

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 2835 (Gabriel)
Version: June 3, 2024
Hearing Date: June 11, 2024
Fiscal: Yes
Urgency: No
ID

SUBJECT

Motels and hotels: publicly funded shelter programs

DIGEST

This bill eliminates the sunset date of January 1, 2025 on the tenancy rules and the exception to standard landlord-tenant rules for interim homeless shelter programs by participating hotels or motels.

EXECUTIVE SUMMARY

California is experiencing a severe affordable housing and homelessness crisis. In 2023, more than 181,000 individuals were estimated to be experiencing homelessness in the state, 68 percent of whom were living outside without access to temporary shelter. One of the ways California has attempted to address this crisis is by utilizing hotels and motels as temporary shelters for those experiencing homelessness. Project Roomkey was created during the COVID-19 pandemic to do just that. However, hotels and motels have either been hesitant to participate in such shelter programs because of the possibility that program participants who reside in the shelter for more than 30 days may become entitled to standard landlord-tenant protections. There were reports as well that participating hotels and motels were engaging in the practice of “shuffling” program participants, forcing participants to move before they reach the 30 day mark and assume landlord-tenant protections, in order to avoid needing to comply with landlord-tenant laws when program participants are removed from the program. To resolve this issue, the Legislature enacted AB 1991 to specifically exempt residents of hotel or motel shelter programs from landlord-tenant laws and establish a separate set of standards for the removal of residents in such shelter programs. The provisions created by AB 1991 are set to expire January 1, 2025. AB 2835 proposes to eliminate this sunset provision, making the program and its exemptions from landlord-tenant law permanent. AB 1991 is sponsored by the National Alliance to End Homelessness and Los Angeles Family Housing, and is supported by a number of pro-housing and anti-homelessness organizations. The Committee has received no timely opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Defines “motel or hotel” to mean a dwelling unit that an innkeeper retains a right of access to and control of, and that provides or offers all of the following services to all of the residents:
 - a) facilities for the safeguarding of personal property, as specified;
 - b) central telephone service, as specified; and
 - c) maid, mail, and room services. (Civil Code § 1954.08(b).)
- 2) Defines “shelter program” to mean a city, county, continuum of care, state, or federally funded shelter, interim housing, motel voucher, or emergency shelter program in which the city, county, federal government entity, or other specified entity retains an oversight and accountability role in ensuring compliance with program regulations and proper program administration. (Civ. Code § 1954.08(c).)
- 3) Defines “shelter program participant” to mean an occupant of a motel, a hotel, or other shelter site whose occupancy is solely due to their participation in a shelter program. (Civ. Code § 1954.08(f).)
- 4) Defines “shelter program administrator” to mean a city, county, or continuum of care entity that retains an oversight role in ensuring compliance with program regulations and proper program administration. (Civ. Code § 1954.08(d).)
- 5) Provides that shelter program participants shall not have their continued occupancy in a motel, hotel, or a shelter site constitute a new tenancy and shall not be considered a tenant subject to unlawful detainer proceedings, if the shelter program meets the following requirements:
 - a) Adheres to the core components of Housing First;
 - b) Establishes, adopts, and clearly documents rules governing how and for what reasons a shelter program participant’s enrollment may be terminated and the shelter program operator discloses the termination policy to program participants in writing;
 - c) Establishes procedures regarding how a shelter program participant will be provided a written termination notice if a termination occurs, and the shelter program operator discloses those procedures to shelter program participants in writing at the commencement of their occupancy;
 - d) Provides an exit plan upon termination of a shelter program participant that includes referral to any available local shelter service for which the participant is eligible, and the shelter program operator makes a good faith, reasonable effort to facilitate an intake, and documents these efforts;

