

AMENDED IN SENATE AUGUST 17, 2018

AMENDED IN SENATE JULY 2, 2018

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 12, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2681

**Introduced by Assembly Member Nazarian
(Coauthors: Assembly Members Chiu and Reyes)**

February 15, 2018

An act to add Chapter 12.2.5 (commencing with Section 8875.100) to Division 1 of Title 2 ~~of~~ *of*, and to repeal Section 8875.109 *of*, the Government Code, relating to seismic safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2681, as amended, Nazarian. Seismic safety: potentially vulnerable buildings.

Existing law establishes a program within all cities and all counties and portions thereof located within seismic zone 4, as defined, to identify all potentially hazardous buildings and to establish a mitigation program for these buildings. The mitigation program may include, among other things, the adoption by ordinance of a hazardous buildings program, measures to strengthen buildings, and the application of structural standards necessary to provide for life safety above current code requirements.

This bill would, upon the identification of funding by the Office of Emergency Services, require the building department of a city or county that meets specified requirements to create an inventory of potentially

vulnerable buildings, as defined, within its jurisdiction, based on age and other publicly available information, and submit that inventory to the office, as specified. By increasing the duties of local officials, this bill would create a state-mandated local program. The bill would require the office to, among other things, maintain a statewide inventory, identify funding mechanisms to offset costs to building departments and building owners in complying with these provisions, and report ~~annually~~ to the Legislature on the *number of potentially vulnerable buildings and* compliance of building departments with these provisions. The bill would require the owner of a building identified by a building department as a potentially vulnerable building to retain a licensed professional engineer to identify whether the building meets the definition of a potentially vulnerable building, and provide a letter to the building department stating the licensed professional engineer’s findings. The bill would specify the date by which each requirement must be met.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. Chapter 12.2.5 (commencing with Section
 2 8875.100) is added to Division 1 of Title 2 of the Government
 3 Code, to read:
 4
 5 CHAPTER 12.2.5. EARTHQUAKE VULNERABLE BUILDINGS
 6
 7 8875.100. The Legislature hereby finds and declares all of the
 8 following:
 9 (a) Major earthquakes around the Pacific Rim, the devastation
 10 left by hurricanes Harvey, Irma, and Maria, and the September
 11 2017 earthquakes in Mexico are continuing reminders of
 12 California’s vulnerability to massive earthquake-related losses.

1 (b) The most recent California ShakeOut study estimates that
2 a major quake along the San Andreas Fault could cause more than
3 two hundred billion dollars (\$200,000,000,000) in physical and
4 economic damage, and could result in up to 1,800 or more deaths.
5 In 2016, the California Geologic Survey estimated California's
6 annualized earthquake loss at the state level at approximately three
7 billion seven hundred million dollars (\$3,700,000,000).

8 (c) The chronic labor and affordable housing shortages from
9 which most cities in California already suffer would be made
10 dramatically worse for years to come following such an event.

11 (d) California contains thousands of buildings that are known
12 to present an unacceptably high earthquake risk of death, injury,
13 and damage based on their age, structural system, size, and
14 location.

15 (e) Protecting our state's economy, affordable housing stock,
16 and social fabric from the long-lasting turmoil of earthquakes is
17 of utmost importance, and the failure to do so could impact
18 Californians' quality of life for decades.

19 (f) The first step toward reducing these expected losses is to
20 quantify them with basic inventory measures that account for
21 structural vulnerabilities and recovery-critical functions.

22 8875.101. For purposes of this chapter, the following terms
23 have the following meanings:

24 (a) "Building department" means the department, bureau, or
25 officer of a city or county charged with the enforcement of laws
26 or ordinances regulating the erection, construction, or alteration
27 of buildings.

28 (b) "Potentially vulnerable building" means a building that
29 meets one of the following:

30 (1) The design and construction of the building was approved
31 by the city or county prior to the adoption of the 1976 edition of
32 the Uniform Building Code and has one or more of the following
33 characteristics:

34 (A) Unreinforced masonry lateral force resisting systems or
35 unreinforced masonry infill walls that interact with the lateral force
36 resisting system.

