direct and specific negative bearing on a substantial, legitimate, and nondiscriminatory interest or purpose of the housing provider, such as the safety of other residents, the housing provider’s employees, or the property.

Landlords should be able to provide a copy of their policy on the use of criminal history information and offer you an opportunity to present additional (mitigating) information that could inform their decision. They should also delay considering criminal history information until after your financial and other qualifications have been verified.

Prepaid Rental Listing Services

Businesses known as “**prepaid rental listing services**” sell lists of available rental units. These businesses are regulated by the California Department of Real Estate (DRE) and must be licensed.²¹ You may check the status of a license issued to a prepaid rental service on the DRE website (www.dre.ca.gov) to ensure that the service is licensed. A prepaid rental listing service must enter into a contract with you before accepting any money from you.²² The contract must describe the services that the prepaid rental listing service will provide you and the kind of rental unit that you want them to find. For example, the contract must state the number of bedrooms in the unit that you want and the highest rent that you are willing to pay. Contracts with prepaid rental listing services cannot be for more than 90 days.

Before you enter into a contract with a prepaid rental listing service, check to see that they are licensed and that their list of rentals is current. The law requires a prepaid rental listing service to provide you with a list of at least three currently available rentals within five days of entering into a contract.

If the list you purchased from a prepaid rental listing service does not contain three available rental units of the kind that you described in the contract, you are entitled to a refund.²³ You must demand a refund from the prepaid rental listing service within 15 days of signing the contract. Your refund demand must be in writing and must be personally delivered to the prepaid rental listing service, or sent via certified or registered mail. (Note, you are not entitled to a refund if you located a rental using the services of the prepaid rental listing service.)

If you do not locate a rental unit from the list you purchased, or if you locate a rental through another source, the prepaid rental listing service can keep only \$50 of the fee you paid. While you are entitled to a refund of the balance, you must request the refund in writing within 10 days after the end of the contract. Your refund request must include documentation that you did not move or that you did not find your new rental using the services of the prepaid rental listing service. If you cannot provide this documentation,

you can fill out and swear to a form that the prepaid rental listing service will give you for this purpose (or that you can locate yourself by reviewing the form language set forth in Business and Professions Code section 10167.10). You can deliver your request for a refund personally or by mail (preferably by certified or registered mail with return receipt requested). Look in the contract for the mailing address. The service must make the refund within 10 days after it receives your request, or they are subject to statutory and actual damages.

Other Rental Application Considerations

In the event the landlord does not accept a reusable tenant screening report from an applicant, the rental application may contain an authorization for the landlord to obtain a copy of your **credit report**, which will show the landlord how you manage your financial obligations.

The landlord may ask you questions about your employment, your monthly income, and other information to establish your ability to pay rent. It is illegal, however, for the landlord to discriminate against you based upon sex, race, color, religion, ancestry, national origin, disability, whether you have persons under the age of 18 living in your household, genetic information, marital status, sexual orientation, gender, gender identity, gender expression, veteran or military status,²⁴ age, medical condition, citizenship, primary language, or immigration status.²⁵ Other than your source of income and the number of persons in your household and how many are adults, it is also unlawful for a landlord to refuse to rent to you based on having or planning to have a family child care home.²⁶ A landlord may not ask you questions (either orally or in writing) about **any** of these characteristics, including your immigration or citizenship status.²⁷

California and federal law also makes it illegal for landlords to discriminate against potential tenants because they are survivors of domestic violence; doing so disproportionately impacts women, who comprise the vast majority of survivors, giving rise to a claim of sex discrimination.²⁸

In the context of a number of federally assisted housing programs, the Violence Against Women Act (VAWA) offers protections to applicants from being denied housing based on one's status as a victim of domestic violence, dating violence, sexual assault, or stalking.²⁹ VAWA protects survivors regardless of gender.

