

Date of Hearing: May 20, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 3352 (Friedman) – As Amended May 12, 2020

**SUBJECT:** State Housing Law: enforcement response to complaints

**SUMMARY:** Requires local governments to respond to tenant or resident complaints about lead hazards or substandard building violations and provide free copies of the inspection report and any citations to the tenant and other occupants of the building who may be affected.

Specifically, **this bill:**

- 1) Requires a city or county that receives a complaint from a tenant or specified other individuals regarding a potential violation of Health and Safety Code Section 17920.10 or 17920.3 to, as quickly as they respond to an application for residential building permit, do the following:
  - a) Inspect the building or a portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located for the specified violations;
  - b) Cite any violations of Health and Safety Code Section 17920.10 or 17920; and,
  - c) Provide free copies of the inspection report and citations issued to the tenant and to any other potentially affected tenants, occupants, residents, or their agents.
- 2) Prohibits a city or county from placing the conditions on the inspection and citation of a building that:
  - a) The tenant, resident, occupant, or agent first make a demand for correction upon the owner of the property;
  - b) The tenant be current on rent;
  - c) The tenant otherwise be in compliance with the rental agreement; and
  - d) The tenant, resident, or occupant not be involved in a legal dispute with the owner of the property.
- 3) Provides that a city or county shall not refuse to communicate with a tenant, resident, occupant, or the agent of a tenant, resident, or occupant regarding any matter covered by this section.
- 4) Establishes that the bill's provisions will become effective on July 1, 2021.
- 5) Specifies that no reimbursement to a local government is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.

**EXISTING LAW:**

- 1) Provides that any building or portion thereof that contains lead hazards is a violation of Part 1.5 of the Health and Safety Code. Defines “lead hazards” as deteriorated lead-based paint, lead-contaminated dust, lead-contaminated soil, or disturbing lead-based paint without containment, if one or more of these hazards are present in one or more locations in specified amounts and that are likely to endanger the health of the public or the occupants thereof as a result of their proximity to the public or the occupants thereof. (Health and Safety Code Section 17920.10(a))
- 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:
  - a) Inadequate sanitation;
  - b) Structural hazards;
  - c) Any nuisance;
  - d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly;
  - e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures;
  - f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly;
  - g) Faulty weather protection;
  - h) 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;
  - i) All materials of construction, except those that are specifically allowed or approved, and that have been adequately maintained in good and safe condition;
  - j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards;

- k) 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;
  - l) All buildings or portions thereof not provided with adequate exit facilities, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed;
  - m) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy;
  - n) 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; and
  - o) Inadequate structural resistance to horizontal forces. (Health and Safety Code Section 17920.3. *et seq.*)
- 3) Requires the Department of Housing and Community Development, upon appropriation by the Legislature, to make funds available as matching grants to cities, counties, and cities and counties to increase staffing or capital expenditures dedicated to local building code enforcement efforts as specified. (Health and Safety Code Section 17998.1)
- 4) 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 Part 1.5 of the Health and Safety Code, the building standards as specified, and certain other rules which the enforcement agency has the power to enforce. (Health and Safety Code Section 17970)
- 5) 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. (Health and Safety Code Section 17975)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Author's statement:* According to the author, "Everyone has the desire to live in quality housing. The majority of tenants maintain their rental units in good condition and the majority of property owners are responsive to housing concerns brought to their attentions by tenants. A small minority of tenants are disruptive and a small amount of property owners are unresponsive.

State and local governments enact housing and building codes to require that residential properties meet minimum health and safety standards. Housing and building code enforcement not only helps to ensure the habitability of specific properties that are in violation of the code, but also helps to keep the surrounding community safe. A building that shows clear signs of abandonment and neglect, for example, may be a target for criminal activity that compromises the safety of neighboring residents. This goal is crucial in the context of multi-family rental dwellings, where tenants have limited ability to correct health and safety problems.

Some local code inspection agencies in California place restrictions or preconditions on responding to tenants' habitability complaints. For example, requiring tenants to prove that the property owner has been unresponsive to their complaints, or that the tenants are current on their rent, before the local agency will send out an inspector. None of this should matter to a local government, which is supposed to ensure that all dwelling units are habitable."

*Background:* California's Health and Safety Code defines a substandard building as any building or part of a building that has specified problems and endangers the life, limb, health, property, safety, or welfare of the public or the buildings occupants. Examples of substandard building conditions include sanitation deficiencies (i.e., pests, lack of water or heat), structural problems, fire hazards, and lack of sufficient exits (Health and Safety Code Section 17920.3 *et seq*). Additionally, lead hazards include deteriorated lead-based paint, lead-contaminated dust, lead-contaminated soil, or disturbance of lead-based paint without containment that endangers the health of the occupants or the public.

Both lead hazards and substandard building conditions can create serious health and safety risks for the people living in a building and for the larger community. While substandard buildings and lead hazards are violations of the Health and Safety Code which local governments can enforce, an inspection is required to identify and cite such violations. Since renters do not own the property they live in, they face a unique set of challenges with obtaining inspections for substandard buildings and lead hazards. For example, writing in support of this bill, California Rural Legal Assistance notes, "some local code inspection agencies in California place restrictions or preconditions on responding to tenant habitability complaints, for example, requiring tenants to prove that the property owner has been unresponsive to their complaints, or that the tenants are current on their rent, before the local agency will send out an inspector."