37 (B) Concrete buildings with a nonductile lateral force resisting
38 system.

39 (C) Soft, weak, or open front walls at the ground floor level of
40 multistory light framed buildings.

1 (2) The design and construction of the building was approved
2 by the city or county pursuant to the 1995 or earlier edition of the
3 California Building Code and consists of any of the following
4 structural systems:

- 5 (A) Steel frame buildings with moment frame connections.
- 6 (B) Concrete or masonry buildings with flexible diaphragms.
- 7 (C) Buildings with precast, prestressed, or post-tensioned
8 concrete.

9 (3) “Potentially vulnerable building” does not include any of
10 the following:

- 11 (A) Residential real property comprising one to four dwelling
12 units, or a manufactured home as defined in Section 18007 of the
13 Health and Safety Code.
- 14 (B) A building listed in subdivision (a), (c), or (e) of Section
15 19100 of the Health and Safety Code.
- 16 (C) Facilities regulated by the Office of Statewide Health
17 Planning and Development or the Division of the State Architect,
18 or buildings owned by the state or federal government.

19 (c) “Recovery function” means a building use or occupancy
20 involving one or more of the following:

- 21 (1) Multifamily housing.
- 22 (2) A skilled nursing or residential care facility.
- 23 (3) A designated emergency shelter.
- 24 (4) A mercantile grocery or packaged food sales.
- 25 (5) A mercantile pharmacy or medical supply.
- 26 (6) Medical provider offices.
- 27 (7) A K–12 school.
- 28 (8) Essential services provided by a city or county that are
29 identified in the city or county’s local hazard mitigation plan.
- 30 (9) Essential services buildings as defined in Section 16007 of
31 the Health and Safety Code.
- 32 (10) A communication center or broadcast station.

33 (d) “Office” means the Office of Emergency Services.
34 8875.102. This chapter shall apply to a city or county with at
35 least half of its geographical area located where the peak ground
36 acceleration equals or exceeds 0.3g as determined by the 2008
37 United States Geological Survey National Seismic Hazard Model
38 gridded data, based on 10-percent-in-50-year probability of
39 exceedance. The office shall determine whether a city or city and

1 county meets this criteria and shall notify any city or county that
2 meets this criteria that the city or county is subject to this chapter.

3 8875.103 (a) On or before January 1, 2021, each building
4 department shall develop an inventory of potentially vulnerable
5 buildings within its jurisdiction, based on the age of the building
6 and other publicly available information, including, but not limited
7 to, tax assessors record surveys, census data, housing data, building
8 permit records, past or ongoing earthquake mitigation program
9 records, and online searches. For each potentially vulnerable
10 building, the inventory shall identify which recovery functions, if
11 any, it contains.

12 (b) *A city or county is not required to develop an inventory*
13 *pursuant to subdivision (a) if it already has an existing inventory*
14 *of potentially vulnerable buildings within its jurisdiction compiled*
15 *pursuant to a local ordinance that otherwise meets the*
16 *requirements of subdivision (a). If a building within its jurisdiction*
17 *meets the additional potentially vulnerable building criteria*
18 *specified in this chapter was not included in the information the*
19 *city or county previously compiled, the building department of the*
20 *city or county shall add it to the inventory on or before January*
21 *1, 2021, in order for the city or county to be in compliance with*
22 *this section.*

23 8875.104 (a) On or before June 1, 2021, each building
24 department shall notify the owner of any building identified by
25 the building department as a potentially vulnerable building of the
26 status of the owner's building.

27 (b) (1) On or before June 1, 2022, an owner who has received
28 a notification from a building department pursuant to subdivision
29 (a) shall submit a letter from a licensed professional engineer to
30 the building department stating whether the building meets the
31 definition of a potentially vulnerable building set forth in
32 subdivision (b) of Section 8875.101.