Although a landlord may not discriminate on the basis of the source of your income, a landlord is allowed to ask you about your level of income and the source of your income.³⁰

The landlord may also ask you about the number of people who will be living in the rental unit. In order to prevent overcrowding of rental units, California has adopted the Uniform Housing Code's occupancy requirements.³¹ Generally, a landlord can establish reasonable standards for the number of people in a rental unit, but the landlord cannot use overcrowding as a pretext for refusing to rent to tenants with children if the landlord would rent the unit to the same number of adults.³²

Landlords are forbidden by law from asking questions about your age or medical condition (see "Unlawful Discrimination,").³³

Landlords are also prohibited from discriminating against a tenant by refusing to rent to someone on the basis that they receive Section 8 assistance or participate in other similar housing voucher programs.³⁴ This means that a landlord now cannot refuse to accept a tenant on the basis that a tenant receives rental assistance from a voucher program.

CREDIT CHECKS

Credit reporting agencies (or “credit bureaus”) keep records of people’s credit histories, called “credit reports.” Credit reports state whether a person has a history of paying bills late, has been the subject of an **unlawful detainer lawsuit**, or has filed for bankruptcy.³⁵ The landlord or property manager will probably use the tenant’s rental application to check their credit history and past landlord-tenant relations. The landlord may obtain the tenant’s credit report from a credit reporting agency to assist the landlord with the screening process.

Some credit reporting agencies, called **tenant screening services**, collect and sell information about tenants. This information may include whether tenants paid their rent on time; damaged previous rental units; or were the subject of an unlawful detainer lawsuit (eviction lawsuit)³⁶. Tenant screening services and landlords cannot use an alleged COVID-19 rental debt as a negative factor in their evaluation of a tenant.³⁷

The landlord may use this information to make a final decision on whether to rent to you. Generally, landlords prefer to rent to people who have a history of paying their rent and bills on time. However, there are circumstances where the court seals the record of an eviction (called “masking”). For example, the COVID-19 Tenant Relief Act masks unlawful detainer actions filed between March 1, 2020 and September 30, 2021 based on a failure to pay rent and civil actions for recovery of COVID-19 rental debt.³⁸ When the record of an eviction is masked, credit reporting agencies are barred from including this information in a tenant screening report. Tenants can sometimes demonstrate rental history by presenting evidence of having paid rent on time and can demonstrate financial ability to pay by showing proof of income.

A landlord usually does not have to give you a reason for refusing to rent to you. However, if their decision is based partly or entirely on negative information from a credit reporting agency or a tenant screening service, the law requires the landlord to give you a written notice stating all of the following:

- The decision was based partly or entirely on information in such a report; and
- The name, address, and telephone number of the credit reporting agency or screening service; and
- A statement that you have the right to obtain a free copy of the report relied upon from the reporting agency that prepared it and to dispute the accuracy or completeness of information contained in the credit report.³⁹

If the landlord refuses to rent to you based on your credit report, it is recommended that you get a free copy of your credit report and correct any erroneous or fraudulent information that could lead to the further denials.⁴⁰ Additionally, if you paid an application fee you have a right to request a copy of that credit report from the landlord.⁴¹

Also, if you know what is contained in your credit report, you may be able to explain any problems when you fill out the rental application. For example, if you know that your credit report says that you never paid a particular bill, you can provide a copy of a canceled check to show that you actually paid the bill.

Your **credit score** is also important. The landlord probably will consider your credit score in deciding whether to rent to you. Your credit score is a numerical score that is based on information from a credit reporting agency. Landlords and other creditors use credit scores to gauge how likely a person is to meet his or her financial obligations, such as paying rent. You can request your credit score when you request your credit report (you may have to pay a reasonable fee for your score) or purchase your score from a vendor.⁴²

APPLICATION SCREENING FEE

When you submit a rental application, the landlord may charge you an application screening fee to cover the cost of obtaining information about you, such as checking your personal references and obtaining a credit report about you.⁴³

The application screening fee cannot legally be more than the landlord's actual out-of-pocket costs, including the cost of obtaining a consumer credit report, and the reasonable value for the time spent by the owner or the owner's agent in gathering information concerning the applicant. The amount is adjusted annually commensurate with an increase in the Consumer Price Index.⁴⁴ In 2020, an application screening fee cannot exceed \$52.46. The landlord must give you a receipt that itemizes the cost of obtaining and processing the information about you. The landlord must return any unused portion of the fee (for example, if the landlord does not check your references or does not run your credit).

