Date of Hearing: June 19, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Christopher M. Ward, Chair
SB 1465 (Archuleta) – As Amended April 8, 2024

SENATE VOTE: 37-0

SUBJECT: State building standards

SUMMARY: Allows any structure used for human habitation to be declared a substandard building regardless of the zoning or approved use of the building, and makes other changes to code enforcement procedures. Specifically, **this bill**:

1) Defines a "substandard building" to mean a building or portion thereof, including any building used for human habitation, that is declared substandard under state habitability laws.

2) Provides that any building or portion thereof in which there are specified substandard conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the occupants of the building, nearby residents, or the public, may be declared a substandard building regardless of the zoning designation or approved uses of the building.

3) Requires relocation assistance for any tenant renting a unit for human habitation in a building that is deemed or found substandard, regardless of the zoning designation or approved uses of the building.

4) Expands existing nuisance abatement requirements to apply when there is an immediate threat to health and safety of nearby residents.

5) Provides that, if an enforcement agency determines a building or portion thereof is substandard based solely on the building being illegally occupied, the agency is prohibited from commencing court proceedings to abate the violation by repair if all of the following conditions are met:

    a) The owner declares under penalty of perjury that the occupant is illegally occupying the building;

    b) The owner filed and is diligently prosecuting an unlawful detainer action against the occupant or the occupant is being removed under criminal trespass laws; and

    c) The enforcement agency determines the building poses no risk to tenants, nearby residents, or the public.

6) Provides that the appointment of a receiver for a substandard building as a result of reasons other than the substandard condition shall not prevent an enforcement agency from seeking, or the court from appointing or replacing, a receiver based on the substandard nature of the building. In such instance, both statutory provisions allowing the appointment of a receiver shall apply.

7) Allows a receiver, with court approval, to place a lien on the real property of the substandard building to pay for services performed by and any moneys owed to the enforcement agency.

8) Provides that the court's authority to retain ownership of a substandard building for 18 consecutive months after a receiver has been discharged may be extended by order of the court to ensure continued compliance with a court order.

9) Specifies that an appeal of a court order or judgment issued pursuant to substandard building laws does not stay proceedings upon the order or judgment, absent an extraordinary writ issued by the appropriate appeals court upon a properly filed petition.

10) Specifies that, for the purpose of laws related to substandard buildings, "petition" includes a complaint.

11) Updates an inaccurate cross-reference.

12) Provides that when a new owner acquires an ownership interest in a property subject to specified requirements to correct a code enforcement violation, the owner is liable for any costs and fees of the receiver or enforcement agency, as applicable.

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. (Health and Safety Code (HSC) Section 17920.3)

2) 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 state habitability laws, the building standards as specified, and certain other rules which the enforcement agency has the power to enforce. (HSC 17970)

3) Establishes that any tenant who is displaced or subject to displacement from a residential rental unit as a result of a specified violation where the immediate health and safety of the residents is endangered, is entitled to receive relocation benefits from the owner. (HSC 17975)

4) Requires the lessor of a building intended for human occupancy, in the absence of an agreement to the contrary, to keep it in a condition fit for such occupation, and repair all subsequent dilapidations thereof, which render it untenantable unless otherwise provided for in law. (Civil Code Section 1941)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "The farmworker shootings in Half Moon Bay and the Ghost Ship Fire in Oakland cast light on the grim realities of the unsafe housing conditions that many hardworking Californians live in. Despite being rented as housing, many warehouses, factories, and buildings are not in residential zones and have evaded much-needed safety inspections and code enforcement.

Unhealthy housing has served as affordable housing for far too many Californians for far too long. Local and state agencies must be empowered to deal with dilapidated commercial and industrial buildings being used as housing. While first ensuring the safety of residents, these buildings should be brought up to code and, ideally, returned to beneficial use for the community such as safe housing.

Substandard conditions and their associated dangers do not cease to exist just because of zoning. SB 1465 specifies that any building used for lawful habitation can be deemed substandard under Health and Safety Code Section 17920.3 pertaining to the endangerment of life, health, property, safety, or welfare of the occupants or public."

Substandard Buildings: California's Health and Safety Code 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 (Health and Safety Code Section 17920.3 *et seq*). 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.

However, these existing habitability requirements only apply to buildings officially approved for human habitation. As the state's housing crisis has continued to worsen in recent years, the scarcity of affordable housing options has forced greater numbers Californians into unpermitted dwellings not intended for housing. In these situations, tenants pay rent to live in a building that is not officially approved to be used for human habitation, such as an unpermitted addition or alteration to a residential dwelling, a warehouse, or other non-residential building. Los Angeles County is estimated to have at least 200,000 informal housing units that have not been approved for human habitation.[1] Unfortunately, the lack of safety standards in these arrangements can have dire consequences, as seen in the 2016 Ghost Ship warehouse fire in Oakland that killed 36 people. Despite not being approved for human habitation or assembly, the two-story Ghost Ship warehouse had been leased to artists who lived and worked in the building.

