

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 42 (Ramos) – As Amended April 18, 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 sleeping cabin with a total floor area of less than 250 square feet if it is on a site with 50 or fewer units.
- 2) Requires a temporary sleeping cabin 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 sleeping cabin.
  - d) Provide emergency evacuation signage and emergency egress lighting.
  - e) Every egress must be free from storage and other obstructions.
  - f) Prohibit the use of open flames and combustibles.
  - g) Prohibit smoking at the site.
  - h) Twenty-four-hour active fire watch must be provided at the site, unless the temporary sleeping cabins are noncombustible, or 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.
  - 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 sleeping cabins 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 (HSC)).

- 3) Defines, for purposes of the bill, “temporary sleeping cabin” to mean 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.
- 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) Provides that no reimbursement is required by this bill, 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 bill.
- 6) Sunsets the provisions of the bill January 1, 2027.

**EXISTING LAW:**

- 1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services and requires CBSC to approve and adopt building standards and to codify those standards in the California Building Standards Code (HSC § 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) § 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).
- 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, as specified.
  - 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 findings stating why the standards cannot be met and how the standards in the ordinance protect health and safety (GC § 8698.4).
- 7) 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).
- 8) Requires the jurisdiction to issue and serve the notice of violation immediately, if the city or county determines that a violation under 7) 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).
- 9) 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:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary and Author's Statement.** This bill prohibits a local agency from imposing or enforcing any requirement to provide fire sprinklers for a temporary sleeping cabin with a total floor area of less than 250 square feet if it is on a site with 50 or fewer units. This bill requires a temporary sleeping cabin 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. This bill sunsets 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.”

This bill is sponsored by the Family Assistance Program.

- 2) **“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. 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.

- 3) **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, 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.

- 4) **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:

1) City of Los Angeles	2) City of Berkeley
3) City of San Jose	4) City of San Diego
5) City of Oakland	6) City of Sacramento
7) City of Redding	8) City of Livermore
9) City of Fairfield	10) Kern County
11) Alameda County	12) San Francisco County/City
13) Santa Clara County	

While the Shelter Crisis Act does provide for lessened building standards in certain circumstances, Appendix P – Emergency Housing regulations delegate 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.

- 5) **Previous Legislation.** 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 [SFM] 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.

- 6) **Double-Referral.** This bill is double-referred to the Assembly Committee on Housing and Community Development, where it passed on a 8-0 vote on April 12, 2022.
- 7) **Arguments in Support.** The California Apartment Association writes in support, "Tiny homes represent a unique way to address the state's housing crisis because they are a low-cost solution to the housing problem. Unfortunately, the existing requirement to install fire sprinklers significantly increases the construction cost of these homes. AB 42 would ease this burden by removing this requirement while also making sure tiny homes comply with an alternative method of fire and safety standards."
- 8) **Arguments in Opposition.** The American Fire Sprinkler Association [AFSA] writes in opposition, "Due to its unprecedented housing crisis, California now leads the nation in constructing tiny homes and [ADUs].<sup>1</sup> In fact, effective January 1, 2020, the California [HSC], Section 65583(c)(7) requires cities and counties to 'develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent' to serve all low and moderate-income segments of the community.

"In sponsoring this bill, you are implying that the residents of the increasingly large number of tiny homes in California should not enjoy the same protection as wealthier people who live in larger residences. AFSA and its members strongly believe that any inhabited space should be protected with sprinklers, regardless of size."

**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

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