

AMENDED IN SENATE AUGUST 21, 1996
AMENDED IN SENATE AUGUST 13, 1996
AMENDED IN SENATE JULY 15, 1996
AMENDED IN SENATE JUNE 27, 1996
AMENDED IN ASSEMBLY MAY 14, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 3305

Introduced by Assembly Members Setencich and Speier
(Coauthor: Senator Hughes)

February 23, 1996

An act to amend, add, and repeal Section 1102.6 of the Civil Code, *to amend Section 18942 of*, and to add Article 2.5 (commencing with Section 115920) to Chapter 5 of Part 10 of Division 104 of, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 3305, as amended, Setencich. Housing: safety: disclosures.

(1) Existing law requires a seller of residential property to make disclosures upon the transfer of that property, and sets forth the content and form of these disclosures.

This bill would, commencing July 1, 1997, add to the listing of required disclosures certain prescribed security safeguards, including, among other things, the presence or absence of security bars for windows, with, or without, quick-release mechanisms on bedroom windows, an anchored, bolted, or strapped water heater, a child-resistant barrier, as prescribed, for a pool, and a locking safety cover for a spa, and would delete the disclosure requirement regarding a hot tub.

(2) Existing law makes certain safety and sanitation requirements applicable to public swimming pools, including, but not limited to, the requirement that every person operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner.

Existing law designates the State Department of Health Services as having supervision over these requirements, and requires every health officer, within his or her jurisdiction, to enforce building standards relating to swimming pools, as defined.

This bill would, in addition, enact the Swimming Pool Safety Act to establish certain safety standards requiring swimming pool enclosures, safety pool covers, or exit alarms, as defined, or certain other means of protection, and would require each swimming pool for which a construction permit is issued on or after January 1, 1998 and that is located at a private, single-family home to meet at least one of these safety standards. In this regard, the bill would provide that any ordinance governing child access to pools adopted by a political subdivision on or before January 1, 1997, is presumed to afford protection that is equal to or greater than the safety standards prescribed by the act. This bill would make these standards applicable commencing January 1, 1998, to a private, single-family home for which a construction permit for a new swimming pool has been issued on or after January 1, 1998. This bill would also require any person entering into an agreement to build a swimming pool to give the consumer notice of the requirements of this bill. By increasing the enforcement duties of local health and safety officers, this bill would impose a state-mandated local program.

This bill would exclude hot tubs with certain safety covers, public swimming pools, as defined, and any pool within the



jurisdiction of a political subdivision that adopts an ordinance with requirements at least as stringent as the requirements of this bill.

This bill would exclude facilities regulated by the State Department of Social Services from requirements of this bill.

This bill would provide that these provisions are not subject to further modification or interpretation by any regulatory agency of the state and that this authority is reserved exclusively to local jurisdictions, as specified.

Existing law, the State Building Standards Law, requires the State Building Standards Commission to approve any state building standards and to publish a State Building Standards Code.

This bill would require the commission to publish the pool safety provisions of this bill in the State Building Standards Code with a note indicating that the provisions are subject to local government modification.

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 no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1102.6 of the Civil Code is
2 amended to read:
3 1102.6. (a) The disclosures required by this article
4 pertaining to the property proposed to be transferred are
5 set forth in, and shall be made on a copy of, the following
6 disclosure form:



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5
6 ~~for Real Estate Transfer Disclosure Statement~~
7
8 ~~as printed in AB 3305 (amended in Senate June 27, 1996);~~
9 ~~on pages 4 to 8.~~

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(b) This section shall remain in effect only until July 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1997, deletes or extends that date.

SEC. 2. Section 1102.6 is added to the Civil Code, to read:

1102.6. (a) The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall *be* made on a copy of, the following disclosure form:



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1 (b) This section shall become operative on July 1, 1997.
2 SEC. 3. *Section 18942 of the Health and Safety Code*
3 *is amended to read:*

4 18942. (a) The commission shall publish, or cause to
5 be published, editions of the code in its entirety once in
6 every three years. In each intervening year the
7 commission shall publish, or cause to be published,
8 supplements as necessary. For emergency building
9 standards defined in subdivision (a) of Section 18913, an
10 emergency building standards supplement shall be
11 published whenever the commission determines it is
12 necessary. The commission shall also publish, for
13 emergency standards defined in subdivision (b) of
14 Section 18913 and for building standards or
15 administrative regulations that apply directly to the
16 implementation or enforcement of building standards
17 approved pursuant to subdivision (b) of Section 142.3 of
18 the Labor Code, a semiannual supplement, or a more
19 frequent supplement if required by federal law.

20 (b) *The commission shall publish the text of Article 2.5*
21 *(commencing with Section 115920) of Chapter 5 of Part*
22 *10 of Division 104, within the California Code of*
23 *Regulations, Title 24, Part 2 requirements for*
24 *single-family residential occupancies, with the following*
25 *note:*

26 “NOTE: *These regulations are subject to local*
27 *government modification. You should verify the*
28 *applicable local government requirements at the*
29 *time of application for a building permit.”*

30 {
31 (c) The commission may publish, stockpile, and sell at
32 a reasonable price the code and any materials
33 incorporated therein by reference if it deems the latter
34 is insufficiently available to the public, or unavailable at
35 a reasonable price. Each state department concerned and
36 each city, county, or city and county shall have an
37 up-to-date copy of the code available for public
38 inspection.

