

Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 42 (Ramos) – As Amended March 30, 2023

SUBJECT: Tiny homes: fire sprinkler requirements

SUMMARY: Prohibits a local agency from imposing or enforcing a requirement to provide fire sprinklers in temporary dwelling units less than 250 square feet if certain conditions are met. Specifically, **this bill:**

- 1) Prohibits, notwithstanding any law, a local agency from imposing or enforcing any requirement to provide fire sprinklers for a temporary dwelling unit with a total floor area of less than 250 square feet.
- 2) Requires a temporary dwelling unit with a total floor area of less than 250 square feet that does not provide fire sprinklers to comply with alternative fire and life safety standards that include, at a minimum, all of the following requirements:
 - a) Provide one smoke alarm and one carbon monoxide alarm in each unit, installed in accordance with the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations);
 - b) Provide one fire extinguisher in each unit;
 - c) Ingress and egress must facilitate rapid exit of the temporary dwelling unit;
 - d) Provide emergency evacuation signage and emergency egress lighting;
 - e) Every egress must be free from storage and other obstructions;
 - f) Twenty-four-hour active fire watch must be provided at the site, unless the temporary dwelling units are noncombustible, are separated to the side and rear by at least 10 feet, or are separated to the side and rear by at least 6 feet and have an exterior one-hour fire resistance rated wall between the units;
 - g) Fire code inspection plans must occur in regular intervals, as determined by the local agency; and
 - h) Violations of the alternative fire and life safety standards at sites with temporary dwelling units must be handled in accordance with existing law related to code inspections and code violations in homeless shelters (Article 2.3 (commencing with Section 17974) of Chapter 5 of the Health and Safety Code).
- 3) Defines, for purposes of this section, “temporary dwelling unit” to mean any nonpermanent fixture intended for human habitation that does not include plumbing.
- 4) States that this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, therefore, this bill applies to all cities, including charter cities.

- 5) States that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, or changes the definition of a crime within the meaning of existing law and Section 6 of Article XIII B of the California Constitution.

EXISTING LAW:

- 1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services (DGS), and requires CBSC to approve and adopt building standards and to codify those standards in the California Building Standards Code. (Health and Safety Code (HSC) Section 18930)
- 2) Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to CBSC for residential buildings, including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures. (HSC 17921)
- 3) Requires the State Fire Marshal (SFM) to adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and accessory structures. (HSC 17921)
- 4) Authorizes a jurisdiction to declare a shelter crisis. “Declaration of a shelter crisis” is defined as the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (Government Code (GC) Section 8698)
- 5) During the period of emergency, suspends the provisions of any state or local statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. Political subdivisions may, in place of such standards, enact municipal health and safety standards to be operative during the housing emergency, consistent with ensuring minimal public health and safety. (GC 8698.1(b))
- 6) Until January 1, 2026, provides that, upon a declaration of a shelter crisis by a city, county, or city and county, the following shall apply, among other requirements:
 - a) Defines a “homeless shelter” to mean a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis, including a parking lot owned or leased by a city, county, or city and county specifically identified as one allowed for safe parking by homeless and unstably housed individuals;
 - b) Allows emergency housing to include homeless shelters located or constructed on any land owned or leased by a city, county, or city and county, including land acquired with low- and moderate-income housing funds, and provides that this section only applies to a public facility or homeless shelters reserved entirely for the homeless;

- c) Authorizes a city, county, or city and county, in lieu of compliance with local building approval procedures or state housing, health, habitability, planning and zoning, or safety standards, procedures, and laws, to adopt by ordinance reasonable local standards and procedures for the design, site development, and operation of homeless shelters, to the extent that strict compliance with state and local standards and laws in existence at the time of ordinance adoption would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis;
 - d) For a jurisdiction that adopts an ordinance establishing reasonable local standards, requires those standards to, at a minimum, meet certain standards provided in the California Residential Code and California Building Code, and any future standards adopted by HCD related to emergency housing or emergency housing facilities, unless the jurisdiction adopts finding stating why the standards cannot be met and how the standards in the ordinance protect health and safety. (GC 8698.4)
- 7) The 2022 California Building Code, Appendix P – Emergency Housing specifies the following:
- a) Requires emergency sleeping cabins, emergency transportable housing units, membrane structures, and tents constructed or assembled in accordance with the appendix to be occupied only during declarations of state of emergency, local emergency, or shelter crisis;
 - b) If not otherwise addressed in the appendix, requires the enforcing agency to determine and enforce fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms;
 - c) For emergency sleeping cabins, as defined, requires the following:
 - i) The minimum interior floor area must be not less than 70 square feet for one occupant;
 - ii) At least two forms of egress must be provided and placed remotely from each other, one of which may be an egress window that meets specified requirements;
 - iii) Must be provided with at least one smoke alarm installed in accordance with the California Residential Code; and
 - iv) If the cabin contains a fuel-burning appliance or a fireplace, a carbon monoxide alarm must be installed in accordance with the California Residential Code.
- 8) Requires a city or county that receives a complaint from an occupant of a homeless shelter, as defined, that alleges a homeless shelter is substandard pursuant to statewide habitability law, to inspect the shelter and identify whether the shelter is substandard, and as applicable, advise the owner or operator of the shelter of each violation and of each action that is required to be taken to remedy the violation. (HSC 17974.1)
- 9) Requires the jurisdiction to issue and serve the notice of violation immediately, if the city or county determines that a violation under 8) constitutes an imminent threat to the health and safety of the occupants of the shelter. In the event the jurisdiction determines that

