



AB-38 Fire safety: low-cost retrofits: Fire Hardened Homes Revolving Loan and Rebate Fund: regional capacity review. (2019-2020)

Current Version: 05/16/19 - Amended Assembly

Compared to Version:

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AMENDED IN ASSEMBLY MAY 16, 2019

AMENDED IN ASSEMBLY APRIL 30, 2019

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AMENDED IN ASSEMBLY APRIL 10, 2019

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 38

Introduced by Assembly Member Wood

December 03, 2018

An act to add Section 1102.19 to the Civil Code, ~~to add Article 4.3 (commencing with Section 8580) to Chapter 7 of Division 1 of Title 2 of the Government Code, and~~ to add Division 33 (commencing with Section 55500) to the Health and Safety Code, *and to add Section 4123.7 to the Public Resources Code*, relating to fire safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 38, as amended, Wood. Fire safety: ~~State Wildfire Preparedness Board: low-cost retrofits: Fire Hardened Homes Revolving Loan and Rebate Fund.~~ *Fund: regional capacity review.*

~~(1) Existing law, the California Building Standards Law, requires the State Fire Marshal to develop, and the California Building Standards Commission to review, building standards to implement the state's fire and life safety policy.~~

~~Existing~~

(1) Existing law requires the Director of Forestry and Fire Protection to designate specified areas as very high fire hazard severity zones. Existing law requires the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend building standards for very high fire hazard severity zones to protect structures and vegetation from fires spreading from adjacent structures or vegetation. Existing law requires persons who own, lease, control, operate, or maintain dwellings or occupied structures in these designated areas to comply with specified requirements, including complying with all applicable state and local building standards. Existing law makes a violation of these provisions a crime.

~~Existing law requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material to maintain defensible space around the building or structure and to maintain vegetation and other fuel loads, as specified.~~

~~This bill would establish the State Wildfire Preparedness Board, consisting of specified members, and would prescribe the responsibilities of the state board with regard to the state's fire preparedness. The bill would divide the state's very high fire hazard severity zones into 18 regional wildfire prevention districts, which are advisory bodies to the State Wildfire Preparedness Board, as provided. The bill would prescribe the duties of the districts, including, among others, the promotion, organization, and support for the implementation of regional community fire evacuation drills.~~

This bill would require the Natural Resources Agency, by July 1, 2021, and in consultation with the State Fire Marshal and the Forest Management Task Force, to review the regional capacity of each county that contains a very high fire hazard severity zone to improve forest health, fire resilience, and safety, as specified. The bill would require the Natural Resources Agency to make the review publicly available on its internet website.

(2) Existing law requires the State Fire Marshal, by January 31, 2020, to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures.

This bill would, on or after July 1, 2025, require a seller of a building in a very high fire hazard severity zone to provide to the buyer a certificate certifying that low-cost retrofits developed and listed by the State Fire Marshal have been undertaken on the building. The bill would require the State Fire Marshal, by July 1, 2025, to submit to the Legislature for approval the list of low-cost retrofits.

(3) Existing law authorizes local agencies, upon making specified findings, to provide low-interest loans to the owners of buildings within their jurisdiction for the purpose of making seismic safety upgrades to eligible buildings, as defined, to meet current earthquake safety codes. Existing law authorizes these local entities to issue bonds to finance these loans that are secured by a lien on the subject property.

This bill would establish the Fire Hardened Homes Revolving Loan and Rebate Fund in the State Treasury, as specified. ~~The bill would transfer \$1,000,000,000 from the General Fund to the new fund for the purposes of the bill.~~ Moneys in the fund would be available, upon appropriation by the Legislature, to the California Statewide Communities Development Authority to provide financial assistance and rebates to owners of eligible buildings to pay for eligible costs of fire hardening, as specified. The bill would provide that financing under this program, along with other liens on the subject property, could not exceed 80% of the appraised value of the property. The bill would define terms for its purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Climate change has resulted in higher year-long temperatures and increasing dry weather conditions in California, resulting in extended, sometimes multiyear, droughts; extended wildfire seasons throughout the year, with higher temperatures during dry season conditions; and impacts on vegetation wildfire fuel loads and increasing decay and loss of vegetation due to insect infestations and plant diseases.

(b) Wildfires have grown larger and have increased in intensity over the last several decades. As compared with 1986, wildfires in the western United States have occurred nearly four times more often, burning more than six times the land area and lasting almost five times as long. Through the end of the 2017 calendar year, 11 of the 20 most destructive wildfires in California have occurred in the last 10 years. The 2018 calendar year witnessed the most destructive wildfires in California history in terms of the loss of life and structures.

