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DIVISION OF CODES AND STANDARDS**

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INFORMATION BULLETIN 2003-04 (SHL)

**To: City and County Building Officials
Interested Parties (SHL)
Division Staff**

SUBJECT: 2002 Legislative Changes

This Information Bulletin summarizes the year 2002 legislative changes to the California Health and Safety Code and other California Codes that impact housing construction, maintenance, and use in California. The amendments and additions to these codes became effective on January 1, 2003 unless otherwise stated.

- **Chapter 723 of the 2002 Statutes (AB 1008, Lowenthal)** amended Sections 17998.1 and 17998.2 of the Health and Safety Code (HSC) modifying two existing code enforcement programs (Community Code Enforcement Pilot Program and the Code Enforcement Incentive Program) administered by the Department of Housing and Community Development (Department) by removing the sunset clauses, modifying application and award requirements, and modifying the program reporting requirements on these existing programs.
- **Chapter 421 of the 2002 Statutes (AB 1561/Kelley)** amends Section 25402 of the Public Resources Code and requires the State Energy Resources Conservation and Development Commission (CEC), not later than January 1, 2004, to amend existing regulations related to residential clothes washers, to require that any clothes washers manufactured after January 7, 2007, be at least as energy efficient as commercial washers. Also, not later than April 1, 2004, the CEC must petition the Federal Department of Energy for an exemption from any federal regulations governing energy efficiency standards that are applicable to residential clothes washers.
- **Chapter 726 of the 2002 statutes (AB 2787/Aroner)** adds section 17959 to the Health and Safety Code (HSC) relating to building standards for universal design.
 - The Legislature found that as California's population is aging and many residents have temporary or permanent mobility disabilities, homes should be constructed or modified to allow for full life-cycle use. It also found that many government and private entities have considered using the principles of universal design to facilitate more inclusive use of homes but there is a lack of consistent standards statewide and universal design building standards cannot be adopted under existing statutory "local

condition” exceptions. Development of state guidelines and model ordinances will provide a variety of social and financial cost benefits to individuals and governmental agencies.

- HSC Section 17959 requires the Department of Housing and Community Development (Department), by December 31, 2003, to develop guidelines and at least one model ordinance for new construction and home modifications consistent with the principles of universal design without significantly impacting the cost of housing.
 - Effective January 1, 2005, after the Legislature has one year to review the Department’s ordinance(s), local governments, after making specified findings, may adopt universal design building standards ordinances substantially the same as the Department’s model ordinance pursuant to the authority granted by HSC Sections 17958.5 and 18941.5. Following adoption of local ordinances, the city or county must file a copy of the ordinance and subsequent findings with the Department. A local ordinance may not become effective or operative until the findings and the ordinance have been filed with the Department.
 - “Universal design” is comprised of features such as zero-step entries, levered doors and faucets, bracing in bathroom walls for grab bar installation, lower light switches and appliance controls, etc., which make a home more usable for frail persons or those with disabilities.
- **Chapter 31 of the 2002 statutes (SB 332/Sher)** amends sections 18944.30, 18944.31, 18944.33, 18944.35, and 18944.40, and adds section 18944.41, to the Health and Safety Code (HSC) regarding straw-bale construction. As an urgency bill, it took effect upon filing with the Secretary of State on April 26, 2002.
- HSC Section 18944.30 was amended to add legislative findings that the 1995 guidelines contained specific requirements that were unnecessary and detrimental, which were considered costly and severely restricted the development of straw-bale housing.
 - HSC Section 18944.31(a) was amended to state that the amendments were retroactive and applied to the construction of all structures using baled straw as a loadbearing or nonloadbearing material within any city or county that adopted prior statutory guidelines prior to January 1, 2002. Subsection (d) was amended to specify legislative intent that the statutory guidelines of this chapter serve as an interim measure pending the adoption of straw-bale materials and construction standards into the California Building Standards Code.
 - HSC Section 18944.33 added definitions of “loadbearing”, “nonloadbearing”, and “plaster” pertaining to straw-bale construction.
 - HSC Section 18944.35 was amended to remove authority for a building official to determine if a variety of straw meets the minimum requirements of this chapter for density, shape, moisture content, and ties.