deficiencies, violations, or conditions exist at a shelter that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the shelter unfit for human habitation, the jurisdiction is authorized to issue an emergency order directing the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions. (HSC 17974.1)

- 10) Authorizes civil penalties against an owner or operator of a shelter in an amount subject to determination by the jurisdiction if the owner or operator fails to meet certain timelines to correct a violation. (HSC 17974.4)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Homelessness in California is an issue that requires unique solutions to combat it and in this case, my bill aims to provide one. Our overall goal is to help service providers on the ground who build these tiny homes for those who are at-risk or currently experiencing homelessness. By amending state law to exempt dwellings 250 square feet or less from the requirements of fire sprinklers, we save these organizations funds that can be put back into more homes or services. This bill also adds alternative fire and safety requirements to ensure we keep the residents safe. I firmly believe that helping our service providers build tiny homes by exempting them from fire sprinkler requirements is one of the many steps we can take as a state to combat this issue."

Homelessness in California: Over 173,000 individuals in California experience homelessness on any given night, based on the most recent annual Point in Time (PIT) Count conducted in January 2022. Of those individuals, over 115,000 are unsheltered, meaning they live on the streets, sleep in cars, camp in parks, or are otherwise staying in places not meant for human habitation. California accounted for 30 percent of the country's homeless population in 2022, despite our state making up less than 12 percent of the nation's total population. In addition, California is home to half of the country's unsheltered people, and significant racial disproportionality exists among those experiencing homelessness, as 30 percent of people experiencing homelessness identify as Black/African American, while only comprising 6 percent of the state's overall population.

The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership Corporation's (CHPC)'s Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 683,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50 percent of their income toward rent each month. CHPC estimates that the state needs an additional 1.2 million housing units affordable to very low-income Californians to eliminate the shortfall.¹

"Tiny Homes" in the Homelessness Context: Tiny homes are not formally defined in statute or regulations in California, but the phrase generally refers to a detached unit that is smaller than a traditional dwelling unit – most range in size from roughly 50-400 square feet. While a tiny

¹ <https://chpc.net/housingneeds/>

home can be a permanent dwelling affixed to a piece of real property and treated like a normal residence or accessory dwelling unit (ADU), or have wheels and be treated like a mobilehome or recreational vehicle, in the homelessness context these are most often cabins or sheds that are intended to provide temporary shelter for people experiencing homelessness. They have gained in popularity in recent years due to their ability to be installed quickly on a site, relative cost-effectiveness compared to some other shelter types, ability to be relocated as needed, and the preference of many people experiencing homelessness for non-congregate shelter options where they have more privacy and autonomy. The cabins are generally provided on a site leased or owned by a public entity as part of a jurisdiction's shelter strategy, though some have been developed privately. The cabins have electricity and may or may not have sinks and other plumbing fixtures installed – if not, there must be a shared bathroom facility. In jurisdictions subject to the Shelter Crisis Act, these emergency cabins have to comply with specific emergency housing building standards, which are spelled out in the California Building Code, Appendix P.

In March 2023, Governor Newsom announced a new effort wherein the state will purchase and deliver 1,200 of these emergency shelter cabins to four communities – San Jose, Sacramento, Los Angeles, and San Diego County. The California National Guard will be mobilized to assist in the preparation and delivery of these tiny home units. The state may also leverage state surplus land to provide siting options for the cabins, though the local governments will be responsible for placement, identification of residents, services, and staffing.

Building Standards and Fire Sprinklers: All newly constructed permanent housing in California is required to be built to the health and safety specifications laid out in the California Building Standards Code, and more specifically the California Residential Code for one- and two-unit dwellings. Local agencies may enact standards that go beyond the statewide codes, but may not approve rules that are less stringent. In 2011, the code was updated to require all newly constructed one- and two-unit dwellings to have fire sprinklers installed, in order to reduce the number of injuries and deaths caused by fires breaking out in these housing types each year. The requirement came out of a stakeholder process led by the State Fire Marshal (SFM). While the standards require sprinklers in newly constructed residential buildings, they do not require sprinkler installation in existing residential buildings. The sprinkler mandate did not include a square footage threshold or contemplate situations where dwellings are not permanent or are only intended for temporary habitation, as in the case of emergency tiny home cabins.

