

Date of Hearing: April 18, 2018

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2681 (Nazarian) – As Amended April 12, 2018

SUBJECT: Seismic safety: potentially vulnerable buildings

SUMMARY: Creates a local and state reporting and inventory program for buildings that are identified as vulnerable to seismic activity. Specifically, **this bill:**

1. Defines “Building Department” as the department, bureau, or officer of a city or county charged with the enforcement of laws or ordinances regulating the erection, construction, or alteration of buildings.
2. Defines “Potentially Vulnerable Building” as building that meets the following:
 - a) The building is located in a region of the state with a peak ground acceleration equal to or exceeding 0.3g as determined by the 2008 United States Geological Survey National Seismic Hazard Model gridded data, based on 10-percent-in-50-year probability of exceedance, or is located in the Counties of Monterey, San Diego, San Luis Obispo, or Santa Barbara.
 - b) The building has one or more of the design and construction characteristics defined in the bill.
3. Requires, on or before January 1, 2021, each building department to develop an inventory of potentially vulnerable buildings within its jurisdiction, based on the age of the building and other publicly available information, including, but not limited to, tax assessors record surveys and online searches.
4. Requires, on or before January 1, 2021, the building department to notify all owners of any building identified as a potentially vulnerable building.
5. Requires, on or before January 1, 2022, an owner who has received a notification to submit a letter from a licensed professional engineer to the building department stating whether the building meets the definition of a potentially vulnerable building. If the letter states that the building does not meet the definition of a potentially vulnerable building according to the licensed professional engineer, then it will be removed from the inventory.
6. Requires, the Governor’s Office of Emergency Services (Cal OES) to maintain a statewide inventory of potentially vulnerable buildings.
7. Requires, on or before June 1, 2022, each building department to provide Cal OES the inventory of buildings identified as potentially vulnerable buildings. Additionally, the building department shall notify Cal OES if a building on the inventory is seismically retrofitted or replaced and the office shall remove that building from the statewide inventory.
8. Requires, on or before January 1, 2021, Cal OES to develop a standard reporting form that addresses the expected seismic performance of the building in terms of safety, repair costs,

and recovery time, when subjected to an earthquake consistent with the intensity prescribed in the most current edition of the California Building Code for new building design.

9. Requires, on or before June 1, 2022, each building department to provide the standard reporting form to the owner of any building that remains on the building department's list of potentially vulnerable buildings.
10. Requires, on or before January 1, 2025, the owner of a building identified by a building department as a potentially vulnerable to retain a professional engineer to complete the standard reporting form and provide the completed standard reporting form to the building department. Requires this form be submitted to Cal OES on or before June 1, 2024.
11. Requires, on or before January 1, 2020, Cal OES, prior to law becoming operative, identify funding mechanisms to offset costs to building departments and building owners in complying with this chapter. The funding shall be limited to federal funds, funds from the General Fund of the state, funds from the sale of revenue bonds, local funds, and private grants.
12. Provides immunity from liability for a city, county, employee of a city or county on the basis of any inventory, assessment, or evaluation performed, any ordinance adopted, or any other action taken pursuant to this bill, irrespective of whether that action complies with the terms of this chapter, or on the basis of failure to take any action authorized by this chapter
13. Requires Cal OES to report annually to the Legislature on the compliance of building departments with the requirements of this bill. Requires the annual report to review and assess the effectiveness of building identification and evaluation standards adopted by these building departments
14. Makes various declarations and findings.

EXISTING LAW:

1. Defines "Potentially Hazardous Building" as any building constructed prior to the adoption of local building codes requiring earthquake resistant design of buildings and constructed of unreinforced masonry wall construction. "Potentially hazardous building" includes all buildings of this type, including, but not limited to, public and private schools, theaters, places of public assembly, apartment buildings, hotels, motels, fire stations, police stations, and buildings housing emergency services, equipment, or supplies, such as government buildings, disaster relief centers, communications facilities, hospitals, blood banks, pharmaceutical supply warehouses, plants, and retail outlets.
2. Defines "Local Building Department" as a department or agency of a city or county charged with the responsibility for the enforcement of local building codes.
3. Establishes a program within all cities, counties and portions located within seismic zone 4, as defined and illustrated in Chapter 2-23 of Part 2 of Title 24 of the California Administrative Code, to identify all potentially hazardous buildings and to establish a program for mitigation of identified potentially hazardous buildings.
4. Requires local building departments to do the following:

