
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: AB 548 **Hearing Date:** 6/20/2023
Author: Boerner
Version: 4/13/2023
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: State Housing Law: inspection

DIGEST: This bill requires local enforcement agencies to develop policies and procedures for inspecting multiple units in a building if an inspector or code enforcement officer has determined that a unit in that building is substandard or is in violation of state habitability standards.

ANALYSIS:

Existing law:

- 1) Defines a substandard building as any building or portion thereof in which there exists specified conditions that endanger the life, limb, health, property, safety, or welfare of the public or the occupants thereof, including:
 - a) Inadequate sanitation;
 - b) Structural hazards or inadequate structural resistance to horizontal forces;
 - c) Any nuisance;
 - d) Hazardous wiring, mechanical equipment, or construction equipment;
 - e) Plumbing that is not in good and safe condition;
 - f) Faulty weather protection;
 - g) Any building, device, equipment, combustible waste, or vegetation that, in the opinion of the fire department, could cause a fire or explosion or provide fuel to augment the spread and intensity of fire or explosion;
 - h) Accumulations of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent habitats, stagnant water, combustible materials, and similar materials or conditions that constitute fire, health, or safety hazards; and
 - i) Buildings that have been inadequately maintained per the California Building Code (CBC), that are not provided with adequate exit facilities, that lack fire-resistive construction or fire-extinguishing systems or equipment required by code, or are occupied for living, sleeping, cooking,

or dining purposes that were not intended or designed to be used for those occupancies.

- 2) Grants authority to any officer, employee, or agent of an enforcement agency to enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of statewide habitability standards, the building standards published in the CBC, and other rules and regulations which an enforcement agency has the power to enforce.
- 3) Requires a city or county that receives a complaint from a tenant, resident, or occupant, or an agent of a tenant, resident, or occupant, regarding a potential violation of state habitability standards, to do all of the following:
 - a) Inspect the building or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, that may be in violation or substandard;
 - b) Document any violations that would be discovered based upon a reasonably competent and diligent visual inspection of the property and identify any building or portion thereof intended for human occupancy that is determined to be substandard. Requires the documentation to be included in an inspection report; and
 - c) As applicable, advise the owner or operator of each violation and of each action that is required to be taken to remedy the violation and schedule a re-inspection to verify corrections of the violations.
- 4) Requires a city or county to provide free, certified copies of an inspection report and citations issued, if any, to the complaining tenant, resident, occupant, or their agent. If inspection reveals a condition potentially affecting multiple tenants, residents, or occupants, then the city or county is required to provide free copies of the inspection report and citations issued to all potentially affected tenants, residents, occupants, or their agents.
- 5) Requires, whenever an enforcement agency has inspected a building and has determined that the building is a substandard building or in violation of state habitability standards, that the enforcement agency commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building.
- 6) Requires any tenant who is displaced or subject to displacement from a residential rental unit as a result of an order to vacate or an order requiring the vacation of a residential unit by a local enforcement agency as a result of a violation so extensive and of such a nature that the immediate health and safety of the residents is endangered, to receive relocation benefits from the owner.

Requires the local enforcement agency to determine the eligibility of tenants for such relocation benefits.

- 7) Requires the relocation payment to be made by the owner or designated agent to the tenant in each residential unit and in an amount equal to two months of the established fair market rent for the area as determined by the Department of Housing and Urban Development, as specified. Specifies the relocation benefits shall be payable on a per residential unit basis.

This bill:

- 1) Requires local enforcement agencies to develop policies and procedures for inspecting a building with multiple units if an inspector or code enforcement officer has determined that a unit is substandard or is in violation of state habitability standards and the inspector or code enforcement officer determines that the defects or violations have the potential to affect other units of the building.
- 2) Requires the policies and procedures to meet all of the following requirements:
 - a) Include criteria that inspectors or code enforcement officers shall use to determine if the substandard condition could reasonably affect other units, taking into account factors including, but not limited to, the building type, age, size, construction method, cause of the substandard condition, and history of violations;
 - b) Require the inspection of additional units at the property, including at least units adjacent to, above, and below the unit in which the defect or violation was found; and
 - c) Allow for the inspection of all of the units on the premises if severe, building-wide defects or violations are found.

