
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No: AB 362 **Hearing Date:** 7/8/2021
Author: Quirk-Silva
Version: 6/30/2021 Amended
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Homeless shelters: safety regulations

DIGEST: This bill establishes a framework for local governments to conduct annual inspections of homeless shelters, including enforcement measures and additional penalties, as specified.

ANALYSIS:

Existing state law, pursuant to the State Housing Law, which governs the building standards and code enforcement of homeless shelters:

- 1) Requires the building department of every city or county to enforce within its jurisdiction all the provisions published in the State Building Standards Code and the provisions of the State Housing Law pertaining to the construction, alteration, repair, demolition, or arrangement of apartment houses, hotels, or dwellings.
- 2) Defines a substandard building as any building or portion thereof in which there exists specified conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, including, but not limited to:
 - a) Inadequate sanitation or any nuisance;
 - b) Structural hazards and all materials of construction, as specified;
 - c) All wiring, plumbing, and mechanical equipment, as specified.
 - d) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause;

- e) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code;
 - f) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.
- 3) Provides that any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of the State Housing Law, the building standards as specified.
 - 4) Provides that any person who is responsible for a violation under the State Housing Law may be guilty of a misdemeanor, punishable by fine or imprisonment, or both.
 - 5) Provides that any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of the State Housing Law, the building standards as specified, and certain other rules, which the enforcement agency has the power to enforce.
 - 6) Establishes the Homeless Emergency Aid Program (HEAP) under the HCFC to provide one-time grant funds to address the immediate homelessness challenges of local cities and counties.
 - 7) Establishes the Homeless Housing Assistance and Prevention Program (HHAPP) under the HCFC to build on HEAP and provide funds to help local jurisdictions combat homelessness.

This bill:

- 1) Requires a local government to conduct at least one announced or unannounced inspection of each homeless shelter within its jurisdiction each year. The local government shall retain records on file and make record available to the public.
- 2) Requires a local government that receives a complaint from an occupant of a homeless shelter, or an agent of an occupant, that alleges a homeless shelter is substandard, shall do all of the following:

- a) Inspect the homeless shelter or portion intended for human occupancy that may be substandard.
 - b) Identify whether the homeless shelter or portion intended for human occupancy is substandard and include documentation in the inspection report.
 - c) Advise the owner or operator of a homeless shelter of each violation and of each action that is required to be taken to remedy the violation. The local government shall schedule a re-inspection to verify correction of the violations.
- 3) Requires that if the local government determines that a homeless shelter is substandard, the local government shall promptly, but no later than 10 business days after the inspection is completed, issue a notice to correct the violation to the owner or operator of the homeless shelter as follows:
- a) If the local government determines that the violation constitutes an imminent threat to the health and safety of the occupants of the homeless shelter, the notice of violation shall be issued immediately and served on the owner or operator of the homeless shelter.
 - b) If the local government determines that deficiencies, violations, or conditions exist that are hazardous, immediately detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation, it may issue an emergency order directly to the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions.
- 4) Requires a local government to perform an inspection at least as promptly as that local government conducts an inspection in response to a request for final inspection.
- 5) Prohibits a local government from conducting an inspection in response to a complaint to either of the following:
- a) A complaint that does not allege one or more substantial conditions.
 - b) A complaint submitted by a tenant, resident, or occupant, who, within the past 180 days, submitted a complaint about the same property that the chief building inspector or their designee determined, after inspection, was frivolous or unfounded.
- 6) Requires a local government to provide free, certified copies of an inspection report and citations issued, if any, to the complaining occupant or their agent. If the inspection reveals a condition potentially affecting multiple occupants, including but not limited to, conditions related to the premises, common areas,

or structural features, then the local government shall provide free copies of the inspections report and citations issued to all potentially affected occupants or their agents.

- 7) Requires the owner or operator of a homeless shelter to be responsible for the correction of any violations under this bill. The owner or operator shall correct each violation within 30 days of receipt of a citation. The local government may grant a 30-day extension to correct a violation.
- 8) Provides that this bill shall not affect the availability of any immunity otherwise applicable to a local government or its employees.
- 9) Provides that in addition to existing penalties under the State Housing Law, an owner or operator who fails to meet the timelines to correct a violation under this bill may be liable for a civil penalty in an amount determined by the local government for each violation or for each day of a continuing violation.
- 10) Prohibits the local government from awarding or distributing state funding to the owner or operator of a homeless shelter for purposes of operating a shelter if the local government determines that any of the following exist:
 - a) The owner or operator fails to correct a violation within the time periods specified under this bill.
 - b) The owner or operator has failed to correct violations in a timely manner on multiple occasions.
 - c) The owner or operator has been cited for a violation that is an imminent threat to the health and safety of the occupants of the homeless shelter and the owner or operator fails to make sufficient action to correct the violation or prevent future similar violations.
- 11) Requires a local government to submit a report annually to the Department of Housing and Community Development (HCD) and the Business Consumer Services and Housing Agency (BCSH) by April 1 of each year that includes all of the following information:
 - a) Any pending uncorrected violations determined by the local government.
 - b) Any determination by a local government that conditions exist or existed that make or made the homeless shelter dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation.
 - c) A list of any emergency orders issued by this bill.

