
THIRD READING

Bill No: AB 42
Author: Ramos (D), et al.
Amended: 8/21/23 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 11-0, 6/20/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla,
Seyarto, Skinner, Umberg, Wahab

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 7/12/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 5/25/23 - See last page for vote

SUBJECT: Tiny homes: temporary sleeping cabins: fire sprinkler requirements

SOURCE: Author

DIGEST: This bill prohibits, until January 1, 2027, a local agency from imposing or enforcing a requirement to provide fire sprinklers in temporary sleeping cabins for people experiencing or at risk of homelessness, if certain conditions are met.

ANALYSIS:

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.
- 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.

- 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.
- 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.
- 5) Suspends, during the period of emergency, 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.
- 6) Provides that, until January 1, 2026, 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; and

- d) Requires standards, for a jurisdiction that adopts an ordinance establishing reasonable local 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.
- 7) Specifies the following, in the 2022 California Building Code, Appendix P:
- 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; and
 - 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.

- 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.
- 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.

This bill:

- 1) Defines “temporary sleeping cabin” as a nonpermanent structure 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 square feet, and does not include plumbing.
- 2) Prohibits, notwithstanding any law, a local agency from imposing or enforcing any requirement to provide fire sprinklers for a temporary sleeping that is on a site with 50 or fewer temporary sleeping cabins.
- 3) Requires a temporary sleeping cabin 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 sleeping cabin;
 - d) Provide emergency evacuation signage and emergency egress lighting;

- e) Every egress must be free from storage and other obstructions;
 - f) Prohibitions on the use of open flames and combustibles as well as smoking at the site;
 - g) Twenty-four-hour active fire watch must be provided at the site;
 - h) Temporary sleeping cabins shall be separated to the side and rear by at least 6 feet, and be made of noncombustible material;
 - i) Fire code inspection plans must occur in regular intervals, as determined by the local agency;
 - j) 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; and
 - k) A temporary sleeping cabin shall meet the design and construction requirements for emergency sleeping cabins prescribed in the California Building Code Appendix P or California Residential Code Appendix AZ or their successors, except a requirement to be equipped with fire sprinklers.
- 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) Sunsets this prohibition on January 1, 2027.

Comments

- 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 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, 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. 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.

- 2) *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 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, the Legislature has reduced or eliminated fire sprinkler requirements in certain emergency shelters in jurisdictions subject to the Shelter Crisis Act.

- 3) *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, so long as those alternative standards still meet minimum health and safety standards. Those standards must be adopted in a local ordinance.

Following this flexibility, HCD proposed and the California Building Standards Commission adopted Appendix P – Emergency Housing regulations, which offer minimum health and safety standards that may serve as a template for local governments. Appendix P 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. 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.

- 4) *Reduced sprinkler requirements until 2027.* 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 8/28/23)

California Apartment Association
California Coalition for Youth
Family Assistance Program

OPPOSITION: (Verified 8/28/23)

American Institute of Architects California
California Association of Code Enforcement Officers
California Building Officials
California Fire Chiefs Association
City of Thousand Oaks
Fire Districts Association of California

ARGUMENTS IN SUPPORT: 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.”

ARGUMENTS IN OPPOSITION: The coalition opposed to this bill, writing to the June 8th version of the bill, are concerned by the reduction in fire safety standards. They note that sprinklers have been shown to reduce the rates of fire death and injury rates in “sprinklered” homes. Second, they note that the definition of “temporary sleeping cabin” is a term that creates confusion around how long these units can be used for temporary housing and lack clarity around which building codes apply. They suggest using “emergency housing,” which is covered by Appendix P.

ASSEMBLY FLOOR: 78-0, 5/25/23

AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Aguiar-Curry, Mathis

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/31/23 11:06:36

**** END ****