39 (e)



1 (d) (1) Each city, county, and city and county,
 2 including charter cities, shall obtain and maintain with all
 3 revisions on a current basis, at least one copy of the
 4 building standards and other state regulations relating to
 5 buildings published in Titles 8, 19, 20, 24, and 25 of the
 6 California Code of Regulations. These codes shall be
 7 maintained in the office of the building official
 8 responsible for the administration and enforcement of
 9 this part.

10 (2) This subdivision shall not apply to any city or
 11 county which contracts for the administration and
 12 enforcement of the provisions of this part with another
 13 local government agency which complies with this
 14 section.

15 Article 2.5 (commencing with Section 115920 is added
 16 to Chapter 5 of Part 10 of Division 104 of the Health and
 17 Safety Code, to read:

18

19 Article 2.5. The Swimming Pool Safety Act

20

21 115920. This act shall be known and may be cited as
 22 the Swimming Pool Safety Act.

23 115921. As used in this article the following terms
 24 have the following meanings:

25 (a) "Swimming pool" or "pool" means any structure
 26 intended for swimming or recreational bathing that
 27 contains water over 18 inches deep. "Swimming pool"
 28 includes in-ground and above-ground structures and
 29 includes, but is not limited to, hot tubs, spas, portable spas,
 30 and nonportable wading pools.

31 (b) "Public swimming pool" means a swimming pool
 32 operated for the use of the general public with or without
 33 charge, or for the use of the members and guests of a
 34 private club. Public swimming pool does not include a
 35 swimming pool located on the grounds of a private
 36 single-family home.

37 (c) "Enclosure" means a fence, wall, or other barrier
 38 that isolates a swimming pool from access to the home.

39 (d) "Approved safety pool cover" means a manually or
 40 power-operated safety pool cover that meets all of the



1 performance standards of the American Society for
2 Testing and Materials (ASTM), in compliance with
3 standard F1346-91.

4 (e) "Exit alarms" means devices that make audible,
5 continuous alarm sounds when any door or window, that
6 permits access from the residence to the pool area that is
7 without any intervening enclosure, is opened or is left
8 ajar. Exit alarms may be battery operated or may be
9 connected to the electrical wiring of the building.

10 115922. Commencing January 1, 1998, except as
11 provided in Section 115925, whenever a construction
12 permit is issued for construction of a new swimming pool
13 at a private, single-family home it shall be equipped with
14 at least one of the following safety features:

15 (a) The pool shall be isolated from access to a home by
16 an enclosure that meets the requirements of Section
17 115923.

18 (b) The pool shall be equipped with an approved
19 safety pool cover.

20 (c) The residence shall be equipped with exit alarms
21 on those doors providing direct access to the pool.

22 (d) All doors providing direct access from the home to
23 the swimming pool shall be equipped with a self-closing,
24 self-latching device with a release mechanism placed no
25 lower than 54 inches above the floor.

26 (e) Other means of protection, if the degree of
27 protection afforded is equal to or greater than that
28 afforded by any of the devices set forth in subdivisions (a)
29 to (d), inclusive, as determined by the building official of
30 the jurisdiction issuing the applicable building permit.
31 Any ordinance governing child access to pools adopted by
32 a political subdivision on or before January 1, 1997, is
33 presumed to afford protection that is equal to or greater
34 than that afforded by any of the devices set forth in
35 subdivisions (a) to (d), inclusive.

36 115923. An enclosure shall have all of the following
37 characteristics:

38 (a) Any access gates through the enclosure open away
39 from the swimming pool, and are self-closing with a



1 self-latching device placed no lower than 60 inches above
2 the ground.

3 (b) A minimum height of 60 inches.

4 (c) A maximum vertical clearance from the ground to
5 the bottom of the enclosure of two inches.

6 (d) Gaps or voids, if any, do not allow passage of a
7 sphere equal to or greater than four inches in diameter.

8 (e) An outside surface free of protrusions, cavities, or
9 other physical characteristics that would serve as
10 handholds or footholds that could enable a child below
11 the age of five years to climb over.

12 115924. Any person entering into an agreement to
13 build a swimming pool shall give the consumer notice of
14 the requirements of this article.

15 115925. The requirements of this article shall not
16 apply to any of the following:

17 (a) Public swimming pools.

18 (b) Hot tubs or spas with locking safety covers that
19 comply with the American Society for Testing
20 Materials-Emergency Performance Specification
21 (ASTM-ES 13-89).

22 (c) Any pool within the jurisdiction of any political
23 subdivision that adopts an ordinance for swimming pool
24 safety that includes requirements that are at least as
25 stringent as this article.

26 (d) An apartment complex, or any residential setting
27 other than a single-family home.

28 115926. This article does not apply to any facility
29 regulated by the State Department of Social Services
30 even if the facility is also used as the private residence of
31 the operator. Pool safety in those facilities shall be
32 regulated pursuant to regulations adopted therefor by
33 the State Department of Social Services.

34 115927. Notwithstanding any other provision of law,
35 this article shall not be subject to further modification or
36 interpretation by any regulatory agency of the state, this
37 authority being reserved exclusively to local jurisdictions,
38 as provided for in subdivision (e) of Section 115922 and
39 subdivision (c) of Section 115924.



1 SEC. 4. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because a local agency or school district has
4 the authority to levy service charges, fees, or assessments
5 sufficient to pay for the program or level of service
6 mandated by this act, within the meaning of Section 17556
7 of the Government Code.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

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