COMMENTS:

- 1) *Author's statement.* "AB 548 would establish a standard of practice by allowing code enforcement officers to inspect additional units when uncovering severely substandard conditions during an inspection. By supplementing a complaint-based inspection with additional inspections when needed, jurisdictions will be able to catch problems that previously went unreported or before the problems could grow into more significant health hazards."
- 2) *Background: State Housing Law.* The State Housing Law defines a substandard building as any building or part of a building with specified problems that endanger the life, limb, health, property, safety, or welfare of the public or the buildings occupants. Examples of substandard building conditions

include sanitation deficiencies (e.g., pests, lack of water or heat, the presence of mold, etc.), structural problems, fire hazards, and lack of sufficient exits. Substandard conditions can create serious health and safety risks for the people living in a building and for the larger community. Code enforcement officers conduct an inspection and cite any violations on a complaint basis. When violations are so severe that an order to vacate the property is issued, the property owner is required to pay relocation costs for tenants while remediation or demolition occurs.

According to the US Census Bureau's 2021 American Housing Survey, over 538,000 homes in California have severely or moderately inadequate plumbing and heating, over 1 million have signs of mice, over 1.4 million report having cockroaches, over 1.5 million identified plumbing or other water leaks, and over 350,000 households have mold. Renters are three times more likely to live in moderately inadequate housing compared to owners. More households of color rent than own housing in the state, so these inequities are more acutely experienced by communities of color than by white households.

- 3) *Code enforcement inspections.* Inspections are most often complaint-based due to a variety of factors, including limited capacity of local code enforcement agencies and officers to do proactive enforcement. Some tenants may be hesitant to raise health and safety concerns to their landlord or property manager due to fears of retaliation or interference with existing disputes about other matters, so the law allows complaints of possible violations of habitability laws to be reported by a tenant directly to code enforcement. To identify a violation, local officials must generally secure access to the property with the consent of the property owner or tenant, or must be able to identify violations from outside the property without extraordinary effort. With probable cause, local officials can secure an inspection warrant to enter a property without the owner's consent. If inspection reveals a condition potentially affecting multiple tenants, residents, or occupants, including conditions related to the premises, common areas, or structural features, then the law requires a city or county to provide free copies of the inspection report and citations issued to all potentially affected tenants, residents, occupants, or their agents.
- 4) *Proactive notice requirements.* The author and sponsor of this bill point out that many jurisdictions do not have a local ordinance or policy to proactively inspect additional units in a multi-unit building where a violation may have been reported or identified in one unit and could possibly have spread to other nearby units. They contend that merely notifying other tenants in the building of the existence of the violation may not be enough to prompt additional inspection requests to uncover issues that have spread beyond one unit. This bill would therefore require local enforcement agencies to develop these

policies and procedures for identifying criteria that should trigger an attempt to perform inspections of other units that might be impacted by the substandard condition in the same building. This multi-unit inspection procedure is modeled on an ordinance adopted by the City of Fremont, which lays out detailed criteria their inspectors can follow when identifying issues that have a likelihood of being present in multiple other units on a property.

- 5) *Opposition.* CAA notes that code enforcement officials are already required to “inspect [a] building or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, that may be in violation or substandard” if a tenant makes a complaint. Additionally, the local agency is required to share free inspection reports and citations to all potentially affected tenants if the inspection reveals a condition potentially affecting multiple tenants or residents. CAA has proposed amends that would give the owner notice to conduct any necessary repairs. CAR is also opposed, noting that the bill is unnecessary.

In order to address concerns raised by the opposition, due to time constraints, the committee may wish to consider adopting the proposed author’s amends:

- **Delayed implementation until Jan 1, 2025**
- **Clarify occupants in adjacent units will be given reasonable notice by the code enforcement officer.**
- **Only inspect additional units when determined by code enforcement that these units could be reasonable affected by or caused by defect or violation.**

In order to ensure the owner is provided notice of any findings of a substandard condition and be able to complete any work necessary, the author will accept the following committee amendments:

- (1) Upon determining that a substandard condition in a unit could reasonably affect other units, the enforcement agency shall provide the property owner with a notice or order to repair or abate within a reasonable time after the inspection is completed.**
- (2) The local agency shall advise the owner or operator of each known violation and of each action required to remedy the violation and schedule a re-inspection to verify correction of the violations.**

RELATED LEGISLATION:

AB 838 (Friedman, Chapter 351, Statutes of 2021) — required local governments to respond to lead hazard and substandard building complaints from tenants and specified other parties and to provide free copies of inspection reports and citations to the requestor and others who may be impacted.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

Regional Asthma Management and Prevention (RAMP) (Sponsor)
Children Now
Coalition for Economic Survival (CES)
Community Action to Fight Asthma
Healing and Justice Center
Human Impact Partners
Law Foundation of Silicon Valley

OPPOSITION:

California Apartment Association
California Association of Realtors

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