Initially, this sprinkler requirement also applied to newly constructed ADUs, but in 2016, SB 1069 (Wieckowski, Chapter 720) modified this requirement. The law was changed so that ADUs attached to primary dwellings that are not subject to fire sprinkler requirements (effectively any houses built before 2011) do not have to install fire sprinklers, while any ADUs attached to housing built after 2011 must include sprinklers.

In addition, and discussed further below, the Legislature has reduced or eliminated fire sprinkler requirements in certain emergency shelters in jurisdictions subject to the Shelter Crisis Act.

Shelter Crisis Act and California Building Code Appendix P: As the state's homelessness crisis has worsened, more people are dying from the health impacts of living outside for a sustained period. The Shelter Crisis Act helps cities and counties respond to the immediate and harmful effects of homelessness. The Act lays out certain benefits and requirements to a city or county that adopts a shelter crisis, including waived or lessened building standards for emergency

housing, including homeless shelters. As a result of the passage of AB 2253 (Ting, Chapter 147, Statutes of 2020), those standards must be adopted in a local ordinance which must meet certain minimum standards provided in California Building Code Appendix P – Emergency Housing.

The following 13 cities and counties have adopted a shelter crisis:

City of Los Angeles	City of Berkeley
City of San Jose	City of San Diego
City of Oakland	City of Sacramento
City of Redding	City of Livermore
City of Fairfield	Kern County
Alameda County	San Francisco County/City
Santa Clara County	

While the Shelter Crisis Act does provide for lessened building standards in certain circumstances, the Appendix P – Emergency Housing regulations specifically devolve fire sprinkler and other fire requirements to the local enforcing agency, so an emergency sleeping cabin may still be required to install fire sprinklers by a local building official or fire marshal.

However in 2020, the Legislature passed AB 2960 (Gipson, Chapter 148), which provided a time-limited allowance for certain shelters within existing buildings to be constructed under the Shelter Crisis Act that did not comply with fire sprinkler mandates, provided a city had adopted standards approved by the SFM. As background, the City of Los Angeles sought to convert some existing buildings into emergency shelters, but the Los Angeles Fire Department only approved the use of existing buildings for emergency shelters without fire sprinklers for 90 days. Sprinkler systems can be expensive and time consuming to install depending on where existing plumbing is located, adding to the difficulties of providing urgently needed shelter on a timely basis. AB 2960 enabled the City of Los Angeles to open a year-round shelter in an existing building without installing a sprinkler system, provided the SFM approved the city’s fire and life safety standards. This exemption was very limited and only applied to shelters operated by a city and not to private shelters. No new permits could be issued for these shelters after January 1, 2023.

Key Provisions of This Bill: This bill prohibits a local government from requiring fire sprinklers in certain temporary tiny home/emergency cabin shelters where there is no plumbing. The author and sponsors contend that a local government’s ability to impose a requirement for fire sprinklers in these projects can have the effect of deterring the construction of the project or reducing the number of units that may be feasible to construct. Installing fire sprinklers in a unit that does not have plumbing or any water run to it can add significant cost, potentially up to several thousand dollars per unit.

To address fire safety concerns, this bill requires a temporary dwelling unit to meet a variety of other criteria in order to be exempt from the fire sprinkler requirement, including:

- Must be less than 250 square feet;
- Must have a smoke alarm, carbon monoxide alarm, and fire extinguisher in each unit;
- Ingress and egress must facilitate the rapid exit of the unit;
- Emergency evacuation signage and emergency egress lighting must be provided;
- Egress must be free from obstructions;

- In certain circumstances, the site must provide 24-hour active fire watch. This requirement does not apply if:
 - The units are noncombustible;
 - The units are separated to the side and rear by at least 10 feet; or
 - The units are separated to the side and rear by at least six feet and have an exterior one-hour fire resistance rated wall between the units that is the same height as the units or higher;
- Fire code inspection plans must occur in regular intervals, as determined by the local agency; and
- Violations of these standards must be handled in conformance with existing law regarding violations of habitability standards for homeless shelters.

Arguments in Support: According to the Family Assistance Program, the bill’s sponsor, “Tiny homes can be an affordable solution to the housing crisis. In many cases, they can be built for less than \$20,000. These structures are meant to be temporary. They are small, frequently smaller than a typical garage. In most cases, they are like a studio apartment, but without as many amenities. They can be built when needed and moved to another location when the need is greater in another area. A fire suppression system can double the cost of a tiny home. ... Assembly Bill 42 will allow community groups to build tiny homes in an affordable manner to help people get off the streets.”

