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DIVISION OF CODES AND STANDARDS**

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INFORMATION BULLETIN 2003-09 (SHL)

**TO: City and County Building Officials
State Housing Law Interested Parties
Division Staff**

SUBJECT: 2003 LEGISLATIVE CHANGES

This Information Bulletin summarizes the year 2003 legislative changes to California Laws that impact housing construction in California. The amendments and additions to the California Laws summarized in this Information Bulletin become effective on January 1, 2004, unless otherwise specified in the legislation. This Bulletin is divided into two sections: building standards (new construction) and enforcement (existing structures).

Building Standards

- **Chapter 762, Statutes of 2003 (Assembly Bill No. 903, Steinberg) amends Sections 896, 911, 912, 916, 936, 938, 941, and 945.5, amends and renumbers Section 942, and adds new Section 942, of the Civil Code, relating to construction defects.**
 - In the Civil Code, this legislation amends and adds various provisions governing home construction defect actions relating to original construction.

- **Chapter 688, Statutes of 2003 (Assembly Bill No. 1216, Vargas) amends Section 51189 of the Government Code and amends Section 13108.5 of the Health and Safety Code (HSC), relating to fire safety standards.**
 - In Government Code Section 51189, the amendments require the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of the Department of Housing and Community Development, to recommend building standards, no later than January 1, 2005, that provide for comprehensive space and structure defensibility from fires spreading from adjacent structures or vegetation.

- In HSC Section 13108.5, the amendments require the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of the Department of Housing and Community Development, to propose fire protection building standards for roofs, exterior walls, structure projections, and structure openings of buildings in fire hazard severity zones. Building standards adopted pursuant to this section shall also apply to buildings located in urban wildland interface communities.

Additionally, the amendments include a definition of an “urban wildland interface communities” for application to this section.

➤ **Chapter 648, Statutes of 2003 (Assembly Bill No. 1400, Wolk) adds Section 17959.6 of the Health and Safety Code, relating to housing.**

- HSC Section 17959.6, added by this legislation, requires a developer of any new residential housing development to provide a buyer with a list of specified universal accessibility features that would make specified areas of the home accessible to persons with disabilities. The developer must indicate whatever the features are standard, limited, optional, or not available, and the point of construction by which they must be requested.

The list must be made available to buyers beginning July 1, 2004, or 90 days after following the date the Department of Housing and Community Development has developed, certified, and made available a standard form providing a list of universal accessibility features that may be purchased by the new home buyer from the builder.

This legislation provides for civil penalties of \$500 for a willful violation of these provisions.

This legislation authorizes the Department of Housing and Community Development to develop a standard form providing the information required by this legislation. However the developer may use a form substantially the same as that developed by the Department.

➤ **Chapter 814, Statutes of 2003 (Senate Bill No. 306, Ducheny) amends Section 17951 of the Health and Safety Code (HSC), relating to alternate materials and methods of construction. Additionally this legislation amended numerous other sections of the HSC relative to manufactured homes, mobilehomes, recreational vehicles, and mobilehome and special occupancy parks.**

- In HSC Section 17951, the amendments specify that the provisions of the State Housing Law (SHL) are not intended to prohibit the use of a multiunit manufactured housing, as defined in HSC 18008.7, as an alternate to the

provisions specifically prescribed in the California Building Standards Code or the SHL.

Additionally the amendments specify that the approval by a city or county of alternate materials, appliances, installations, devices, arrangements, and methods of construction must be on a case-by-case basis, and not a general approval.

➤ **Chapter 642, Statutes of 2003 (Senate Bill No. 1025, Escutia) amends Section 12955.1 of, and adds Section 12955.1.1 to, the Government Code, relating to housing accessibility for persons with disabilities.**

- In Government Code Section 12955.1, the amendments in subdivision (b) revise the definition of discrimination to include the failure to design and construct at least 10 percent of the multistory dwelling units (townhouses) in buildings without an elevator to the accessibility requirements of this section. In order to determine the total number of multistory dwelling units subject to this subdivision, all multistory dwelling units in the buildings on a site must be considered collectively.

The design must incorporate an accessible route to the primary entry level entrance on the ground floor, to at least one bathroom on the primary entry level, and to the public and common areas.

These provisions shall apply only to multistory dwelling units in a building subject to this subdivision for which an application for a construction permit is submitted on or after July 1, 2005.