- a) Identify and inventorying all potentially hazardous buildings on or before January 1, 1990. This identification shall include current building use and daily occupancy load.
 - b) Establish a mitigation program for potentially hazardous buildings to include notification to the legal owner that the building is considered to be one of a general type of structure that historically has exhibited little resistance to earthquake motion.
 - c) By January 1, 1990, all information regarding potentially hazardous buildings and all hazardous building mitigation programs shall be reported to the appropriate legislative body of a city or county and filed with the Seismic Safety Commission.
5. Establishes Cal OES by the Governor's Reorganization Plan No.2, operative July 1, 2013.
 6. Requires Cal OES to perform a variety of duties with respect to specified emergency preparedness, mitigation, and response activities in the state, including emergency medical services.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the bill: According to the Author: “The chronic labor and affordable housing shortages most California cities already suffer would dramatically increase for years to come following a major seismic event. Protecting the state’s economy, affordable housing stock, and social fabric from the long-lasting turmoil of a large-scale earthquake is critical, and the failure to do so could impact Californians’ quality of life for decades. As the sixth largest economy in the world, the aftershocks of such an event in California would have national and even global impacts.

While some cities have started identifying vulnerable buildings and implemented mandatory retrofits, large swaths of the state have not identified vulnerable buildings. An accurate statewide building vulnerability map is an essential first step in developing longer-term solutions to mitigate the effects of a large-scale earthquake and to protect our economy and limited affordable housing stock.”

Background: More than 28 million Californians still live in areas of high seismic risk. While the State has some of the most modern and earthquake-resistant buildings in the world, it contains thousands of buildings that are known to present a heightened earthquake risk of death, injury, and damage based on their age, structural system, size, and location. The most recent California ShakeOut study estimates that a major quake along the San Andreas Fault could cause more than \$200 billion in physical and economic damage, and could result in up to 1,800 or more deaths.

State agencies and several federal standards have identified the most seismically vulnerable classes of buildings (likeliest to collapse) as unreinforced masonry, nonductile concrete, soft story wood frame, older concrete or masonry with flexible diaphragms and older steel moment frames. According to the Seismic Safety Commission (SSC), experience in California near active earthquake faults has shown the following types of buildings pose an exceptionally high risk of collapse:

- Pre-1940’s Unreinforced Masonry (URM) - primarily brick buildings.

- Pre-1980's concrete frame buildings
- Pre-1980's buildings with soft or open lower stories, unbraced crawl space walls below first floors, or irregular shapes, including those on steep hillsides
- Pre-2000's buildings with precast concrete tilt-up walls, and precast concrete parking structures

The Legislature passed the "URM Law," SB 547, in 1986, which required 366 local governments in Seismic Zone 4 (highest danger) to inventory their potentially hazardous URM buildings, establish loss reduction/remediation programs within 4 years, and report progress to the California Seismic Safety Commission. Seismic Zone 4 includes the major metropolitan areas of San Francisco, Los Angeles, and San Diego, and includes nearly 75% of the state's population. Each local government was allowed to tailor the program to its own specifications. This bill takes a similar approach the URM Law, but expands the seismic jurisdiction and vulnerable buildings it seeks to inventory.

"Potentially Vulnerable Building": AB 2681 captures buildings for inventory based on location, the year the building was erected in relation to the building codes in place at that time, and the type of structural system used in its construction:

- Building Codes: Buildings that were approved by a city or county pursuant to the 1976 or earlier edition of the Uniform Building Code and buildings approved by a city or county pursuant to the 1995 or earlier edition of the California Building Codes, contains one of the structural systems below.
- Structural System: Buildings with steel frame buildings with moment frame connections, soft, weak, or open front walls at the ground floor level of light framed buildings, concrete or masonry buildings with flexible diaphragms, and buildings with precast, pre-stressed, or post-tensioned concrete.
- Location: Buildings must also be located in a region mapped out by the 2008 United States Geological Survey National Seismic Hazard Model. (**Counties fully covered by the map**: Del Norte, Humboldt, Mendocino, Lake, Sonoma, Napa, Marin, Solano, Sonoma, San Francisco, Contra Costa, Alameda, San Mateo, Santa Clara, San Benito, Monterey, Santa Cruz, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego. **Counties with partial coverage**: Alpine, El Dorado, Fresno, Imperial, Inyo, Kern, Kings, Lassen, Merced, Mono, Nevada, Placer, Plumas, Riverside, San Bernardino, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, and Trinity. **Counties with little to no coverage**: Amador, Butte, Calaveras, Glenn, Modoc, Madera, Mariposa, Sacramento, Sutter, Tehama, Tulare, Tuolumne, and Yuba).

This bill specifically exempts buildings designed and constructed for use exclusively as a dwelling by four or fewer families, hospitals, schools, buildings owned by the state or federal government and buildings generally not intended for occupancy by humans.