(c) In terms of the size of wildfires, in the last decade, enormous wildfires have consumed vast areas, including the 2013 Rim Fire impacting national park and national forest lands, the 2017 Napa Valley, Sonoma Valley, and Santa Rosa wildfires, the 2017 Thomas Fire impacting 200,000 acres, and the 2018 Camp Fire.

(d) Wildfires, which have impacted occupied areas, have resulted in enormous human and financial costs, including the following:

(1) The 1991 Berkeley-Oakland Tunnel Fire, which resulted in 25 deaths, the loss of more than 3,000 homes, and a total financial loss of \$1.5 billion in 1991 United States dollars.

(2) The 2003 San Diego Cedar Fire, which resulted in 15 deaths and the loss of 2,000 structures.

(3) The 2017 Tubbs Fire, which resulted in 22 deaths, the loss of 5,643 structures, and a total financial loss of approximately \$1.3 billion in 2017 United States dollars.

(4) The 2017 Thomas Fire, which resulted in two deaths, the loss of more than 1,000 homes, and a total financial loss of approximately \$2.2 billion in 2018 United States dollars.

(5) The 2018 Camp Fire, which resulted in 89 deaths, the loss of 18,804 structures, and at least \$12.4 billion in 2018 United States dollars in insured losses.

(e) More than 2,000,000 California households, approximately one in four residential structures in California, are located within or in wildfire movement proximity of "high" or "very high" fire hazard severity zones identified on maps drawn by the Department of Forestry and Fire Protection. Additionally, areas subject to seismic risks confront the likelihood that wildfires could result from downed power lines and ruptures of natural gas lines caused by earthquakes.

(f) There is a pressing need for wildfire prevention and minimization strategies, on an area-specific basis, that combine increased wildfire resistance within developed areas to minimize wildfire impacts with comprehensive vegetation management measures in wildlands to prevent or severely limit large-scale wildfires from developing and spreading as follows:

(1) Wildfire minimization programs. Developed areas need to carry out comprehensive urban vegetation management programs to reduce vegetation wildfire fuel loads within developed areas. Further, there is a need to provide funding for the hardening of homes and other structures to increase their resistance to wildfires.

(2) Wildfire prevention programs. Comprehensive wildlands vegetation management, responsive to the widely varying vegetation conditions throughout California, is required to reduce vegetation wildfire fuel loads, in relation to the flammability of different vegetation types, to the maximum extent feasible to prevent or severely limit the spread of wildfires.

(3) Wildfire response planning. Area-specific plans should include measures needed to include planning for safe wildlands access for firefighters to the maximum extent feasible.

(g) The diversity of vegetation and development patterns through the state necessitate a geographic approach to planning and implementing wildfire prevention and minimization strategies with fire prevention management agencies covering the geographic areas in which wildfires have or may occur.

(h) Local public agencies have made efforts to prevent wildfires, but, in many instances, lack the expertise, authority, or the financial resources to undertake or complete the tasks at hand.

(i) Wildfires do not respect jurisdictional boundaries or property lines.

~~(j) Regional wildfire prevention districts designed to address the widely varying vegetation and development characteristics of our diverse state and to ensure that the districts have the expertise, authority, and funding~~

~~to reduce the threat of wildfires on all lands, public and private, in the wildland urban interface should be established.~~

~~(k)The coordination of planning and implementation with federal lands agencies, such as the United States Forest Service and the United States National Park Service, should take place primarily at the state and regional district level as necessary.~~

SEC. 2. Section 1102.19 is added to the Civil Code, to read:

1102.19. (a) On and after July 1, 2025, a seller of a building in a very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, shall provide to the buyer a certificate certifying that low-cost retrofits developed and listed pursuant to Section 51189 of the Government Code have been undertaken on the building.

(b) On or before July 1, 2025, the State Fire Marshal shall submit the list developed pursuant to subdivision (c) of Section 51189 of the Government Code to the Legislature for approval.

~~SEC. 3. Article 4.3 (commencing with Section 8580) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:~~

~~4.3. State Wildfire Preparedness Board~~

~~8580.(a)The State Wildfire Preparedness Board is hereby established in state government, consisting of the following members:~~

~~(1)The Director of Emergency Services, or the director's designee.~~

~~(2)The Secretary of the Natural Resources Agency, or the secretary's designee.~~

~~(3)The Director of Forestry and Fire Protection, or the director's designee.~~

~~(4)The Secretary of Transportation, or the secretary's designee.~~

~~(5)The Secretary of California Health and Human Services, or the secretary's designee.~~

~~(6)The Secretary for Environmental Protection, or the secretary's designee.~~

~~(7)The State Fire Marshal, or the State Fire Marshal's designee.~~

~~(8)The Director of the Office of Planning and Research, or the director's designee.~~

~~(9)The Secretary of the Department of Corrections and Rehabilitation, or the secretary's designee.~~