The landlord cannot charge you an application screening fee when the landlord knows or should know that there is no vacancy, or that there will be no vacancy within a reasonable time. However, the landlord is permitted to charge an application screening fee under these circumstances if you provide informed written consent.⁴⁵

A landlord who has obtained your consumer credit report must provide you with a copy of the report upon your request.⁴⁶ As explained in the section on "Credit Checks," it is recommended that you obtain a copy of your credit report from the landlord so that you know what is being reported about you.

Before paying an application screening fee, ask the landlord the following questions:

- How long will it take to get a copy of your credit report?
- How long will it take to review the credit report and decide whether to rent to you?
- Is the fee refundable if the credit check takes too long and you're forced to rent another place?
- If you already have a current copy of your credit report, will the landlord accept it and either reduce the fee or not charge it at all?

If you do not like the landlord's policy on application screening fees, you may want to look for another rental unit. A landlord is required to return any unused portion of the screening fee. If you decide to pay the application screening fee, any agreement regarding a refund should be in writing.

HOLDING DEPOSIT

A holding deposit is a deposit tendered by the tenant/applicant and held by the landlord to take an available rental unit off of the market while the applicant's application is being processed or, once the landlord has approved the application and the parties have signed a rental agreement, hold the rental unit available for a stated period of time if the tenant is unable to move in immediately. Most landlords utilize a holding deposit agreement, which the parties sign, to govern how the holding deposit will be used. The holding deposit agreement requires the landlord to take the rental unit off of the market. If the application is not approved, it will direct the landlord to refund the holding deposit. If the application is approved and the parties sign a rental agreement, it will direct the landlord either to apply the holding deposit towards the first month's rent or security deposit or refund the holding deposit. If the application is approved, but the applicant fails to sign the rental agreement, it may permit the landlord to retain some or all of the holding deposit.

Ask the following questions before you pay a holding deposit:

- Will the deposit be applied to the first month's rent or security deposit? If the answer is yes, ask the landlord for a receipt and written confirmation of this agreement. Applying the deposit to the first month's rent is a common practice.
- Is any part of the holding deposit refundable if you change your mind about renting? As a general rule, if you change your mind, the landlord can keep some (and perhaps all) of your holding deposit. The amount that the landlord can keep depends on the costs that the landlord incurred in holding the unit such as additional advertising costs to find a new tenant or lost rent.

You may also lose your deposit if something happens and you cannot pay rent (for example, you lose your job).

If you and the landlord agree that all or part of the deposit will be refunded in the event that you change your mind or cannot move in, make sure that the written receipt clearly sets forth your agreement.

If you make an agreement to pay a holding deposit, always get a copy of this agreement in writing. When you pay the deposit, ask for a written receipt.

A holding deposit merely guarantees that the landlord will not rent the unit to another person for a stated period of time.

It does not give the tenant the right to move into the rental unit. The tenant must pay the first month's rent and all other required deposits within the holding period before occupying the unit. Otherwise, the landlord can rent the unit to another person and keep all or part of the holding deposit, depending on the agreement.

Suppose that the landlord rents to somebody else during the holding deposit period, and you are still willing and able to move in. The landlord should, at a minimum, return the entire holding deposit to you. You may also want to talk with an attorney, legal aid organization, tenant-landlord program, or housing clinic about whether the landlord is responsible for damages you incurred due to the loss of the rental unit.

If you give the landlord a holding deposit when you submit your rental application, but the landlord does not accept you as a tenant, the landlord must return the entire holding deposit.

UNLAWFUL DISCRIMINATION

What is unlawful discrimination?

