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AB-362 Homeless shelters: safety regulations. (2021-2022)

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Assembly Bill No. 362

CHAPTER 395

An act to add Article 2.3 (commencing with Section 17974) to Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 2021. Filed with Secretary of State September 29, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 362, Quirk-Silva. Homeless shelters: safety regulations.

The State Housing Law, among other things, requires the Department of Housing and Community Development to adopt, amend, or repeal rules and regulations for the protection of the health, safety, and general welfare of the occupant and the public relating to specified residential structures, as provided, which apply throughout the state. Existing law requires the housing or building department of every city or county, or the health department if there is no building department, to enforce within its jurisdiction the provisions of the State Housing Law, building standards, and the other rules and regulations adopted by the department pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. A violation of the State Housing Law, or of the building standards or rules and regulations adopted pursuant to that law, is a misdemeanor.

Existing law establishes, among various other programs intended to address homelessness in this state, the Homeless Housing, Assistance, and Prevention program for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing.

This bill would require a city or county that receives a complaint from an occupant of a homeless shelter, as defined, or an agent of an occupant, alleging that a homeless shelter is substandard to inspect the homeless shelter, as specified. The bill would require a city or county that determines that a homeless shelter is substandard to issue a notice to correct the violation to the owner or operator of the homeless shelter within 10 business days of the inspection, or issue the notice to correct the violation immediately if the violation constitutes an imminent threat to the health and safety of the occupants of the homeless shelter. The bill would authorize a city or county to issue an emergency order directing the owner or operator to take immediate action to rectify violations if the city determines that the violations are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation. The bill would require a city or county to provide free, certified copies of any inspection report or citation issued pursuant to these provisions to a complaining occupant or their agent, as specified.

This bill would make the owner or operator of a homeless shelter responsible for correcting any violation cited pursuant to these provisions. The bill would require the owner or operator of a homeless shelter to correct each violation within 30 days of receipt of the citation, subject to a 30-day extension, as specified.

This bill would authorize a city or county to impose additional civil penalties on the owner or operator that fails to correct a violation within the required time period. The bill would prohibit a city or county from awarding or distributing any state funding, as defined, to the owner or operator of a homeless shelter for purposes of operating the homeless shelter if, among other things, the owner or operator fails to correct a violation within the required time period.

This bill would require each city and county to submit a report by April 1 of each year that provides specified information, including, among other things, any pending uncorrected violations cited under these provisions, a list of emergency orders issued, and a list of any owners or operators who received 3 or more violations within any 6-month period, except as specified. The bill would authorize the Department of Housing and Community Development or the Business, Consumer Services, and Housing Agency to deem an owner or operator of a shelter ineligible for state funding, as defined, for shelter operations based on the information provided in the report.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to enforcement of the State Housing Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 2.3 (commencing with Section 17974) is added to Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, to read:

Article 2.3. Inspection of Homeless Shelters

17974. For purposes of this article:

(a) "Department" means the Department of Housing and Community Development.

(b) (1) "Homeless shelter" means any of the following:

(A) An emergency shelter, as defined in Section 576.2 of Title 24 of the Code of Federal Regulations.

(B) An emergency shelter, as defined in subdivision (e) of Section 50801.

(C) A navigation center, as defined in Section 50216.

(2) "Homeless shelter" does not include emergency shelters that are funded by the program commonly referred to as Project Roomkey administered by the State Department of Social Services.

(c) "Local agency" means any city, including a charter city, county, or city and county.

(d) "State agency" means the Business, Consumer Services, and Housing Agency.

(e) "State funding" means any grant, loan, or other type of financial assistance awarded to a homeless shelter on or after July 1, 2021, from the following sources:

(1) The Homeless Housing, Assistance, and Prevention Program (Chapter 6 (commencing with Section 50216) of Part 1 of Division 31).

(2) Future one-time state funding for homelessness services.

17974.1. (a) Notwithstanding any other provision of this part, a city or county that receives a complaint from an occupant of a homeless shelter, or an agent of an occupant, that alleges a homeless shelter is substandard pursuant to Section 17920.3 shall do all of the following:

(1) Inspect the homeless shelter or portion thereof intended for human occupancy that may be substandard pursuant to Section 17920.3.