This bill seeks to ensure that tenants can receive free and timely inspections of their rental unit and the bill also explicitly prohibits a local government from placing conditions on an inspection of rental housing. It is reasonable that some renters may be hesitant to raise health and safety concerns to their landlord or property manager due to fears of retaliation or due to existing disputes about other matters. AB 3352 seeks to protect renters by explicitly prohibiting local governments from placing conditions on the inspection of a rental unit and guaranteeing tenants a free and timely inspection in response to a complaint.

Additionally, the bill seeks to ensure other parties are given notice of violations and provides that, if a tenant submits a complaint to a city or county, the local government is required to cite any violations and provide free copies of inspection reports to the individual who submitted a complaint and others who may be impacted. In order to make sure that inspections and citations occur in a timely manner, AB 3352 also requires the local government to act as quickly as they would when reviewing a residential building permit. Finally, the bill prohibits a local

government from refusing to communicate with a tenant in order to avoid complying with the inspection requirements.

*Arguments in Support:* Writing in support of the bill, California Rural Legal Assistance argues, “housing and building code enforcement not only help to ensure the habitability of specific properties that are in violation of the code, but also help to keep the surrounding community safe...tenants in multi-family rental dwellings, have limited, if any, ability to correct health and safety problems.” The organization notes that tenants sometimes face hurdles in bringing forward substandard building complaints and lead hazard inspections, noting, “some local code inspection agencies in California place restrictions or preconditions on responding to tenant habitability complaints, for example, requiring tenants to prove that the property owner has been unresponsive to their complaints, or that the tenants are current on their rent, before the local agency will send out an inspector. This is inconsistent with the health and safety code and contrary to the purpose of the law. None of this should matter to a local government, which is supposed to ensure that all dwelling units are habitable.”

*Arguments in Opposition:* In a joint “Oppose Unless Amended” letter, California State Association of Counties, League of California Cities, Rural County Representatives of California, Urban Counties of California point out several concerns about AB 3352. Their letter notes, “AB 3352 would require a city or county that receives a complaint of a substandard building or a lead hazard violation to inspect the building ‘at least as promptly as the city or county conducts an inspection for an application of a residential building permit.’ The bill is not specific in how a county must calculate, or how often it must recalculate, ‘at least as promptly’ in order to comply with the proposed requirement in AB3352.”

Additionally, their letter mentions possible legal concerns, noting, “these provisions could be construed to create a ‘mandatory duty’ for local agencies that may result in litigation...this bill should be amended to clearly preserve enforcement discretion and disclaim any potential tort liability for local governments.” The organization also notes that AB 3352’s requirement to promptly cite violations would “restrict local agencies’ critical enforcement discretion to prioritize and appropriately respond to building code violations.” Finally, the joint letter requests changes to the bill to provide “clear and explicit authority to [local governments to] recoup costs associated with building code enforcement”

### *Related Legislation*

AB 206, Chiu, Chapter 171, Statutes 2019. Protected property owners and public entities from specified liabilities related to participating in a program to abate lead-based paint created from a judgment or settlement in any public nuisance litigation.

SB 1415, McGuire, 2018. Required building inspections of certain storage structures, authorized fees to cover inspection costs, required local governments to report on the backlog of mandated building inspections, and extended existing tenant protections to all buildings which are used for human habitation. This bill was vetoed by the Governor.

AB 864, Davis, 2007. Would have required purchasers of substandard properties to provide identifying information and a rehabilitation plan to a local enforcement agency. This bill was vetoed by the Governor.

AB 2925, Davis, 2002. Would have required a person with an ownership interest in a property that is uninhabitable or otherwise found to be in substandard condition to provide the building code enforcement agency with specified information. This bill died in the Senate Transportation and Housing Committee.

SB 460, Ortiz, Chapter 931, Statutes 2002. Declared any building as unsafe and in violation of the State Housing Law if that building contains a lead hazard that is likely to endanger the health of the public or building occupants.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Rural Legal Assistance Foundation (Co-sponsor)  
Western Center on Law & Poverty (Co-sponsor)  
California Indian Legal Services  
California Rural Legal Assistance  
Central California Asthma Collaborative  
Central California Legal Services  
Centro Legal De LA Raza  
Disability Rights California  
Fair Housing Advocates of Northern California  
Fair Housing Napa Valley  
Faith in The Valley  
Family Violence Appellate Project  
Family Violence Law Center  
Fresno Barrios Unidos  
Jakara Movement  
Leadership Counsel for Justice & Accountability  
Legal Aid Foundation of Los Angeles  
Legal Aid Society of San Diego  
Legal Services of Northern California  
People Organized for Westside Renewal  
PolicyLink  
Power California  
Public Advocates  
Public Interest Law Project  
Public Law Center  
Roman Catholic Diocese of Fresno  
Rootz99  
Tenant Sanctuary  
Women's International League for Peace and Freedom -- Fresno  
5 Individuals

### **Opposition**

*Oppose Unless Amended*

California Association of Realtors  
California State Association of Counties  
League of California Cities  
Rural County Representatives of California  
Urban Counties of California

**Analysis Prepared by:** Sandra Nakagawa / H. & C.D. / (916) 319-2085