

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2913 (Wood) – As Introduced February 16, 2018

SUBJECT: Building standards: building permits: expiration

SUMMARY: Makes changes to the California Building Standards Law. Specifically, **this bill:**

- 1) Extends the amount of time that a permit is not subject to locally adopted building standards from 180 days to three years if work authorized by the permit has not commenced from the date a permit is issued or for three years at any time after work is commenced if the permittee suspends or abandons work authorized by the permit, unless the permittee has obtained an extension.
- 2) Provides that every permit shall remain valid if the work on a site authorized by the permit is commenced within three years after the permit is issued or if the work authorized on the site by the permit is suspended or abandoned for a period of up to three years after the time the work is started, unless the permittee has obtained an extension.
- 3) Authorizes a building official to grant, in writing, one or more extensions of not more than 180 days per extension.
- 4) Requires a permittee to request an extension in writing and provide justifiable cause for the extension.

EXISTING LAW:

- 1) Provides that only those building standards approved by the California Building Standards Commission (CBSC) and that are effective at the local level at the time an application for a building permit is submitted shall apply to a building permit.
- 2) Provides that a local ordinance that adds to or modifies building standards published by the CBSC shall only apply to an application for a building permit submitted after the effective date of the ordinance except in the following instances:
 - a) When a city or county has been subject to a Governor declared state of emergency;
 - b) A permit that is deemed expired because the work authorized has not been completed with 180 days from the date of the permit or the permittee has suspended or abandoned work authorized by the permit at any time after the work began; or
 - c) A permit that is deemed suspended or revoked because the building official has in writing suspended or revoked the permit because it was issued in error or based on incorrect information.
- 3) Authorizes the CBSC to approve and adopt building standards. Every three years, CBSC undertakes building standards rulemaking to revise and update the California Building Standards Code.

- 4) 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.

- 5) Requires CBSC to receive proposed building standards from a state agency for consideration in the triennial code adoption cycle. Requires CBSC to adopt regulations governing the procedures for the triennial 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 proposed building standards with justifications;
 - c) Technical review of the proposed building standards and accompanying justification by advisory boards of CBSC; and
 - d) Time for review of recommendations by the advisory boards prior to CBSC taking action.

FISCAL EFFECT: None

COMMENTS:

Background: California's building codes are published in their entirety every three years. Intervening code adoption cycles produce supplement pages half-way (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. There are a few exemptions, which allow a local governing body, city, or county to modify state building standards. A local governing body, city, or county can adopt an ordinance or a resolution in a public meeting that finds that a local building standard must be modified from the state building standard because of local climatic, geological or topographical conditions, and must file that

ordinance with the CBSC. The CBSC reviews the findings of the ordinance to determine if the local governing body followed the correct procedure.

A developer is subject to the state's building standards and any local changes made through an ordinance to the state's building standards at the time the permit is issued. Building permits are deemed expired six months (180 days) after issuance if the work has not begun or if the permittee has suspended or abandoned work any time after the permit is issued. A subsequent building permit is subject to building standards in place at the time the permit is issued. Under existing building officials have discretion to extend a permit for up to six months.

For purposes of complying with the building standards, this bill would extend the length of time a permit is valid from 180 days to three years from the date that the permit is issued. If work on a site is abandoned or suspended then the permit would be valid three years from the date the construction began. The bill authorizes a building official to extend the permit for 180 days multiple times upon the request of a developer. The developer could apply multiple six month extensions in writing and must provide justification for the need for the extension.

Purpose of this bill: According to the author, "at the present time, traditional site-built residential construction must comply with the building standards which are in effect on the date the permit application is submitted to the local building department (*H&S 18938.5*) Current law requires that once a building permit is issued, construction work must begin on the site within 6 months. While local jurisdictions are authorized to extend these permits, this is usually done on a case-by-case basis which can add uncertainty to the local administrative process. In addition, some jurisdictions have taken specific action to prohibit the extension of building permits. Permits for manufactured housing remain valid for 36 months (*CCR Title 25, Division 1, Chapter 3, Subchapter 1, Article 3, Section 3048*). The longstanding reason for this is to promote housing affordability, recognizing that going to the end of the local permit line can create delays and added costs. This is a perplexing difference as manufactured housing is much easier to build than site-built construction, yet the permit for manufactured housing is valid for a period which is six times longer than that for site-built construction. This bill extends those permit timelines currently enjoyed by manufactured housing to site built construction."

Arguments in support: According to the California Building Industry Association (BIA) this bill "will make the permitting process less cumbersome by recognizing that state and local economic conditions may have changed which have the effect of slowing down some projects and California state and local building codes change every 18 months and that small changes in the building code should not force a previously approved project to have to go back to the end of the line and resubmit (expensive) compliance document and pay a new set of fees for homes that were previously approved for construction. "

Arguments in opposition: According to the California Building Officials (CALBO), "leaving work zones and construction sites abandoned for extended periods of time can lead to security concerns for property owners, and individuals in the surrounding community by turning these areas into makeshift shelters for vagrants and delinquents. With a lack of proper plumbing and ventilation these sites can quickly become health and safety hazards. This bill would also be problematic in that the California Building Code is updated on a triennial cycle. If project were allowed to remain inactive for up to three years, new codes and procedures would be in place making suspended projects and plan outdated."

Policy concerns:

Building standards: Developers are required to comply with the building standards in place at the time a permit is issued. Generally, permits are valid for 6 months and building officials can extend permits on a case by case basis. Locals can modify state building standards and development sites are only required to comply with the local standards in place at the time a permit is issued. This bill would extend the life of a permit for purposes of complying with local adopted building standards from 6 months to 3 years. For all building standards, it would provide that a permit is valid for three years from the date the permit is issued, and provide for another three years if the site is abandoned or work is suspended. As a result, a permit could be valid through two cycles of updated building standards. If a developer does not begin construction until the end of the three year expiration date, and then has another three years before the permit expires, potentially five years could elapse. The committee may wish to ask the author if that is the intent of the bill.

State of emergency: Some have argued that a lack of labor and building materials is slowing construction in parts of the state that have seen massive wildfires. This bill would apply statewide in areas not impacted by those conditions. The committee may wish to consider limiting this bill to areas where the Governor has declared a state of emergency.

Committee amendments:

The committee may wish to narrow the provisions of this bill as follows:

- Limit the bill to areas of the state where the Governor has declared a state of emergency.
- Allow a permit to remain valid for 18 months from the date it is issued, and not allow for an extension if work is abandoned or suspended.
- Add a three year sunset to evaluate the impact of this change.

Technical amendments:

Page 2, line 17, change "8850" to "8550".

Related legislation:

AB 3147 (Caballero) would freeze the impact and development fees charged on developments at the time an application is deemed complete for two years. *This bill passed out of this committee 7-0 and is pending in the Assembly Appropriations Committee.*

REGISTERED SUPPORT / OPPOSITION:**Support**

Building Owners And Managers Association of California
California Apartment Association
California Association of REALTORS
California Building Industry Association
California Business Properties Association

California Chamber of Commerce
California Credit Union League
California Professional Association of Specialty Contractors
International Council of Shopping Centers
NAIOP of California, The Commercial Real Estate Development Association
National Federation of Independent Business
Non-Profit Housing Association of Northern California (NPH)

Opposition

California Building Officials

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