- d) A list of any owners or operators who received three or more violations within any six-month period.
 - e) Any corrected violations from the prior year.
- 12) Requires any local government that applies for state funding to support the ongoing operations of homeless shelters to disclose to the state agency that administers the state funding the status of any unresolved violations and the names of the homeless shelter owner or operators.
- 13) Authorizes HCD or BCSH to deem an owner or operator of a shelter ineligible for state funding for shelter operations, pursuant to the information provided in the report under (11) above.

COMMENTS:

- 1) *Author's Statement.* "All Californians deserve a place to call home, the State of California is committed to increasing access to safe, affordable housing with appropriate supportive services to help resolve homelessness. The state is also committed to protecting the health and safety of people living in homeless shelters, which often is due to California's shortage of affordable housing. The need for enforceable health and safety standards for homeless shelters is particularly urgent given the extreme vulnerability of homeless shelter residents, many of whom are older adults, people with disabilities, and people with serious physical and mental health conditions."
- 2) *State investment in shelters.* Based on the 2020 point in time count, California has the largest homeless population in the nation with 161,548 people experiencing homelessness on any given night. Many of those people, 113,660, are unsheltered, meaning they are living outdoors and not in temporary shelters. In recent years, in response to the growing population of people experiencing homelessness, with a particular focus on those who are unsheltered, the state has invested in local efforts to reduce homelessness. From 2018 to 2020, through two programs –HEAP and HHAPP – the state invested \$1.45 billion in flexible funding that can be used for shelters, navigation centers, rental assistance, permanent supportive housing, and services. The Homeless Coordinating and Financing Council (HCFC) administers the HEAP and HHAPP programs and is responsible for collecting data from Continuums of Care (CoCs), cities, and counties that receive funding on the use of funds.

Additionally, in response to COVID-19, the federal government provided funding to immediately house people experiencing homelessness and are at risk of contracting COVID-19. A state program created in 2020, Project Roomkey,

reimbursed cities and counties from Federal Emergency Management Agency (FEMA) funds to temporarily house this population, and another new program, Project Homekey, provided funding to purchase hotels and motels to permanently house this population. In March of 2020, the state received \$150 million in federal Coronavirus Relief Funds (CRF) that was used to secure hotels, motels, and acquire trailers for people experiencing homelessness and at the greatest risk of contracting COVID-19.

The 2020 Budget allocated \$750 from state's direct allocation of CRF to create Project Homekey to purchase hotels, motels, residential care facilities, and other housing that can be quickly converted and rehabilitated to provide permanent housing for persons experiencing homelessness, and who are also at risk of COVID-19. As of December 2020, HCD had awarded \$846 million to 51 local agencies for 94 projects, which housed 6,000 people experiencing homelessness.

The 2021-2022 budget proposes to invest an additional \$2 billion over the next two years for housing and services for people experiencing homelessness in the form of flexible funding to local jurisdictions.

- 3) *Uninhabitable Shelters*. A year-long study by the American Civil Liberties Union (ACLU) of three shelters in Orange County uncovered unsanitary and unsafe conditions. The report is based on first-person visits and more than 70 interviews with residents, staff members, and shelter volunteers at three facilities in Anaheim. The report found that residents were exposed to rain, flooding, and raw sewage; unsanitary shower and restroom facilities; a lack of soap and other cleaning products; infestations of rodents, maggots, and insects; and a lack of temperature control.

The American Civil Liberties Union recently sued Orange County on behalf of 11 shelter residents, alleging, among other things, rampant rodent and bedbug infestations, broken toilets and showers, and extreme temperatures at the shelters.

- 4) *State Housing Law*. The State Housing Law governs building standards for all new construction in California and was established to assure the availability of affordable housing and uniform statewide code enforcement to protect the health, safety, and general welfare of the public and occupants of housing and accessory buildings, including homeless shelters. It authorizes local governments to perform inspections and identify any building code or health and safety violations, which may result in a fine or imprisonment.
- 5) *Code enforcement*. Existing law does not require homeless shelters to be inspected on a regular basis. Under existing law, if a local code enforcement

agency received a complaint about a shelter they could inspect; however, residents of a shelter would be unlikely to complain due to fears of being evicted from the shelter. This bill would require a local government to conduct at least one inspection of each homeless shelter in its jurisdiction per year, and respond timely to any legitimate complaint it receives. An owner or operator of a homeless shelter must correct the violation or violations within a specified period of time; failure to do could result in additional civil penalties at the discretion of the local government. Further, any owner or operator of a homeless shelter that fails to correct a violation, had multiple violations within a six-month period, or was determined to be unfit for human habitation may be deemed ineligible for state funding for shelter operations. This bill also requires local governments to submit an annual report to HCD and BCSH identifying violations of the state housing law, which may be used to deem a shelter operator ineligible for state funds.

RELATED LEGISLATION:

AB 838 (Friedman, 2021) — requires 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. *This bill passed out of the Senate Housing Committee on July 1st on a 6-1 vote.*

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

POSITIONS: (Communicated to the committee before noon on Thursday, July 1, 2021.)

SUPPORT:

ACLU California Action
Aids Healthcare Foundation
Corporation for Supportive Housing (CSH)
Housing California
Stronger Women United
3 Individuals

OPPOSITION:

None received

-- END --