~~(10)(A)A member of the public with expertise in fire science appointed by the Governor.~~

~~(B)The member appointed pursuant to this paragraph shall serve at the pleasure of the Governor.~~

~~(11)(A)A member of the public with expertise in fire science appointed by the Senate Committee on Rules.~~

~~(B)The member appointed pursuant to this paragraph shall serve a two-year term.~~

~~(12)(A)A member of the public with expertise in fire science appointed by the Speaker of the Assembly.~~

~~(B)The member appointed pursuant to this paragraph shall serve a two-year term.~~

~~(b)(1)The chairperson of the State Wildfire Preparedness Board shall be selected by the Governor.~~

~~(2)The members of the State Wildfire Preparedness Board shall serve without compensation, but each of the public members shall be reimbursed for the member's actual and necessary expenses incurred in the performance of that member's duties.~~

~~(c)The State Wildfire Preparedness Board shall do all of the following:~~

~~(1)Convene a meeting of its members and one representative from each of the regional wildfire prevention districts, established pursuant to Section 8580.2, at least twice per year to provide technical assistance;~~

~~review best practices, and receive reports on the progress and obstacles to fire prevention work from the regional wildfire prevention districts.~~

~~(2) Actively seek opportunities for interagency collaboration and efficiencies.~~

~~(3) Review and approve the regional wildfire protection plans prepared by each regional wildfire prevention district.~~

~~(4) Create and implement a statewide fire preparedness public education campaign, including outreach to the public about defensible space requirements, home hardening retrofits, and the Fire Hardened Homes Revolving Loan and Rebate Fund established pursuant to Section 55501 of the Health and Safety Code.~~

~~8580.2.(a) The state's very high fire hazard severity zones, designated pursuant to Section 51178 or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, are divided, for purposes of this article, into 18 regional wildfire prevention districts as follows:~~

~~(1) District 1, which comprises the Counties of Del Norte, Humboldt, and Mendocino.~~

~~(2) District 2, which comprises the Counties of Shasta, Siskiyou, and Trinity.~~

~~(3) District 3, which comprises the Counties of Lassen, Modoc, and Plumas.~~

~~(4) District 4, which comprises the Counties of Butte, Glenn, and Tehama.~~

~~(5) District 5, which comprises the Counties of Nevada, Sierra, and Yuba.~~

~~(6) District 6, which comprises the Counties of Amador, El Dorado, and Placer.~~

~~(7) District 7, which comprises the Counties of Colusa and Lake.~~

~~(8) District 8, which comprises the Counties of Marin, Napa, Solano, and Sonoma.~~

~~(9) District 9, which comprises the Counties of Alameda and Contra Costa.~~

~~(10) District 10, which comprises the Counties of San Mateo, Santa Clara, and Santa Cruz.~~

~~(11) District 11, which comprises the Counties of Merced, Monterey, and San Benito.~~

~~(12) District 12, which comprises the Counties of Alpine, Calaveras, and Tuolumne.~~

~~(13) District 13, which comprises the Counties of San Luis Obispo, Santa Barbara, and Ventura.~~

~~(14) District 14, which comprises the Counties of Fresno, Madera, and Mariposa.~~

~~(15) District 15, which comprises the Counties of Kern and Tulare.~~

~~(16) District 16, which comprises the County of Los Angeles.~~

~~(17) District 17, which comprises the Counties of Orange and San Bernardino.~~

~~(18) District 18, which comprises the Counties of Riverside and San Diego.~~

~~(b) Each regional wildfire prevention district, which is an advisory body to the State Wildfire Preparedness Board, shall be governed by a board with members consisting of the following:~~

~~(1) A member representing each constituent county in the regional wildfire prevention district selected by the board of supervisors of the county.~~

~~(2) A member from a fire safe council within the regional wildfire prevention district selected by the California Fire Safe Council.~~

~~(3) A member from each resource conservation district within the regional wildfire prevention district.~~

~~(4) A member from the regional office of the Department of Forestry and Fire Protection within the regional wildfire prevention district.~~

~~(5) A member with fire science expertise from a campus of the University of California within, or closest to, the regional wildfire prevention district selected by the President of the Regents of the University of California.~~

~~(6) A member from the sheriff's department of each of the counties within the regional wildfire prevention district.~~

~~8580.4. Each regional wildfire prevention district, upon appropriation by the Legislature, shall do all of the following:~~

~~(a) Establish an office.~~

~~(b) Select one of its board members as chairperson at the first regular meeting held each year.~~

~~(c) Serve as an advisory body to the State Wildfire Preparedness Board.~~

~~(d) Develop a region-specific wildfire prevention and preparedness plan that shall include all of the following:~~

~~(1) Review of each jurisdiction's safety element, hazard mitigation plan, and community wildfire protection plan to identify improvements and outstanding recommendations and projects.~~