A landlord cannot refuse to rent to a tenant, or provide unequal terms to a tenant, for a discriminatory purpose. The law also safeguards certain protected classes from discrimination. In California, protected groups, or "classes", include:

- Race, color
- Ancestry, national origin
- Religion
- Disability, mental or physical
- Sex, gender
- Sexual orientation
- Gender identity, gender expression
- Genetic information
- Marital status
- Familial status
- Source of income (including housing vouchers)
- Military or veteran status

Additionally, the Unruh Civil Rights Act, which applies to private housing, prohibits discrimination on the basis of citizenship, immigration status, primary language, age, medical condition, or any other arbitrary personal characteristic.⁴⁷ Discrimination on the basis of specified personal characteristics, is also prohibited.⁴⁸ Indeed, the California Legislature has declared that the opportunity to seek, obtain, and hold housing free of unlawful discrimination is a civil right protected under the United States and California Constitutions.⁴⁹

Discrimination can take many forms. Discrimination may mean treating a person or people differently because of a particular protected characteristic. Examples of different treatment could be a landlord failing to make repairs for tenants of a specific ethnicity or singling out tenants over a certain age for eviction. Discrimination also includes actions that were not

meant to be discriminatory but that harm protected groups.⁵⁰ For example, having very strict rules against how many people can live in a housing unit may result in excluding many families with children.

Under California law, it is unlawful for a landlord, managing agent, real estate broker, or salesperson to discriminate against or harass a person because of their race, color, religion, sex (including pregnancy, childbirth or medical conditions related to them) disability, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, veteran or military status, or genetic information disability.⁵¹ California law also prohibits discrimination based on any of the following:

- A person's age, medical condition, citizenship, primary language, immigration status, or personal characteristics, such as a person's physical appearance or other characteristics that may be termed as 'arbitrary' discrimination;⁵²
- A perception of a person's race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information, or a perception that a person is associated with another person who may have any of these characteristics, or⁵³
- Having or planning to have a family child care home.⁵⁴

A landlord cannot apply rules, regulations or policies to unmarried couples or couples who are registered domestic partners that do not apply to married couples.⁵⁵ For example, if a landlord allows married couples to combine their incomes to qualify for a unit, the landlord must also allow people who are unmarried (i.e., domestic partners, same-sex couples, roommates, etc.) to combine their income to qualify on the same basis as married couples.

Except as may be specifically required by federal law for certain housing programs, a landlord may not inquire as to the immigration or citizenship status of the tenant or prospective tenant, or require that a tenant or prospective tenant make any statement concerning his or her immigration or citizenship status.⁵⁶ However, a landlord can request information or documents in order to verify an applicant's identity and financial qualifications.⁵⁷ Whether or not a landlord can inquire about an existing or prospective tenant's immigration status, it is unlawful for a landlord for purposes of influencing a tenant to vacate his/her rental unit to threaten to disclose information regarding the immigration or citizenship status of a tenant, **occupant**, or other person associated with the tenant or occupant.⁵⁸ It also is unlawful for a landlord to harass, intimidate, or retaliate against an existing or prospective tenant by disclosing that person's immigration or citizenship status to federal, state or local law enforcement officials, including federal immigration officials.⁵⁹

In the case of a government rent subsidy, a landlord who is assessing a potential tenant's eligibility for a rental unit must use a financial or income standard that is based on the portion of rent that the tenant would pay.⁶⁰

A landlord cannot apply special rules to family child care someone because they plan to have a family child care home.⁶¹ Under California law, a family child care home is considered a residential use of property, not a business homes or refuse to rent to use.⁶² Any lease provisions directly prohibiting, restricting, or indirectly limiting the use of the property as a family child care home are void.⁶³ Therefore, even if a lease says, for example, "for residential use only" or "no businesses allowed," a tenant is not violating their lease by operating a family child care home because these lease provisions cannot be enforced. If your rights as a provider under the above law are being violated, you can file a complaint with the California Department of Fair Employment & Housing. You can also sue whoever is violating your rights as a family child care provider.