Another recent example of this type of housing was seen in the January 23, 2023 mass shooting that took place at two Half Moon Bay mushroom farms, where farmworkers – including the shooter – were allegedly paying rent to farm owners in order to live in severely substandard housing accommodations that were not properly permitted and had never been inspected by county building officials.[2]

A serious challenge with red-tagging unpermitted housing is that the dire lack of affordable housing options across the state means that the vulnerable tenants of that housing may not have any alternative options if their illegal living arrangement is shut down. The enforcement officer in that instance may face a difficult balance between seeking remedies to substandard conditions and displacing unstably housed tenants even further.

This bill proposes to expand the definition of a substandard building to include all buildings used for human habitation, regardless of the zoning or approved use. In cases where an order to vacate is issued, the bill would require building owners to provide relocation assistance to tenants paying rent to live in unpermitted buildings. This change could help lessen the impact of this disruption on the tenants living in those buildings, as the tenants will have to be provided some financial assistance that would help them move to new housing, stay in a hotel while searching for new housing, or await repairs to be completed and new permits to be issued, if applicable.

Furthermore, SB 1465 makes several other minor changes to provisions that are intended to make it easier for local enforcement agencies and building receivers to be repaid for costs they incur, and to clarify certain procedural steps after a substandard building has gone into receivership.

To address concerns that a vacant building with an illegal occupant (a "squatter") might somehow be tagged by an enforcing agency for repairs even when the building was not intended to be held out for rent, the bill creates a process for a building owner to declare under penalty of perjury that an occupant is illegally occupying the building and the owner has filed and is diligently prosecuting an unlawful detainer against that occupant, or is pursuing their removal under criminal trespass laws. In this instance, the enforcing agency would be prohibited from seeking repairs for substandard conditions in that building unless there is some risk to tenants, nearby residents, or the public.

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[1] https://www.nytimes.com/2021/12/18/business/economy/california-housing.html
[2] https://www.mercurynews.com/2023/02/05/who-was-supposed-to-ensure-half-moon-bay-farmworker-homes-had-plumbing-kitchens/

Arguments in Support: According to the California Association of Code Enforcement Officers (CACEO), the bill's sponsor, "California is experiencing a housing shortage of significant proportions, particularly in the affordable housing sector. Individuals and families unable to find affordable housing are taking up residence in buildings not zoned residential. This has enhanced a problem where commercial spaces are being used for human habitation without the knowledge of local officials and without the building being habitable. Despite being rented as housing, many of these warehouses, factories and buildings are not in residential zones and therefore have evaded much needed safety inspections and code enforcement. The deadly Ghost Ship warehouse fire and the shootings in Half Moon Bay cast light on the grim realities of unsafe housing conditions that hardworking Californians are living in. While first ensuring the safety of residents, we need to better empower local and state agencies to deal with dilapidated commercial and industrial buildings being used as housing. California State Housing Laws are some of the most comprehensive in the nation, establishing health and safety protections through building standards to assure decent, safe, and sanitary housing for all Californians. Current law provides protection for residents that live in a dwelling that is not up to code and puts the resident or the public in harm's way. This bill clarifies ambiguities about whether remedies for substandard buildings apply to buildings not residentially zoned, even if they are inhabited. Substandard conditions and the associated dangers do not cease to exist just because of zoning."

Arguments in Opposition: None on file.

Related Legislation:

AB 468 (Quirk-Silva) of the 2023 session was substantially similar to this bill. That bill was held in the Senate Appropriations Committee.

AB 548 (Boerner), Chapter 744, Statutes of 2023: 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.

AB 1858 (Quirk-Silva) of 2022 was substantially similar to this bill. That bill was held in the Assembly Appropriations Committee.

AB 838 (Friedman), Chapter 351, Statutes of 2021: Required local governments to respond to a substandard building or a lead hazard violation complaint from a tenant or specified others in a timely manner.

SB 1415 (McGuire) of 2018 was substantially similar to this bill, though it would have also required inspections of buildings used for human habitation, regardless of zoning or permitted use. Also included provisions related to fire inspections. This bill was vetoed by the Governor:

> *I am returning Senate Bill 1415 without my signature.*
>
> *This bill would require local building and fire inspectors to inspect all private warehouses located within their jurisdiction at least once every five years.*
>
> *Local officials can already decide what and when to inspect. Some jurisdictions, such as the City of Sacramento, have established a program to monitor vacant buildings. The City of Oakland has a program to conduct frequent inspections of commercial buildings.*

Local governments have a better understanding of the type of local inspections needed in their communities. Let's leave these decisions to the sound discretion of local governments.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Code Enforcement Officers (Sponsor)
California Building Officials
City of Half Moon Bay
Regional Asthma Management and Prevention

Opposition

None on file.

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