~~(2) Identification of fire prevention organizational or capacity deficits within the district.~~

~~(3) Identification of projects that relevant state agencies should prioritize for local fire prevention assistance grants.~~

~~(4) A region-specific vegetation management ordinance that could be adopted by the relevant jurisdictions within the regional wildfire prevention district.~~

~~(5) Strategic fire break and fuel reduction projects to provide community protection.~~

~~(e) Provide education and technical assistance to landowners, residents, and regional community fire prevention advisory groups on fire prevention and land management practices to improve fire safety in the district's region.~~

~~(f) Review and recommend to the State Wildfire Preparedness Board possible methods of financing ongoing fire preparedness measures, including loan and grant programs, that may be implemented by the member departments of the board.~~

~~(g) Promote, organize, and support the implementation of regional community fire evacuation drills.~~

~~(h) Prepare a semiannual report and ensure a member of the district attends the meeting convened pursuant to paragraph (1) of subdivision (b) of Section 8580.~~

SEC. 4. SEC. 3. Division 33 (commencing with Section 55500) is added to the Health and Safety Code, to read:

DIVISION 33. Fire Hardened Homes Revolving Loan and Rebate Fund

55500. As used in this division:

(a) "Eligible building" means a building existing as of January 1, 2020, and containing not more than one unit that is intended for human habitation located within a very high fire hazard severity zone, as identified by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

(b) "Eligible costs" means all costs, including costs of design, preparation, and inspection, incurred in the following:

(1) Replacing or installing the following:

(A) Ember-resistant vents.

(B) Fire-resistant roofing.

(C) Fire-resistant siding.

(D) Fire-resistant eaves.

(E) Fire-resistant soffits.

(F) Fire-resistant windows.

(2) Establishing a noncombustible zone of five feet around an eligible building.

(3) Tree removal and trimming within 100 feet of an eligible building.

55501. (a) There is established in the State Treasury the Fire Hardened Homes Revolving Loan and Rebate Fund. Moneys in the fund shall, upon appropriation by the Legislature, be made available to the California Statewide Communities Development Authority to provide financing assistance or rebates to owners of eligible buildings to pay for eligible costs of fire hardening as follows:

(1) No- and low-interest loans to a person who owns an eligible building and has an income level up to 120 percent of the area median income.

(2) Rebates for up to 80 percent of the cost of the retrofit to a person who owns an eligible building and has an income level up to 80 percent of the area median income.

(b) Financing provided by a local agency pursuant to this division shall not, when combined with existing liens on the property, exceed 80 percent of the current appraised value of the property, as determined by an independent, certified appraiser, unless existing lienholders consent in writing to a higher loan-to-value ratio. Notice of the intention to provide financing to the owner of the property shall be given to existing lienholders of record not less than 30 days before any vote of the local agency authorizing the provision of financing to the owner of the property.

(c) The California Statewide Communities Development Authority shall develop guidelines for the financing assistance and rebates provided pursuant to this ~~section, subject to approval by the State Wildfire Preparedness Board established pursuant to Section 8580 of the Government Code.~~ *section.*

~~SEC. 5. The sum of one billion dollars (\$1,000,000,000) is hereby transferred from the General Fund to the Fire Hardened Homes Revolving Loan and Rebate Fund to provide no- or low-interest loans or rebates to owners of eligible buildings for the eligible costs of fire hardening pursuant to Division 33 (commencing with Section 55500) of the Health and Safety Code.~~

SEC. 4. *Section 4123.7 is added to the Public Resources Code, to read:*

4123.7. *(a) On or before July 1, 2021, the Natural Resources Agency, in consultation with the State Fire Marshal and the Forest Management Task Force, shall review the regional capacity of each county that contains a very high fire hazard severity zone, as identified by the director pursuant to Section 51178 of the Government Code or Article 9 (commencing with Section 4201), to improve forest health, fire resilience, and safety. The review shall include, but not be limited to, all of the following:*

(1) Identification of local or regional entities engaged in fire prevention work, such as resource conservation districts, fire safe councils, state conservancies, and other local agencies.

(2) A review of fire prevention organizational or capacity deficits within each county subject to the review.

(3) Recommendations for projects that relevant state agencies should prioritize for grant funding within counties subject to the review for the following programs:

(A) The Fire Prevention Grants Program administered by the department.

(B) The Forest Health Grant Program administered by the department.

(C) The Regional Forest and Fire Capacity Program administered by the Natural Resources Agency.

(4) Recommendations to improve regional capacity and collaboration within the counties subject to review, including, but not limited to, the development of new organizations or regional districts.

(b) The Natural Resources Agency shall make the review required pursuant to subdivision (a) publicly available

on its internet website.