It is illegal for landlords to discriminate against families who have or care for children under the age of 18.⁶⁴ However, housing for senior citizens may exclude families with children. "Housing for senior citizens" includes housing that is occupied only by persons who are at least age 62, or housing that is operated for occupancy by persons who are at least age 55 and that meet other occupancy, policy, and reporting requirements stated in the law.⁶⁵

Landlords also cannot discriminate against tenants due to their status, or perceived status, as a survivor of domestic violence, because this may be an example of sex discrimination under both California and Federal law. These laws are subject to the limited exceptions described below.⁶⁶

Limited exceptions for single rooms and roommates

If the owner of an owner-occupied, single-family home rents out a single room in his/her home to a roommate or boarder, and there are no other roommates or boarders paying rent to live in the household, with a limited exception, the owner is not subject to the California Fair Employment and Housing Act of the federal Fair Housing Act.⁶⁷ The exception is that the owner cannot make oral or written statements, or use notices or advertisements which indicate any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information.⁶⁸ Further, the owner cannot discriminate on the basis of age, medical condition, citizenship, primary language, immigration status, mental or physical disability or personal characteristics, such as a person's physical appearance or other characteristics that may be termed as 'arbitrary' discrimination.⁶⁹

A person in a single-family dwelling who advertises for a roommate or a boarder may express a preference on the basis of sex, if living areas (such as the kitchen, living room, or bathroom) will be shared by the roommate.⁷⁰ This provision of the law does not permit a person to advertise for a roommate regarding other preferences such as their religion, whether they are in college, or whether they have children. No law allows advertisement for such preferences.

Resolving housing discrimination problems

If you are a victim of housing discrimination (for example, if a landlord refuses to rent to you because of your race or national origin), you may have several legal remedies, including:

- Recovery of out-of-pocket losses.
- An injunction prohibiting the unlawful practice.
- Access to housing that you were denied.
- Damages for emotional distress.
- Civil penalties or punitive damages.
- Attorney's fees.

Sometimes, a court may order the landlord to take specific action to stop unlawful discrimination. For example, the landlord may be ordered to advertise vacancies in minority or local newspapers, or place fair housing posters in the rental office.

A number of resources are available to help resolve housing discrimination problems:

- Local **fair housing organizations** (often known as fair housing councils). Look in the business or commercial section of the phone book, use online resources, or dial 4-1-1 for directory assistance. The National Fair Housing Alliance maintains an interactive map of local organizations that advocate for fair housing at <https://nationalfairhousing.org/find-nfha-operating-supporting-members/>.
- Landlords may look for local California Apartment Association chapters. Look in the business or commercial section of the phone book. The California Apartment Association maintains a list of local apartment association chapters at www.caanet.org.
- Local government agencies. Look in the governmental section of the phone book under City or County Government Offices, search your city and county website for fair housing information, or call the offices of local elected officials (for example, your city council representative or your county supervisor) or dial 4-1-1 for directory assistance.
- The **California Department of Fair Employment and Housing** (DFEH) investigates housing discrimination complaints (but not other kinds of landlord-tenant problems). DFEH enforces the Fair Employment and Housing Act which prohibits discrimination based upon the following categories: ancestry, national origin, marital status, citizenship,

mental or physical disability, primary language, familial status, race, color, gender identity, gender, religious expression, sex, gender, genetic information, sexual orientation, immigration status, and source of income. If you feel that you have been the subject of housing discrimination, contact DFEH. The DFEH Housing Enforcement Unit can be reached at (800) 884-1684 TTY (800) 700-2320. You can learn about DFEH's complaint process at <https://www.dfeh.ca.gov/complaintprocess/>.

