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**SENATE COMMITTEE ON HOUSING**  
**Senator Scott Wiener, Chair**  
**2021 - 2022 Regular**

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**Bill No:** AB 2139 **Hearing Date:** 6/21/2022  
**Author:** Gallagher  
**Version:** 4/25/2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Mehgie Tabar

**SUBJECT:** Building standards: local rebuilding plans: state of emergency

**DIGEST:** This bill allows property owners to use certain template floor plans for rebuilding structures destroyed in a declared emergency without regard to subsequent building standards changes.

**ANALYSIS:**

*Existing law:*

- 1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services.
- 2) Requires the CBSC to approve and adopt building standards and to codify those standards in the California Building Standards Code (Title 24), which is updated every three years.
- 3) Requires proposed building standards that are submitted to CBSC for consideration to be accompanied by an analysis completed by the appropriate state agency that justifies approval based on the following criteria:
  - a) The building standard does not conflict with, overlap, or duplicate other building standards;
  - b) The proposed standard is within the parameters of the agency's jurisdiction;
  - c) The public interest requires the adoption of the building standard;
  - d) The standard is not unreasonable, arbitrary, unfair, or capricious;
  - e) The cost to the public is reasonable, based on the overall benefit to be derived from the building standard;
  - f) The standard is not unnecessarily ambiguous or vague; and
  - g) The applicable national specifications, published standards, and model codes have been appropriately incorporated into the standard.

- 4) Requires CBSC to receive proposed building standards from a state agency for consideration in an 18-month code adoption cycle. Requires CBSC to adopt regulations governing the procedures for 18-month code adoption cycle, which must include adequate provision of the following:
  - a) Public participation in the development of standards;
  - b) Notice in written form to the public of the compiled building standards with justifications;
  - c) Technical review of the proposed building standards and accompanying justification by advisory boards appointed by CBSC; and,
  - d) Time for review of recommendations by the advisory boards prior to CBSC taking action.
- 5) Requires HCD to propose the adoption, amendment, or repeal of building standards to CBSC for residential buildings, including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures.
- 6) Specifies that, notwithstanding other laws and until January 1, 2023, residential construction intended to repair, restore, or replace a residential building damaged or destroyed as a result of a declared state of emergency prior which was declared prior to January 1, 2020 is not required to comply with additional or conflicting photovoltaic system requirements added since the time when the structure was originally constructed if one or more of the following conditions is met:
  - a) The owner is at or below the median income for the county in which the residential building is located;
  - b) The construction does not exceed the square footage of the property at the time it was damaged;
  - c) The new construction is located on the site of the home that was damaged; and
  - d) The owner of the residential building did not have code upgrade insurance at the time the property was damaged.
- 7) Requires the State Fire Marshall to adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto.
- 8) Provides that only those building standards that are approved by the CBSC and are in effect at the local level at the time an application for a building permit is submitted shall apply to the plans and specifications for construction.

- 9) Requires CBSC to publish, or cause to be published, editions of the code in its entirety once every three years. In the intervening period the commission shall publish, or cause to be published, supplements as necessary.

**This bill:**

- 1) Provides that an individual submitting a proposed residential development plan may utilize a template floor plan, and a local agency shall allow utilization of that template, if certain conditions are met, as specified:
- a) Template floor plan was approved by the local agency.
  - b) Proposed new development is located on the same parcel that contained a residential building that was damaged or destroyed during a declared state of emergency.
  - c) The owner of the destroyed or damaged residential building did not have code upgrade insurance at the time.
  - d) The proposed new residential development will be used for owner-occupancy.
  - e) The template floor plan is being used no more than six years after the date it was approved.
  - f) For use of a template floor plan on or after July 1, 2024, the local agency has approved, following every issuance of new state building standards, a resolution that includes findings that the continued use of the template floor plan without regard to subsequent changes to building standards does not pose a significant risk to the health and safety of the building occupants or the community.
- 2) Sets a sunset clause of January 1, 2029.