(2) Identify whether the homeless shelter or any portion thereof intended for human occupancy is substandard pursuant to Section 17920.3, as applicable. The documentation shall be included in the inspection report described in subdivision (e).

(3) As applicable, 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 city or county shall schedule a reinspection to verify correction of the violations.

(b) (1) If, upon inspection, the city or county determines that a homeless shelter is substandard pursuant to Section 17920.3, the city or county shall promptly, but not later than 10 business days after the city or county completes the inspection, issue a notice to correct the violation to the owner or operator of the homeless shelter.

(2) In the event that the city or county determines that a 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.

(3) In the event that the city or county determines that deficiencies, violations, or conditions exist at a homeless shelter that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation, the city or county may issue an emergency order directing the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions.

(c) The city or county shall maintain all records on file of each homeless shelter inspection. These records shall be made available to the public for inspection.

(d) A city or county shall perform an inspection conducted pursuant to subdivision (a) at least as promptly as that city or county conducts an inspection in response to a request for final inspection pursuant to Section 110 of the California Building Code (Title 24 of the California Code of Regulations).

(e) Notwithstanding subdivision (a), a city or county is not required to conduct an inspection in response to either of the following:

(1) A complaint that does not allege one or more substandard conditions.

(2) 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 reasonably determined, after inspection, was frivolous or unfounded.

(f) A city or county shall provide free, certified copies of an inspection report and citations issued pursuant to this section, 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 relating to the premises, common areas, or structural features, then the city or county shall provide free copies of the inspection report and citations issued to all potentially affected occupants or their agents.

(g) A city or county shall not unreasonably refuse to communicate with an occupant or the agent of an occupant regarding any matter covered by this article.

17974.2. (a) The owner or operator of a homeless shelter shall be responsible for the correction of any violations for which a notice of violation has been given under this article.

(b) An owner or operator of a homeless shelter shall correct each violation within 30 days of receipt of the citation. The city or county, in its sole discretion, may grant the owner or operator a 30-day extension to correct a violation.

17974.3. (a) The requirements of this article shall not be construed to impose a mandatory duty pursuant to Section 815.6 of the Government Code, and shall not be construed to affect the availability of any immunity otherwise applicable to the city or county or its employees, including, but not limited to, Sections 818.2, 818.4, 818.6, 820.2, 821, 821.2, and 821.4 of the Government Code.

(b) An action to enforce the requirements of this article may be brought pursuant to Section 1085 of the Code of Civil Procedure.

(c) For purposes of Section 1085 of the Code of Civil Procedure, the requirements of this article shall be construed as acts that the law specially enjoins, as a duty resulting from an office, trust, or station.

17974.4. (a) In addition to the penalties authorized under Chapter 6 (commencing with Section 17995), an owner or operator of a homeless shelter who fails to meet the timelines to correct a violation under this article, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part, may

be liable for a civil penalty in an amount determined by the city or county for each violation or for each day of a continuing violation.

(b) The city or county shall not award or distribute state funding to the owner or operator of a homeless shelter for purposes of operating the shelter, if the city or county determines that any of the following exist:

(1) The owner or operator fails to correct a violation within the time period specified in Section 17974.2.

(2) The owner or operator has failed to correct violations in a timely manner on multiple occasions.

(3) 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 take sufficient action to correct the violation or prevent similar future violations.

17974.5. (a) (1) Each city and each county shall submit a report annually to the department and the state agency by April 1 of each year that includes all of the following information:

(A) Any pending uncorrected violations determined by the city or county, pursuant to Section 17974.1.

(B) Any determinations by the city or county 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 pursuant to paragraph (3) of subdivision (c) of Section 17974.1.

(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.

(2) A city or county shall not be required to submit a report pursuant to paragraph (1) if there are no outstanding violations or any violations corrected during the applicable period.

(b) The report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) If a city or county applies for state funding to support the ongoing operations of a homeless shelter, the city or county shall disclose to the state agency that administers the state funding the status of any unresolved violations pursuant to this article and the names of the homeless shelter owner or operator.

(d) The department or the state agency, may, pursuant to the reported information in subdivision (b), deem an owner or operator of a shelter ineligible for state funding for shelter operations.

17974.6. The Legislature finds and declares that this article 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 article applies to all cities, including charter cities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.