- The **U.S. Department of Housing and Urban Development (HUD)** enforces the federal fair housing law, which prohibits discrimination based on sex, race, color, religion, national origin, familial status, and disability. Additionally, HUD's Equal Access Rule requires equal access to HUD programs without regard to a person's actual or perceived sexual orientation, gender identity, or marital status. To contact HUD, look in the governmental section of the phone book under United States Government Offices, or go to www.hud.gov.
- **Legal aid organizations** provide free legal advice, representation, and other legal services in noncriminal cases to economically disadvantaged persons. Legal aid organizations are located throughout the state. Look in the business or commercial section of the phone book under Attorneys or go to <https://lawhelpca.org>. The Legal Aid Association of California also maintains a directory of legal aid organizations at www.laaonline.org, as does the Department of Real Estate at www.housing.ca.gov.
- Private attorneys. You may consider hiring a private attorney to take legal action against a landlord who has discriminated against you. For the names of attorneys who specialize in housing discrimination cases, contact your county bar association or an attorney referral service.

You must act quickly if you believe that a landlord has unlawfully discriminated against you. The time limits for filing housing discrimination complaints are short. For example, a complaint to the DFEH must be filed within one year from the date of the discriminatory act.⁷¹ Make sure you document the unlawful discrimination when it occurs. First, write down what happened, including dates and the names of those involved. Then, contact one of the resources listed above for advice and help.

¹⁵ Civ. Code § 1941.1(a)(6).

¹⁶ Civ. Code § 1941.2.

¹⁷ Civil Code ("Civ. Code") § 1950.1.

¹⁸ California Code of Regulations ("Cal. Code of Regulations") § 12269 (a) 1-4.

¹⁹ Cal. Code of Regulations § 12259 (a)(5).

²⁰ Cal. Code of Regulations §§ 12264 - 12271.

²¹ Business and Professions ("Bus. & Prof.") Code § 10167.

²² Bus. & Prof. Code § 10167.9(a).

²³ Bus. & Prof. Code § 10167.10.

²⁴ Government Code ("Gov. Code") §§ 12955(b), 12955.1-12955.9 and 12989-12989.3; 42 United States Code ("U.S.C.") §§ 3601-3631; Moskovitz et al. California Landlord Tenant Practice §§ 2.20-2.27 (Cont.Ed.Bar 2020).

²⁵ Civ. Code §§ 51 and 51.2.

²⁶ Gov. Code §§ 12955(b), 12955.1-12955.9 and 12989-12989.3; 42 U.S.C. §§ 3601-3631; Moskovitz et al. California Landlord Tenant Practice § 1:39 (Cont.Ed.Bar 2020).1. Health & Safety Code § 1597.41 (a)-(c) (relating to family child care homes). Family child care providers, family child care provider applicants, and other affected individuals who have had their protections violated under family child care housing laws have rights to remedies and procedures under the Fair Employment and Housing Act (Gov. Code § 12980 et seq.). Health & Saf. Code § 1597.41(e).

²⁷ Civ. Code § 1940.3(b). California Practice Guide, Landlord Tenant, § 2:569.9 (Rutter Group 2020).

²⁸ 42 U.S.C. §§ 3601-3619; Gov. Code § 12955 (prohibiting sex discrimination); Sara K. Pratt, U.S. Dept. of Housing and Urban Dev., Office of Fair Housing & Equal Opportunity, Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act (2011).

²⁹ See generally 34 U.S.C. § 12491. For general information about which programs are covered by VAWA, please see this pamphlet from the National Housing Law Project: <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure-English-and-Spanish-combined.pdf>. An attorney can help you figure out if VAWA protections apply in your case. For the purposes of VAWA, the following definitions apply. "Domestic

violence” is defined as “felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.” 34 U.S.C. § 12291(a)(8). “Dating violence” is defined as “violence committed by a person--(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship [;] (ii) The type of relationship [;] (iii) The frequency of interaction between the persons involved in the relationship.” 34 U.S.C. § 12291(a)(10). “Sexual assault” is defined as “any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.” 34 U.S.C. § 12291(a)(29). “Stalking” is defined as “engaging in a course of conduct directed at a specific person that would cause a reasonable person to--(A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. 34 U.S.C. § 12291(a)(30).

³⁰ Gov. Code § 12955(p)(2).