- e) Establishes a grievance process that complies with due process, and the program operator discloses the grievance process to occupants in writing at the commencement of their occupancy. (Civ. Code § 1954.09(a).)
- 6) Provides that the specified requirements referenced in 5) do not apply to properties which are being converted from use as a motel or hotel, or from use as a shelter, interim housing, emergency shelter, or other interim facility to a permanent housing site from the date that the site receives a certificate of occupancy as a permanent housing site. (Civ. Code § 1954.09(c).)
- 7) Provides that specified building code regulations shall not be interpreted to limit the length of occupancy for shelter program participants. (Civ. Code § 1954.091(a).)
- 8) Emphasizes that the above-described provisions must not be interpreted to confer or deny any tenants' rights, and provides that a shelter program participant is entitled to:
 - a) continued occupancy in a hotel or motel without creating a tenancy;
 - b) not to be considered a tenant for purposes of unlawful detainer proceedings;
 - c) receipt of a written termination policy;
 - d) disclosure of the termination procedure;
 - e) 30 days' notice prior to termination, except as specified; and
 - f) the right to appeal termination through a grievance policy, as specified. (Civ. Code § 1954.091(b).)
- 9) Clarifies that a motel or hotel shall not be designated as a nontransient motel or a nontransient hotel for the California Building Standards Code solely as a result of a shelter program participant's occupancy in the motel or hotel beyond a 30-day period. (Civ. Code § 1954.092(a).)
- 10) Prohibits a hotel or motel from doing either of the following:
 - a) Adopting termination policies specifically for motel or hotel occupants who are shelter program participants that do not apply to other motel or hotel occupants who are not participating in a shelter program, impose restrictions on the ability of program participants to freely enter or exit the property or access certain areas or amenities of the property that do not apply to other motel or hotel occupants, or levy charges and fees, including fees for room card replacements, that do not apply to other motel or hotel occupants. Specifies that this is a minimum standard for shelter terminations and that shelter programs may provide greater rights to participants; and
 - b) Requiring shelter program participants to check out and reregister, move out of rooms or between rooms, or from the hotel or motel while actively enrolled in the shelter program unless their continued occupancy of the

unit of the motel or hotel constitutes a clear and imminent threat to health and safety of the occupant. (Civ. Code § 1954.092(b).)

11) Repeals the above-described provisions as of January 1, 2025. (Civ. Code § 1954.093.)

This bill:

1. Eliminates the sunset provision for the above-described provisions.
2. Revises the definition of motel or hotel to mean “any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment.
3. Provides that a shelter program operator is exempt from providing the required 30-day notice prior to termination when a shelter program participant has self-exited from the shelter program.
4. Specifies that, if a shelter program participant will exit a program due to the program’s time limits and the participant’s stay is extended for a period that is less than 30 days, the shelter program administrator or operator may issue an amended termination notice with an additional period of time equal to the number of days of the program extension.
5. Defines “self-exit” as a circumstance where the shelter program participant voluntarily leaves a shelter program, including for a reason unknown to the shelter program operator, and does not return to the site or make reasonable contact with the shelter program operator within 72 hours of leaving. Specifies that the shelter program operator must contact hospitals, jails, and any other relevant sites to make a good faith effort to determine the location of the individual and if the exit was voluntary.

COMMENTS

1. Author’s statement

According to the author:

In 2022, the legislature passed AB 1991 (Gabriel), which delivered much-needed clarity and guidance regarding tenancy to motels, hotels, and shelter providers participating in programs that provide shelter to homeless individuals. Before the passage of the legislation, shelter programs had to "shuffle" homeless individuals to new locations every 30 days, an extremely disruptive practice counterproductive to the goal of assisting this vulnerable community. AB 2835 seeks to make these critical changes permanent to ensure service providers,

motels, hotels, and those experiencing homelessness have a clearly defined set of protections against arbitrary removal or relocation from shelter programs.

2. California's housing crisis and unhoused population

As the cost of housing in California has increased exponentially in recent years, the number of individuals in the state experiencing homelessness has increased significantly. In 2023, the United States Housing and Urban Development's point-in-time count of unhoused individuals found 181,399 individuals in California were experiencing homelessness, which represents a six percent increase from the year before.¹ A staggering 68 percent of these individuals were unsheltered, meaning they are currently living outside and not in temporary shelters.² African Americans are disproportionately affected by homelessness, as they represented 29 percent of the total unhoused population in the 2023 count.³

The state's homelessness crisis is due primarily to the state's housing crisis, as the state is experiencing a record shortfall of affordable housing and record high prices for homes and rent. Data and multiple studies have demonstrated a strong link between homelessness and the cost of housing.⁴ The data on the state's housing crisis also could not be more clear. It is estimated that the state is experiencing a shortfall of 1,283,734 affordable homes.⁵ Moreover, 78 percent of extremely low-income households are severely cost burdened, meaning that they spend more than half of their income on housing costs, and 52 percent of low-income households are severely cost burdened.⁶ When households pay such significant amounts of their income on housing, any change

¹ U.S. Dept. of Housing and Urban Development, "Annual Homeless Assessment Report: Point-In-Time Estimates of Homelessness in the U.S. (Dec. 2023), available at <https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html>; Marisol Cuellar Mejia and Cesar Alesi Perez, "An update on homelessness in California," Public Policy Institute of California (Mar. 21, 2023), available at <https://www.theguardian.com/us-news/2023/dec/19/california-us-street-homelessness-youth-unsheltered-annual-report#:~:text=Meghan%20Henry%2C%20project%20director%20for,8.53%20million%20renters%20were%20on.>

² Sam Levin, "California's housing crisis is the worst in the U.S. But who is struggling the most?" The Guardian (Dec. 19, 2023) available at <https://www.theguardian.com/us-news/2023/dec/19/california-us-street-homelessness-youth-unsheltered-annual-report#:~:text=Meghan%20Henry%2C%20project%20director%20for,8.53%20million%20renters%20were%20on.>

³ *Id.*

⁴ Margot Kushel et al, "California Statewide Study of People Experiencing Homelessness, UCSF Benioff Homelessness and Housing Initiative (Jun. 2023), available at <https://homelessness.ucsf.edu/our-impact/studies/california-statewide-study-people-experiencing-homelessness>; Alex Horowitz et al, "How housing costs drive levels of homelessness: data from metro areas highlights strong connection," The APew Charitable Trusts (ug. 22, 2023), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/08/22/how-housing-costs-drive-levels-of-homelessness>.