- HSC Section 18944.40 was amended in subsection (e) regarding vertical loads and lateral forces; subsection (f) regarding foundation design; subsection (g) regarding methods of anchoring bales for lateral force resistance; and subsection (p) was added to provide requirements for protection from weather during construction.
 - HSC Section 18944.41 was added to make the chapter inoperative once building standards for straw-bale construction are adopted by the Building Standards Commission and become effective statewide.
- **Chapter 931 of the 2002 Statutes (SB 460/Ortiz)** amends Civil Code (CC) Section 1941.1 and amends sections 17961, 17980 and 124130 of, and adds sections 17920.10, 105251, 105252, 105253, 105254, 105255, 105256, and 105257 to, the Health and Safety Code (HSC), relating to lead abatement.
- This bill declares any building in violation of State Housing Law (SHL) if it contains specified lead hazards that are likely to endanger the health of the public or occupants. Also, it authorizes local building departments and other specified enforcement agencies (including the California Department of Health Services) to use SHL remedies and penalties to require abatement of lead hazards in public and residential buildings.
 - CC Section 1941 was amended to specify that a dwelling is untenable for purposes of Section 1941, if among other conditions, it contains a lead hazard condition described in HSC Section 17920.10.
 - HSC Section 17920.10 was added and includes lead hazards such as lead-based paint which is deteriorated or being disturbed without containment—or lead-contaminated dust or soil—as a hazardous condition to be considered among substandard conditions rendering a building or portion thereof including a dwelling unit, guestroom, or suite of rooms, in violation of State Housing Law. Subsections (a) through (e), of HSC Section 17920.10, define the levels at which specified lead presence becomes a hazard.
 - HSC Section 17961 was amended to require building and health departments to coordinate lead hazard abatement efforts in residential structures to avoid unnecessary duplication.
 - HSC Sections 105252 thru 105257 are adopted for the Department of Health Services (DHS) regarding DHS authority and regulations in Chapter 8 of Division 1 of Title 17 of the California Code of Regulations, relating to lead abatement. However, HSC section 105251 was amended to include housing and building officials as having authority to enforce health department lead rules and regulations. This includes HSC sections 105255 and 105256, related to unsafe work practices involving lead and unsafe conditions involving lead.

For more information related to SB 460, lead hazard abatement in residential structures, and state and local health department contacts, see attached Information Bulletin 2003-xx, “Lead Hazard Enforcement by Building Officials,” which also is available on the Department website at

www.hcd.ca.gov/codes.

- **Chapter 722 of the 2002 Statutes (SB 800/Burton)** adds Section 43.99 to Part 2 of Division 2, and Title 7 (commencing with Section 895) to Part 2 of Division 2 of, the Civil Code (CC) relating to construction defects.
 - The added sections include rights and responsibilities for homeowners and homebuilders to resolve construction disputes without litigation by setting forth standards, limitations and procedures for the resolution of construction defects.
 - Section CC section 43.99 includes protection for qualified persons under contract with a residential building permit applicant (“private inspectors”) for independent review of plans and specifications to ensure compliance with all applicable requirements.
 - The bill sets forth certain performance standards for construction component and system function by providing homeowners and homebuilders with criteria for acceptable system function and time limitations of builder responsibility. The performance standards (e.g., “not allow excessive condensation”) replace the obligation to build to code as a basis of liability.
 - This bill also defines obligations for homeowners and builders in a “prelitigation procedure” to allow parties to work in concert for the resolution and repair of construction defects. In many or most cases, the potentially liable party will be a subcontractor or materials provider, rather than the builder or general contractor.

- **Chapter 26 of the 2001 Statutes (SB1227/Burton)** authorized a bond measure on the November 5, 2002 statewide ballot that, upon approval by the voters, enacted the Housing and Emergency Shelter Trust Fund Act of 2002. The measure authorizes the financing of various existing housing and code enforcement programs and the issuance of bonds in the amount of \$2,100,000,000 pursuant to the State General Obligation Bond Law.

HSC Section 53533(a) of the Housing and Emergency Shelter Trust Fund Act of 2002 allocates housing bond revenues to a variety of HCD programs. Subparagraph (a)(6) authorizes five million dollars (\$5,000,000) to be expended for “capital expenditures” in support of local code enforcement and compliance programs. (**Note:** HCD will issue a Notice of Availability of Funds or “NOFA” for program applications in February 2003)

- **Chapter 1051 of the 2002 Statutes (SB 1992)** amended Section 19201 and added Section 19205 to the Health and Safety Code (HSC).
 - HSC Section 19201 was amended to define “excess flow gas shutoff device” and “customer-owned gas piping” and to specify that a “seismic gas shutoff device” and “excess flow gas shutoff device” must not include any device installed on a gas distribution owned or operated by a public utility.

- HSC Section 19205 was added to require the Department of Housing and Community Development (HCD), in consultation with the State Architect and the State Fire Marshal to determine whether a proposal should be made to the California Building Standards Commission (CBSC) requiring seismic gas shutoff devices and excess flow gas shutoff devices on dwelling units, hotels, motels, and lodging houses.
- HCD must undertake this review during the annual code adoption cycle that begins after January 1, 2003 and must explain in writing all reasons if it determines to not make a proposal to CBSC, and must include an analysis of the cost and safety benefits if a proposal is made to CBSC.
- CBSC must adopt or reject any joint proposal submitted by HCD, DSA and SFM requiring seismic gas shutoff devices and excess flow gas shutoff devices on dwelling units, hotels, motels, and lodging houses through the normal code adoption process.

This summary of legislative changes is not represented to be a complete digest of all new laws effecting persons regulated by the State Housing Law. The complete text of each law can be reviewed through the Official California Legislative Information website at: www.leginfo.ca.gov.

For questions regarding housing construction, maintenance, and use requirements, please contact our State Housing Law Program at (916) 445-9471.

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