³¹ Health & Saf. Code § 17922. 1997 Uniform Housing Code § 503(b) (every residential rental unit must have at least one room that is at least 120 square feet; other rooms used for living must be at least 70 square feet; and any room used for sleeping must increase the minimum floor area by 50 square feet for each occupant in excess of two). Different rules apply in the case of “efficiency units.” See 1997 Uniform Housing Code § 503(b), Health & Saf. Code § 17958.1.

³² Rosenquest & Portman, *The California Landlord's Law Book: Rights & Responsibilities*, 18th Edition, pages 183- 184 (NOLO Press 2019). This reference suggests that a landlord's policy that is more restrictive than two occupants per bedroom plus one additional occupant is suspect as being discriminatory against families with children.

³³ Gov. Code §§ 12900-12996; Civ. Code §§ 51-53; 42 U.S.C § 3601 and following. However, after you and the landlord have agreed that you will rent the unit, the landlord may ask for proof of your disability if you ask for a “reasonable accommodation” for your disability, such as installing special faucets or door handles and your disability or the need for the accommodation are not known or apparent. (Rosenquest & Portman, *The California Landlords' Law Book: Rights & Responsibilities*, 18th Ed., pages 172-173 (NOLO Press 2019)). See chapter 9 of this reference for a comprehensive discussion of discrimination.

³⁴ Gov. Code §§ 12927(c)(1), (i); 12955(a), (k).

³⁵ Rosenquest & Portman, *The California Landlord's Law Book: Rights & Responsibilities*, 18th Ed., pages 21-23 (NOLO Press 2019); California Practice Guide, *Landlord-Tenant*, § 9:419.5 (Rutter Group 2020).

³⁶ *Schoendorf v. Unlawful Detainer Registry, Inc.* (2002) 97 Cal.App.4th 227, 231.

³⁷ Civ. Code § 1785.20.4.

³⁸ Code of Civil Procedure (“Code Civ. Proc.”) § 1161.2.5; SB 91 (Committee on Budget and Fiscal Review, Chapter 2, Statutes of 2021); AB 832 (Chiu, Chapter 2, Statutes of 2021).

³⁹ Consumer Credit Reporting Agencies Act, Civ. Code §§ 1785.1-1785.36 and § 1785.20(a); Investigative Consumer Reporting Agencies Act, Civ. Code §§ 1786-1786.60 and § 1786.40; 15 U.S.C. §§ 1681-1681x and 1681m(a). In order to receive a free copy of your credit report, you must request it within 60 days after receiving the notice of denial. See discussion in California Practice Guide, *Landlord-Tenant*, §§ 2:104.50-2:104.55 (Rutter Group 2020). Landlords' responsibilities when using credit reports are outlined in a publication by the Federal Trade Commission titled “Using Consumer Reports: What Landlords Need to Know,” which can be found online at www.ftc.gov/bcp/edu/pubs/business/credit/bus49.shtm.

⁴⁰ Civ. Code §§ 1785.16 and 1786.24; 15 U.S.C. § 1681i.

⁴¹ Civ. Code § 1950.6(f).

⁴² Civ. Code §§ 1785.15(a)(2), 1785.15.1 and 1785.15.2; 15 U.S.C. § 1681g(f). Vendors include www.TransUnion.com, www.Experian.com, www.Equifax.com, and www.myfico.com.

⁴³ Civ. Code § 1950.6. The maximum fee is adjusted each year based on changes in the Consumer Price Index since January 1, 1998. In 2020, the maximum allowable fee is \$52.46.

⁴⁴ Civ. Code § 1950.6.

⁴⁵ Civ. Code § 1950.6(c).

⁴⁶ Civ. Code § 1950.6(f).

⁴⁷ Civ. Code § 51.

⁴⁸ California Practice Guide, *Landlord-Tenant*, § 2:553.25 (Rutter Group 2020).

⁴⁹ Gov. Code § 12921(b).

⁵⁰ Cal. Code Regs. § 12060.

⁵¹ Gov. Code §§ 12926(p), 12927(e) and 12955(a),(d). Fair Employment and Housing Act, Gov. Code § 12900 and following; and federal Fair Housing Act, 42 U.S.C. § 3601 and following.