⁵ California Housing Partnership, "Housing Needs Dashboard," Mar. 2024, available at <https://chpc.net/housingneeds/>.

⁶ *Id.*

in income or emergency life event result in missed rent payments, eviction, and ending up homeless.

3. The programs through which hotels and motels provide temporary shelter

The state has attempted to address this crisis through a variety of initiatives. While some of these initiatives attempt to address the root causes of homelessness or provide long-term housing, others seek to address the immediate needs of those experiencing homelessness by providing temporary shelter. During the COVID-19 pandemic, individuals experiencing homelessness were particularly susceptible to contracting and spreading the Coronavirus due to their being unhoused and other factors. Thus, Project Roomkey, with funding from the federal government, reimbursed cities and counties the costs for temporarily housing unhoused individuals in vacant motels or hotels. Another initiative was developed out of the success of Project Roomkey: Project Homekey. Project Homekey provides funding to local jurisdictions to rapidly build a variety of housing options to combat homelessness, such as converting hotels and motels to homelessness shelters and longer-term housing.

4. AB 1991 and the application of landlord-tenant laws to interim housing programs

Project Roomkey and Homekey have been important tools in reducing the number of unhoused individuals living outside without shelter, and is part of a constellation of programs the state and local jurisdictions are using to combat homelessness and ensure that unhoused individuals can be safe and have access to shelter. However, shelter programs utilizing hotels and motels are meant to be temporary, providing individuals shelter as more permanent housing options are sought.

A complication to the temporary nature of these shelter programs, and to hotel and motels' participation, are the protections provided under landlord-tenant law. Under current law, most landlord-tenant law does not apply to temporary hotel and motel guests, as individuals staying at hotels and motels for 30 days or less are treated as guests, not tenants. (Civ. Code § 1940, Rev. & Tax Code § 7280.) Because of this, hotels and motels may demand that people staying or short periods of time leave at any time, and such demands can be enforced by law enforcement under the crime of trespass. (Pen. Code § 602(o).) However, once a guest has stayed at the hotel or motel for more than 30 days, they are considered a tenant, and landlord-tenant law applies. Most significantly, this means that they cannot be removed by demand or law enforcement, without first the filing and adjudication of an unlawful detainer claim in court.

Because of this, many hotels and motels participating in shelter programs were reportedly engaging in "shuffling," in which they would move guests in the program every 30 days. To prevent this and establish a process outside of traditional landlord-tenant law by which guests in temporary shelter programs in hotels or motels may be removed from a hotel or motel after more than 30 days of shelter, the Legislature passed

AB 1991. (AB 1991 (Gabriel), Ch. 645, Stats. 2022.) AB 1991 ensured that participants in a hotel or motel shelter program are not treated as tenants, and it created a separate process to safeguard participants' rights. Specifically, AB 1991 exempted shelter programs in hotel or motels from landlord-tenant laws if the hotel or motel: complies with the core principles of Housing First; maintains rules governing how and for what reasons a participant's enrollment may be terminated, which are disclosed to program participants in writing; allow termination of shelter for only specified reasons, such as sexual assault and time limits established by the program; maintains procedures for notifying participants of termination and a grievance process; and the hotel or motel provides an exit plan to program participants that includes referrals to available local shelter services and a good faith, reasonable effort to facilitate intake in such a shelter. (Civ. Code § 1954.09.) AB 1991 also requires that program participants be provided notice of termination at least 30 days before the termination of their stay in the program, unless the reason for the termination constitutes a direct threat to person or property, and that a participant is entitled to utilize the program's grievance process in either case.

5. AB 2835 indefinitely extends the tenancy rules and exceptions created by AB 1991

When AB 1991 was passed, it included a two-year sunset as a result of late opposition. As such, the program will be repealed January 1, 2025. AB 2835 proposed to eliminate this sunset so that the program is permanent. The author asserts this is needed to keep the program running and ensure that motels and hotels and those experiencing homelessness who are participants in a motel or hotel shelter program have a clearly defined set of protections against arbitrary removal or relocation from shelter programs. In addition to making permanent the current protections for hotel or motel shelter residents, AB 2835 also provides continued assurances to hotels and motels participating in shelter programs that landlord-tenant protections will not apply to program participants and that the practice of "shuffling" will not be necessary to avoid such laws. The author also asserts it is important these protections continue because the practice of "shuffling" was credibly disruptive to program participants, and required significant resources, and that, without AB 1991's protections, state law was not clear about the process for exiting program participants when they had resided in a shelter for less than 30 days.