- Government Code Section 12955.1.1 is added to define “covered multifamily dwellings” and is consistent with the definition in the 2001 California Building Code Chapter 11A. Additionally, the term “multistory dwelling unit” is added.

Code Enforcement

➤ **Chapter 109, Statutes of 2003 (Assembly Bill No. 647, Nunez) amends Section 1942.4 of the Civil Code and adds Section 1174.21 to the Code of Civil Procedure, relating to tenancy.**

- In Civil Code Section 1942.4 the amendments prohibit a landlord from demanding rent, issuing a notice of rent increase, or a 3-day notice to pay rent or quit, when specified defects and unsuccessful agency enforcement activities listed in this section exist prior to the landlord’s notice or demand. The specified defects were amended to add violations of specific Health and Safety Code provisions that endanger an occupant or the public. The amendments reduce to 35 days the period that the violations must have existed beyond the date of service of the agency notice to repair and clarify

that service of the agency notice is complete upon its deposit in the United States mail. A tenant or lessee can now collect up to \$5,000 in damages and recover costs associated with the suit.

- Code of Civil Procedure Section 1174.21 provides that a landlord who institutes an unlawful detainer proceeding based upon a tenant's nonpayment of rent and who is in violation of Civil Code section 1942.4, is liable to the tenant or lessee for reasonable attorney's fees and costs of the suit, in an amount set by the court.
- **Chapter 474, Statutes of 2003 (Assembly Bill No. 1034, Mullin) amends Section 54988 of the Government Code), amends Sections 17958.8, 17980, 17980.1, 17991, and 17992 of, and amends and renumbers Section 17980.8 of, and adds Sections 17960.10 and 17980.11 to, the Health and Safety Code (HSC), relating to housing.**
 - In Government Code Section 54988, the amendments expand the list of circumstances for which the legislative body of a city or county may impose property liens to collect fees, costs, or charges incurred in the abatement, correction, or enforcement of any violation of specified regulations or local ordinances. It now includes “inspections” and abatements undertaken pursuant to specified local ordinances.
 - In HSC Section 17958.8, the amendments require that local ordinances or regulations permitting the replacement, retention, and extension of original materials and the use of original methods of construction that comply with the building standards provisions at the time of construction must permit that work for only a portion of the building or accessory structure, rather than requiring replacement throughout the building, so long as the building or accessory structure does not become or continue to be substandard.
 - HSC Section 17960.10 is added and provides that local government may develop and provide a referral list of public agencies or publicly funded private agencies that finance or assist in residential rehabilitation or repair activities for real property owners or renters.
 - In HSC Section 17980, the amendments authorize a shorter time period for a notice to abate if deemed necessary by the enforcement agency to prevent or remedy an immediate threat to the health and safety of the public or occupants. They also permit filing lawsuits for any violation, not just a nuisance; require that repair work be done within the time period allowed by the abatement notice; and require that tenants receive copies of any lead hazard notices as well as substandard housing notices.
 - In HSC Section 17980.1, the amendments allow use of the judicial system, receivership, and other remedies in this section for any condition that

substantially endangers the health and safety of residents pursuant to HSC section 17980.6 pertaining to noticing and failure to correct, and not just for seismic hazards, the limitation in current law.

The amendments added that the local government and/or receiver need not post a specified bond when the court appointing the receiver determines that the receiver will be acting under the general direction of the enforcement agency the receiver may be deemed a public officer according to Code of Civil Procedure Section 995.220.

- HSC Section 17980.8 is renumbered to Section 17980.10, and contains editorial amendments.
 - HSC Section 17980.11 is added and provides authority for local enforcement agencies requiring the private owner of a structure, for which a notice of substandard or untenable conditions has been recorded, to provide specific information to the enforcement agency deemed necessary to file documents to utilize Sections 17274 or 22436.5 of the Revenue and Taxation Code that prohibit the use of certain income tax benefits related to rental property.
 - In HSC Section 17991, the amendments require the seller of property which is subject to a Notice of Violation which has not been corrected to record a “Notice of Conveyance of Substandard Property” and identify the transferee and specific information about the transferee.
 - In HSC Section 17992, the amendments extend to any person who obtains an ownership interest in any property the responsibility to comply with any other notice of violation of State Housing Law recorded with the city or county in which the property is located.
- **Chapter 581, Statutes of 2003 (Assembly Bill No. 1576, Liu) amends Sections 19210, 19211, 19212, 19213, 19215, and 19216 of the Health and Safety Code (HSC), relating to water heater resistance to falling or horizontal displacement.**
- In HSC Section 19210, the Legislature found that the original state policy goal of having all water heaters strapped or properly anchored by the year 2000 was not accomplished, and that occupants, including occupants of rental housing are vulnerable to the threat of fire, explosion, or electrocution from water heaters that overturn or are damaged during an earthquake. The Legislature also found that compliance with the requirements to brace, anchor or strap water heaters must not result in the displacement of existing households.