⁵² Civ. Code §§ 51, 51.2, 53; *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142.

⁵³ Gov. Code § 12955(m); Civ. Code § 51.

⁵⁴ Health & Saf. Code § 1597.41 (a)-(c).

⁵⁵ California Practice Guide, *Landlord-Tenant*, § 2:571.15 (Rutter Group 2020).

⁵⁶ Civ. Code § 1940.3; California Practice Guide, *Landlord-Tenant*, § 2:569.7 (Rutter Group 2020).

⁵⁷ California Practice Guide, *Landlord-Tenant*, § 2.569.10 (Rutter Group 2020).

⁵⁸ Civ. Code § 1940.2(a)(5).

⁵⁹ Civ. Code § 1940.35.

⁶⁰ Gov. Code §§ 12955(n) and 12955(o).

⁶¹ Health & Saf. Code § 1597.41(b)-(c). Family child care providers do not need their landlord's consent to operate a family child care home. However, family child care providers must give their landlords a 30-day written notice before operating their family child care home. Health & Saf. Code § 1597.41(d)(1). Small family child care providers who care for more than 6 and up to 8 children at a time must get their landlord's written consent.. Large family child care providers who care for more than 12 and up to 14 children at a time must get their landlord's written consent. Health & Saf. Code § 1597.44(c); Health & Saf. Code § 1597.465 (c).

⁶² Health & Saf. Code §§ 1597.40(a), 1597.43(a); 1597.45(a) and 1597.45(f). Health & Saf. Code § 1597.45 (no business license, fee, or tax shall be imposed on family child care homes).

⁶³ Health & Saf. Code § 1597.40(b)-(c).

⁶⁴ Gov. Code § 12955.2.

⁶⁵ 42 U.S.C. § 3607(b); Civ. Code § 51.3(b)(1). "Housing for senior citizens" also includes: Housing that is provided under any state or federal program that the Secretary of Housing and Urban Development has determined is specifically designed and operated to assist elderly persons (42 U.S.C. § 3607(b)); or a housing development that is developed, substantially rehabilitated or substantially renovated for senior citizens and that has the minimum number of dwelling units required by law for the type of area where the housing is located (for example, 150 dwelling units built after January, 1996 in large metropolitan areas) (Civ. Code §§ 51.2 and 51.3. Gov. Code § 12955.9. See *Marina Point Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 744-745.).

⁶⁶ Gov. Code §12955 (FEHA); 42 U.S.C. §§ 3601-3619; Sara K. Pratt, U.S. Dept. of Housing and Urban Dev., Office of Fair Housing & Equal Opportunity, *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act* (2011). In the context of a number of federally assisted housing programs, the Violence Against Women Act (VAWA) offers protections from discrimination based on one's status as a victim of domestic violence, dating violence, sexual assault, or stalking. 34 U.S.C. § 12491(b). For general information about which programs are covered by VAWA, please see this pamphlet from the National Housing Law Project: <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure-English-and-Spanish-combined.pdf>. An attorney can help you figure out if VAWA protections apply in your case. For the purposes of VAWA, the following definitions apply. "Domestic violence" is defined as "felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction." 34 U.S.C. § 12291(a)(8). "Dating violence" is defined as "violence committed by a person-- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship [;] (ii) The type of relationship [;] (iii) The frequency of interaction between the persons involved in the relationship." 34 U.S.C. § 12291(a)(10). "Sexual assault" is defined as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent." 34 U.S.C. § 12291(a)(29). "Stalking" is defined as "engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. 34 U.S.C. § 12291(a)(30).

⁶⁷ Gov. Code § 12927(a)(2)(A); 42 U.S.C § 3603(b)(2).

⁶⁸ Gov. Code §§ 12927(a)(2)(A) and 12955(c).

⁶⁹ Civ. Code §§ 51 and 51.2; Gov. Code § 12948.

⁷⁰ Gov. Code § 12927(c)(2)(B).

⁷¹ Gov. Code § 12980(b).

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