Cal OES: In 2009, the California Legislature merged the powers, purposes, and responsibilities of the former Cal OES with those of the Office of Homeland Security (OHS) into the newly-created California Emergency Management Agency (CalEMA). On July 1, 2013, Governor Edmund G. Brown Jr.'s Reorganization Plan #2 eliminated CalEMA and restored it to the

Governor's Office, renaming it the California Governor's Office of Emergency Services (Cal OES), and merging it with the Office of Public Safety Communications. Today, Cal OES is responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities within the state. In addition, Cal OES administers a variety of programs, including the Earthquake Early Warning System (EEWS). Much like the EEWS program, this bill requires Cal OES to identify funding to offset costs of the program prior to the law becoming operative.

Opposition: The California Realtors Association writes in opposition: "C.A.R. will oppose AB 2681 unless it is amended to only apply to buildings with 16 units or more and provides sellers and brokers with the ability to inform buyers of "potentially vulnerable buildings" by delivering the Commercial Property Owner's Guide to Earthquake Safety to them. C.A.R. will remove its opposition if the following amendments are incorporated into AB 2681 (see below)"

1. Small apartment complexes consisting of 5 to 15 units should be exempt from AB 2681. California Code of Regulations Title 25, Section 42 requires multifamily residential rental complexes of 16 units or more to have a manager or other similar staff person residing onsite. Small apartment complexes consisting of 5 to 15 units do not employ an onsite professional manager, and many of them are owned by seniors and other small "mom and pop" operators. Due to this lack of onsite professional management, AB 2681 must be amended to ensure that onerous standards are not imposed on small property owners.

On Page 3, Line 14, after "means a building", insert:

with 16 units or more

2. Make the bill consistent with the language already used in existing law that describes residential dwellings defined as single family 1-4.

On Page 3, Lines 39-40, after "(A)", strike:

~~*building designed and constructed for use exclusively as a dwelling by four or fewer families.*~~

And insert:

A residential real property comprising one to four dwelling units, or a manufactured home as defined in Section 18007 of the Health and Safety Code.

3. Amend the bill to conform to existing law and current practice to allow sellers and brokers to inform buyers of "potentially vulnerable buildings." Existing law already allows sellers and brokers to deliver the Commercial Property Owner's Guide to Earthquake Safety to inform buyers about geologic and seismic hazards that may affect the property and mitigating measures that the buyer might consider.

On Page 6, Line 10, after "9795", insert:

8875.110. (a) If a Commercial Property Owner's Guide to Earthquake Safety described in Section 10147 of the Business and Professions Code is delivered to a transferee in connection with the transfer of a "potentially vulnerable building" as defined in subdivision (b)(1) of Section 8875.101 of the Government Code, a seller or broker is not required to provide additional information concerning, and the information shall be

deemed to be adequate to inform the transferee regarding, a “potentially vulnerable building.”

(b) Notwithstanding subdivision (a), nothing in this section increases or decreases the duties, if any, of sellers, their brokers or agents, or alters the duty of a seller, agent, or broker to disclose the existence of a known “potentially vulnerable building” as defined in subdivision (b)(1) of Section 8875.101 of the Government Code.

Double-Referral: This bill is double-referred to the Assembly Local Government Committee, where it will be heard if passed by this Committee.

Prior/Related Legislation: AB 1346 (Gray) of 2015-2016 Session. Discontinues the requirement that the funding sources for the system exclude the General Fund and be limited to federal funds, funds from revenue bonds, local funds, and funds from private sources.

SB 494 (Hill), Chapter 799, Statutes of 2015. Created the California Earthquake Safety Fund to be used for seismic safety and earthquake-related programs, including the earthquake early warning system and requires the identification of funding of the earthquake early warning system to occur by July 1, 2016.

SB 31 (Padilla), Chapter 342, Statutes of 2013. Required OES, in collaboration with various entities, to develop a comprehensive statewide earthquake early warning system in California.

AB 928 (Blakeslee) of 2009-2010 Session. Would have required the High-Speed Rail Authority to develop an earthquake early warning system and coordinate development of that system with various state agencies. (Held in Assembly Governmental Organization Committee)

AB 457, Chapter 250, Statutes of 1986. Enacted the “URM Law”, which required 366 local governments in Seismic Zone 4 (highest danger) to inventory their potentially hazardous URM buildings, establish loss reduction/remediation programs within 4 years, and report progress to the California Seismic Safety Commission.

REGISTERED SUPPORT / OPPOSITION:

Support

Eric Garcetti, Mayor, City of Los Angeles
Fair Housing Council of Riverside County, Inc.

Opposition

California Association of Realtors

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