**COMMENTS:**

- 1) *Author's statement.* According to the author, "AB 2139 would not only help residents of Paradise rebuild their homes, but would also help other communities that want to utilize template floor plans as a recovery tool. Modern building code has comprehensive safety standards, and a limited exemption for template floor plans that comply with the building standards in effect at the time of their approval would provide tremendous relief to these communities without compromising safety."
- 2) *Background on Building Standards.* The California Building Standards Law establishes the process for adopting state building standards by CBSC. Statewide building standards are intended to provide uniformity in building across the state. CBSC's duties include the following: receiving proposed

building standards from state agencies for consideration in each triennial and intervening building code adoption cycle; reviewing and approving building standards submitted by state agencies; adopting building standards for state buildings where no other state agency is authorized by law; and publishing the approved building standards in the California Building Standards Code (California Code of Regulations, Title 24).

There are approximately twenty state agencies that develop building standards and propose them for adoption to CBSC. The Department of Housing and Community Development (HCD) is responsible for the standards for residential buildings, hotels, and motels. Updates and changes to building standards are adopted on two cycles: through the triennial code adoption cycle which occurs every three years and through the intervening code adoption cycle which provides an update to codes 18 months after the publication of the triennial codes. Regulatory activities for each cycle begin over two years before the effective date of the codes. The standards adopted in the next intervening code cycle will be effective on July 1, 2024 and the next triennial cycle's standards will be effective on January 1, 2026.

*Camp Fire Rebuilding Efforts.* In 2018, the Camp Fire destroyed most of the City of Paradise in Butte County and killed 85 people. As part of the rebuilding efforts, the City of Paradise and the County of Butte have approved a number of residential template floor plans that property owners can use within the Camp Fire footprint. These floor plans are for residential dwelling units and include access to free or low cost architectural plans (i.e., floor plans, elevations, 3-D renderings).

According to the Rebuilding Paradise foundation, these template floor plans are “intended for property owners building a primary residential structure (owner-occupied) within the Camp Fire footprint” and are designed to help “save money and the time in designing a home.”<sup>1</sup>

This would allow residents to streamline and rebuild their homes more efficiently, but the template floor plans will soon be out of compliance with state building code and fire victims will no longer be able to utilize this resource.

- 3) *Proposed exemption from new building standards.* This bill would allow the use of template floor plans six years after a local agency approves them, regardless of whether any new state building standards have gone into effect since that time. The six-year exemption from new building standards would apply only to template floor plans used to replace structures that were destroyed

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<sup>1</sup> Rebuild Paradise Foundation. “Residential Floor Plan Library”. <https://www.rebuildparadise.org/building-plans/>

as a result of a declared emergency. Supporters argue that requiring those looking to rebuild in the wake of the Camp Fire to comply with new building standards could prevent use of the approved template floor plans, though they have not identified any issues with forthcoming residential standards. While the Rebuild Paradise Foundation has developed template floor plans to aid in rebuilding efforts, it is unknown whether other jurisdictions have also approved residential template floor plans for homeowners seeking to rebuild.

In 2019, AB 178 (Dahle, Chapter 259), exempted certain residential developments from following new rooftop solar standards if the homeowner was rebuilding due to a declared state of emergency. That bill included provisions to allow the exemption in cases where the property owner did not have code upgrade insurance that would otherwise cover the cost of adding rooftop solar. Additionally, it included a sunset date and limited its applicability only to emergencies declared by a specified date. This bill has a sunset date of January 1, 2029.

While AB 178 (Dahle) only provided a narrow exemption to rooftop solar requirements, this bill proposes a much broader exemption for all building standards adopted within six years after a template floor plan is approved. As noted above, new building standards go into effect every 18 months and the next set of revised building standards have been adopted but will not begin applying to new construction until January 1, 2023. After that, the next set of building standards in the intervening code cycle will become operational on July 1, 2024. It is possible that future building standards will address health and safety issues including fire safety standards.

#### **RELATED LEGISLATION:**

**AB 178 (Dahle, Chapter 259, Statutes of 2019)** — provided that efforts to rebuild and rehabilitate certain residential buildings which were damaged or destroyed in a declared emergency area are exempted from photovoltaic system requirements until January 1, 2023.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: Yes

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 15, 2022.)

#### **SUPPORT:**

Rebuild Paradise Foundation (Sponsor)  
California Apartment Association

California Builders Alliance  
Community Housing Improvement Program (CHIP)  
Sacramento Regional Builders Exchange  
South California Rental Housing Association  
Valley Contractors Exchange

**OPPOSITION:**

None received.

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