AB 2835 also makes a number of changes to the program. The bill provides for an exception from the bill's 30-day notice of termination requirement for when a participant "self-exits" the program. The author asserts this is necessary because the 30-day requirement is unclear such that some shelter programs attempt to provide notice of termination and hold rooms vacant for 30 days when a participant leaves the program on their own accord. AB 2835 adds protections to ensure the participant is protected from losing their space when they did not actually voluntarily exit the program. It specifies that the program operator must make a good faith effort to determine the participant's location by calling hospitals, jails, and other relevant sites.

AB 2835 also defines a self-exit as when the participant does not return to the hotel or motel or does not contact the shelter program operator within 72 hours of leaving.

AB 2835 also provides for shortened notice of termination when a participant's stay is extended beyond the original termination date that was already noticed when the extension is less than 30 days. It specifies that this notice must be provided for a period of time equal to the number of days of the extension.

The final two changes to the program's language fix inconsistent references and issues of clarity in the law. The bill changes the definition of hotel or motel, removing the reference to Civil Code Section 1940. The author asserts that this is necessary to remove a broken code reference. AB 2835 provides a definition of hotel or motel in its provisions instead of reference to a definition in a separate section of the Civil Code. The final change clarifies that multiple sections of the program's provisions do not conflict.

6. Arguments in support

According to the National Alliance to End Homelessness, which is a sponsor of AB 2835:

[AB 2835] would remove the sunset on AB 1991 (2022-Gabriel) and allow for continued implementation of a bill to provide essential clarity on the status of individuals sheltered through hotels, motels, and other shelter programs. The National Alliance to End Homelessness is a nationally recognized organization dedicated to ending homelessness in America by lifting up evidenced-based best practices to move both policymaking and practice.

Currently, thousands of people experiencing homelessness in California are participating in shelter programs and residing temporarily in hotels, motels, and other sites. Before 2023, many hotels and motels participating in shelter programs were forced to utilize a practice known as 'shuffling,' where homeless individuals were removed from their rooms every four weeks to avoid creating a landlord-tenant relationship. In addition, people experiencing homelessness lacked other critical protections in shelter programs, allowing people to be removed arbitrarily with no due process or required grievance processes.

To prevent these harmful practices, the legislature passed AB 1991 (Gabriel), allowing hotels and motels to participate in shelter programs for longer than 30 days without the risk of establishing a landlord-tenant relationship while also creating needed protections for people experiencing homelessness.

Unfortunately, these policy changes will sunset on Jan. 1, 2025.

The old "shuffling" practice was disruptive to homeless individuals participating in shelter programs, unnecessarily consuming case manager and service provider resources as they frequently worked to find new accommodations for "shuffled" individuals. AB 2835 makes the critical protections for hotels and motels, homeless service providers, and homeless individuals permanent by removing the sunset provisions of AB 1991. This bill will ensure that participating locations can continue providing housing services to homeless individuals without the legal risks that had once complicated or deterred participation in these programs.

SUPPORT

National Alliance to End Homelessness (sponsor)
Los Angeles Family Housing (co-sponsor)
California Catholic Conference
County Behavioral Health Directors Association
Downtown Women's Center
Hope The Mission
Housing California
Livable California
NoHo Home Alliance
St. Joseph Center
The People Concern
West Valley Food Pantry

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 91 (Umberg, 2023) would extend indefinitely the exception to the California Environmental Quality Act for projects related to the conversion of a motel, hotel, residential hotel, or hostel to supportive or transitional housing that meets certain conditions.

AB 877 (Addis, 2023) would provide a tax credit equal to 50 percent of the nightly rate for each room in a hotel or motel that the hotel or motel provides free of charge to displaced persons during a state of emergency, up to \$2,00 per room and \$10,00 total per hotel or motel during each state of emergency. AB 877 died the Assembly Revenue and Tax Committee.

Prior Legislation: AB 1991 (Gabriel, Ch. 645, Stats. 2022) provides that hotels, motels, and homeless shelter programs can evict a guest who is a participant in a shelter program without the need to go through the unlawful detainer process even if the guest has stayed longer than 30 days, and established procedures and protections for residents in shelter programs.

PRIOR VOTES:

Assembly Floor (Ayes 73, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Housing and Community Development Committee (Ayes 9, Noes 0)