- In HSC Section 19211, the amendments include provisions that prohibit an owner of rental property from evicting any person on the basis that the eviction is required in order to comply with this section.

The amendments also deem any dwelling unit, guestroom, suite of rooms, or portions thereof, or the premises on which it is located to be a nuisance if it is in violation of this section. [Note: this makes failure to comply a violation of the State Housing Law] Furthermore the owner or the owner's agent shall have the right to correct any violation of subdivision (a) of this section pursuant to Section 17980

The amendments include a new definition for "water heater." For the purposes of Section 19211, "water heater" means any standard water heater with a capacity of not more than 120 gallons for which a pre-engineered strapping kit is readily available.

- In HSC Sections 19212, 19213, 19215 and 19216, the amendments were editorial, principally changing "Office of the State Architect" to "Division of the State Architect."

➤ **Chapter 872, Statutes of 2003 (Senate Bill No. 262, Keuhl) amends Section 4458 of, and adds Sections 4459.5, 4459.6, 4459.7, and 4459.8 to, the Government Code, and amends Sections 19954 and 19958.5 of, and adds Section 19958.6 to, the Health and Safety Code, relating to building standards and disabled access.**

- In Government Code Section 4458, the amendments add that county counsel may bring an action related to the disabled access provisions in this part of the Government Code when the district attorney does not bring an action.
- Government Code Section 4459.5 is added to require that the State Architect establish a program for voluntary certification by the State of any person who meets specified criteria as a "certified access specialist." The State Architect must determine the minimum specified criteria for certification no later than January 1, 2005.
- Government Code Section 4459.6 is added to require that the State Architect appoint an ad hoc advisory committee to assist in developing the requirements for certification as an access specialist. The committee is to be comprised of individuals with disabilities, state and local representatives, architects, building inspectors and business.
- Government Code Section 4459.7 is added to require that the State Architect annually publish and make available to the public a list of certified access specialists. Additionally, the State Architect may perform audits of work

performed by certified access specialists to include access to technical data, reports, records, etc.

- Government Code Section 4459.8 is added to specify that the certification issued shall be for a period of three years and shall be renewable. The amendments also authorize the State Architect to establish fees to cover the costs associated for the examinations, certifications, renewals and other.
- In HSC Section 19954, the amendment authorizes a county counsel to bring an action to enjoin a violation of requirements relating to access to buildings by persons with disabilities if the district attorney does not bring an action.
- In HSC Section 19958.6, a new section is added allowing a civil action to impose civil penalties of up to \$2,500 per violation on persons who violate prescribed statutes or regulations relating to access to buildings by persons with disabilities. Public prosecuting agencies are eligible for awards of all costs of investigating and prosecuting the actions.

➤ **Chapter 60, Statutes of 2003 (Senate Bill No. 567, Torlakson) amends Sections 25132 and 36900 of the Government Code, relating to local ordinances.**

- In Government Code Sections 25132 and 36900, the amendments specifically add new fines providing that violations of local building and safety codes determined to be infractions are punishable by fines of \$100 for the first violation, \$500 for the second violation and \$1,000 for each additional violation of the same ordinance within one year.

➤ **Chapter 274, Statutes of 2003 (Senate Bill No. 919, Ortiz) amends Sections 241 and 243 of the Penal Code, relating to code enforcement officers.**

- In Penal Code Sections 241 and 243, the amendment adds “code enforcement officer” to the list of specific positions (peace officers, fire fighters, etc.) that punishment provisions of assault and battery apply.

Additionally, added to this section is the definition for “Code enforcement officer” to mean any person who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, who has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints.

Code enforcement officer also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act, Manufactured Housing Act, Mobilehome Parks Act, or the Special Occupancy Parks Act.

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

For questions regarding State Housing Law requirements, please contact our State Housing Law Program at (916) 445-9471. You may also contact the Department via our web comment at: <http://www.hcd.ca.gov/comments/> .

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