

## CONCURRENCE IN SENATE AMENDMENTS

AB 42 (Ramos)

As Amended August 21, 2023

Majority vote

### SUMMARY

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

#### Senate Amendments:

- 1) Require 24-hour active fire watch to be provided at the site, regardless of spacing between cabins.
- 2) Require cabins to be made of noncombustible material.
- 3) Require cabins to meet the design and construction requirements for emergency sleeping cabins prescribed in California Building Code Appendix P or California Residential Code Appendix AZ or their successors, except for the requirement to be equipped with fire sprinklers.
- 4) Provide that this bill does not supersede any other local or state approval process or health and safety standard pertaining to the use of or siting of temporary sleeping cabins.
- 5) Make technical changes.

### COMMENTS

*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% of the country's homeless population in 2022, despite our state making up less than 12% 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% of people experiencing homelessness identify as Black/African American, while only comprising 6% of the state's overall population.

*"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, 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. 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 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, 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. 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 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. 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 emergency cabins 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 sleeping cabin to meet a variety of other criteria in order to be exempt from the fire sprinkler requirement, including:

- 1) Must be less than 250 square feet and must be located on a site with 50 or fewer units;
- 2) Must have a smoke alarm, carbon monoxide alarm, and fire extinguisher in each unit;
- 3) Ingress and egress must facilitate the rapid exit of the unit;
- 4) Emergency evacuation signage and emergency egress lighting must be provided;
- 5) Egress must be free from obstructions;
- 6) The site must prohibit the use of open flames and combustibles as well as smoking;
- 7) The site must provide 24-hour active fire watch;
- 8) Cabins must be noncombustible and separated to the side and rear by at least six feet;
- 9) Cabins must otherwise meet the design and construction requirements of Appendix P or California Residential Code Appendix AZ;
- 10) Fire code inspections must occur in regular intervals, as determined by the local agency; and
- 11) Violations of these standards must be handled in conformance with existing law regarding violations of habitability standards for homeless shelters.

This exemption only applies until January 1, 2027.

#### **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 Support**

According to the Family Assistance Program, this 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, California Fire Chiefs Association, California Association of Code Enforcement Officers, and American Institute of Architects-California, "From a safety perspective, we are 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. Our organizations recognize that the alternative fire and life safety standards in the bill may provide an alternative approach to fire safety, but foundationally our members support using the safest precautions in residential development."

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) Minor and absorbable costs to the Department of Housing and Community Development.
- 2) Costs to local agencies of an unknown amount to impose alternative fire and life safety standards for temporary dwelling units of less than 250 square feet. These costs are not reimbursable by the state because local agencies have general authority to charge fees to cover costs associated with new planning mandates.

## **VOTES:**

### **ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0**

**YES:** Wicks, Joe Patterson, Wendy Carrillo, Gabriel, Kalra, Quirk-Silva, Sanchez, Ward

### **ASM LOCAL GOVERNMENT: 8-0-0**

**YES:** Aguiar-Curry, Dixon, Boerner, Pacheco, Ramos, Robert Rivas, Waldron, Wilson

### **ASM APPROPRIATIONS: 15-0-1**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Addis, Lowenthal, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson

**ABS, ABST OR NV:** Mathis

**ASSEMBLY FLOOR: 78-0-2**

**YES:** 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

**ABS, ABST OR NV:** Aguiar-Curry, Mathis

**SENATE FLOOR: 40-0-0**

**YES:** Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

**UPDATED**

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