Arguments in Opposition: According to the California Building Officials (CALBO), “From a safety perspective, CALBO is concerned that reducing requirements for fire sprinklers could put public safety at risk as fire sprinklers have been shown to reduce the rates of fire death and injury rates in sprinklered homes. The National Fire Protection Association showed in their October 2021 Research Report that dwelling units where fire sprinklers were present, reduced civilian fire death and injury rates by 89% and 27% respectively compared to a home without fire sprinklers. Fire sprinklers have shown time and time again that injury or death from fires in structures can be significantly reduced when fire sprinklers are present in a residential dwelling unit. CALBO recognizes that the alternative fire and life safety standards in the bill may provide an alternative approach to fire safety, but foundationally CALBO members support using the safest precautions in residential development.”

Committee Amendments:

- 1) In order to better define the type of unit that this bill applies to, and reduce confusion for local officials in understanding when the prohibition would apply, amend Section 1 of the bill as follows:

17922.4. (a) Notwithstanding any law, a local agency shall not impose or enforce any requirement to provide fire sprinklers for a temporary dwelling unit **a temporary sleeping cabin** with a total floor area of less than 250 square feet.

(b) ~~A temporary dwelling unit~~ **A temporary sleeping cabin** with a total floor area of less than 250 square feet that does not provide fire sprinklers shall comply with alternative fire and life safety standards that include, at a minimum, all of the following requirements:

- (1) One smoke alarm and carbon monoxide alarm shall be provided in each unit, and shall be installed in accordance with the California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations).

- (2) One fire extinguisher shall be provided in each unit.
 - (3) Ingress and egress shall facilitate rapid exit of the ~~temporary dwelling unit~~ **temporary sleeping cabin**.
 - (4) Emergency evacuation signage and emergency egress lighting shall be provided.
 - (5) Every egress shall be free from storage and other obstructions.
 - (6) Twenty-four-hour active fire watch shall be provided at the site, unless the ~~temporary dwelling units~~ **temporary sleeping cabins** are separated to the side and rear by at least 10 feet, or the ~~temporary dwelling units~~ **temporary sleeping cabins** are separated to the side and rear by at least 6 feet and have an exterior one-hour fire resistance rated wall between the units that is at least the height of the units. This paragraph shall not apply if the ~~temporary dwelling units~~ **temporary sleeping cabins** are noncombustible.
 - (7) Fire code inspection plans shall occur in regular intervals, as determined by the local agency.
 - (8) Violations of the alternative fire and life safety standards at sites with ~~temporary dwelling units~~ **temporary sleeping cabins** shall be handled in accordance with Article 2.3 (commencing with Section 17974) of Chapter 5.
- (c) For purposes of this section, ~~“temporary dwelling unit” means any nonpermanent fixture intended for human habitation that~~ **“temporary sleeping cabin” means a nonpermanent fixture that is intended to provide temporary housing to people experiencing homelessness or at risk of homelessness, has a total floor area of less than 250 feet, and** does not include plumbing.

Related Legislation:

AB 2211 (Ting) of the 2021-2022 Session would have expanded the Shelter Crisis Act to jurisdictions that met a threshold of unsheltered homeless persons, even if a shelter crisis had not been declared locally, and applied all provisions of the Act to private emergency shelters, except that the requirement to comply with specified minimum building standards was not extended to private shelters. AB 2211 was held in the Assembly Appropriations Committee.

AB 2553 (Ting), Chapter 147, Statutes of 2020 expanded the Shelter Crisis Act to all cities and counties that adopt an ordinance declaring a shelter crisis, added safe parking sites to the definition of “homeless shelter” under the Act, and extended the Act’s sunset date until 2026.

AB 2960 (Gipson), Chapter 148, Statutes of 2020 allowed the City of Los Angeles and other cities over 3.5 million people who have declared a shelter crisis to open a year-round shelter in an existing building without installing a sprinkler system, provided the State Fire Marshal approved the city’s fire and life safety standards.

AB 932 (Ting), Chapter 786, Statutes of 2017 expanded the Shelter Crisis Act to authorize emergency housing in certain specified cities and counties to include homeless shelters until January 1, 2021.

SB 1069 (Wieckowski), Chapter 720, Statutes of 2016 exempted certain ADUs and JADUs from the requirement for all newly constructed dwellings to have fire sprinklers installed.

Double Referred: This bill was also referred to the Assembly Committee on Local Government, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Family Assistance Program (Sponsor)
California Apartment Association
California Coalition for Youth

Opposition

California Building Officials
Greater Bay Chapter - American Fire Sprinkler Association
Sacramento Valley Chapter - American Fire Sprinkler Association
State Building and Construction Trades Council of CA
Individuals (1)

Analysis Prepared by: Nicole Restmeyer / H. & C.D. / (916) 319-2085