33 (2) If the letter from a licensed professional engineer submitted
34 by the owner of a building pursuant to paragraph (1) states that
35 the building does not meet the definition of a potentially vulnerable
36 building, the building department shall remove the building from
37 the inventory it created pursuant to Section 8875.103, and shall
38 not include the building on the list provided to the office pursuant
39 to Section 8875.105.

1 (3) If a letter from a licensed professional engineer has not been
2 submitted by the owner of a building pursuant to paragraph (1),
3 the building department shall assume that the building qualifies
4 as a potentially vulnerable building and shall include the building
5 on the inventory provided to the office pursuant to Section
6 8875.105.

7 8875.105. (a) The office shall maintain a statewide inventory
8 of potentially vulnerable buildings.

9 (b) On or before January 1, 2023, each building department
10 shall provide the office, in an electronic form prescribed by the
11 office, the inventory of buildings identified by the building
12 department as potentially vulnerable buildings pursuant to Sections
13 8875.103 and 8875.104.

14 (c) A building department shall notify the office if a building
15 on the inventory is seismically retrofitted or replaced and the office
16 shall remove that building from the statewide inventory.

17 8875.106. On or before January 1, 2020, the office shall identify
18 funding mechanisms to offset costs to building departments and
19 building owners in complying with this chapter. The funding shall
20 be limited to federal funds, funds from the General Fund of the
21 state, funds from the sale of revenue bonds, local funds, and private
22 grants.

23 8875.107. No city, county, or city and county, nor any
24 employee of a city, county, or city and county, shall be liable for
25 damages for injury to persons or property, resulting from an
26 earthquake or otherwise, on the basis of any inventory, assessment,
27 or evaluation performed, any ordinance adopted, or any other
28 action taken pursuant to this chapter, irrespective of whether that
29 action complies with the terms of this chapter, or on the basis of
30 failure to take any action authorized by this chapter. The immunity
31 from liability provided herein is in addition to all other immunities
32 of the city, city and county, or county provided by law.

33 8875.108. The office shall coordinate the ~~earthquake-related~~
34 *earthquake-related* responsibilities of building departments
35 imposed by this ~~chapter to ensure compliance with the purposes~~
36 ~~of this chapter.~~

37 8875.109. (a) Notwithstanding Section 10231.5, the office
38 shall report ~~annually~~ to the Legislature on the compliance of
39 building departments with the requirements of this ~~chapter.~~ The
40 ~~annual report shall review and~~ *chapter on or before June 1, 2023.*

1 *The report shall include the number of potentially vulnerable*
2 *buildings and the building departments that have not complied*
3 *with Sections 8875.103 to 8875.105, inclusive, in order to assess*
4 *the effectiveness of building identification and evaluation standards*
5 *adopted by these building departments pursuant to this section.*
6 ~~*The annual report shall comply with Section 9795.*~~

7 *(b) (1) A report to be submitted pursuant to subdivision (a)*
8 *shall be submitted in compliance with Section 9795 of the*
9 *Government Code.*

10 *(2) Pursuant to Section 10231.5 of the Government Code, this*
11 *section is repealed on June 1, 2027.*

12 8875.110. (a) If the Commercial Property Owner’s Guide to
13 Earthquake Safety described in Section 10147 of the Business and
14 Professions Code is delivered to a transferee in connection with
15 the transfer of a potentially vulnerable building, a seller or broker
16 is not required to provide additional information concerning a
17 potentially vulnerable building, and the Commercial Property
18 Owner’s Guide to Earthquake Safety shall be deemed adequate to
19 inform the transferee regarding the potentially vulnerable building.

20 (b) Notwithstanding subdivision (a), nothing in this section
21 increases or decreases the duties, if any, of sellers or their brokers
22 or agents, or alters the duty of a seller, agent, or broker, to disclose
23 the existence of a known potentially vulnerable building.

24 8875.111. This chapter shall not become operative until the
25 office identifies funding pursuant to Section 8875.106 and the
26 office reports to the Secretary of State that this contingency has
27 been met and also posts notice on its Internet Web site that the
28 contingency has been met.

29 SEC. 2. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.