

Assembly Bill No. 2939

Passed the Assembly August 31, 2008

Chief Clerk of the Assembly

Passed the Senate August 30, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 17958.5, 17958.7, and 18941.5 of the Health and Safety Code, relating to building standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 2939, Hancock. Building standards: green buildings: local variances.

The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval or adoption.

Existing law requires the Department of Housing and Community Development to propose the adoption, amendment, or repeal of building standards to the commission relating to hotels, motels, lodging houses, apartment houses, and dwellings, and the buildings and structures accessory thereto, except as specified.

Existing law authorizes a city or county to make changes or modifications in the building standards proposed by the department and approved by the commission, to provide for local variances relating to local climatic, geological, or topographical conditions, upon making certain findings and filing those findings with the commission.

This bill would specifically authorize a city, county, or city and county to impose more restrictive building standards than the California Green Building Standards Code, provided those standards do not replace the California Building Standards Code and the governing body makes a specified finding.

The people of the State of California do enact as follows:

SECTION 1. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. (a) Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city, county, or city and county may make those changes or modifications in the requirements contained in the provisions

published in the California Building Standards Code and the other regulations adopted pursuant to Section 17922 that it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions. For purposes of this subdivision, a city, county, or city and county may make reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, contained in the provisions of the California Building Standards Code and regulations on the basis of local conditions.

(b) Notwithstanding any other law, neither the California Building Standards Law (Part 2.5 (commencing with Section 18901) nor any other provision of this part shall limit the authority of a city, county, or city and county to impose more restrictive building standards than the California Green Building Standards Code (Part 11 of Title 24 of the California Code of Regulations), provided those standards do not replace, in their entirety, Part 11 or any other part of the California Building Standards Code. The governing body, before adopting or implementing any modifications pursuant to this subdivision, shall make an express finding, pursuant to Section 17958.7, that doing so is reasonably necessary to mitigate or address environmental conditions and that the cost of the modification is reasonable and will not unreasonably impact housing affordability.

(c) For the purpose of mitigating or addressing environmental conditions within the scope of Part 11 of Title 24 of the California Code of Regulations, any modifications pursuant to subdivision (b) shall be deemed to meet all requirements for modifications to other parts of Title 24 of the California Code of Regulations unless those modifications result in standards that are less restrictive than the California Building Standards Code on the subject of performance, safety, or the protection of life, health, or the general welfare.

SEC. 2. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) Except as provided in Section 17922.6, the governing body of a city, county, or city and county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that the modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions, pursuant to subdivision (a) of Section

17958.5, or because of environmental conditions, pursuant to subdivision (b) of Section 17958.5. The finding shall be available as a public record. A copy of that finding, together with the modification or change expressly marked and identified so as to correlate with the relevant findings, shall be filed with the California Building Standards Commission. No modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the California Building Standards Commission.

(b) The California Building Standards Commission may reject a modification or change filed by the governing body of a city, county, or city and county pursuant to Section 17958.5 if no finding was submitted.

SEC. 3. Section 18941.5 of the Health and Safety Code is amended to read:

18941.5. (a) (1) Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to Section 17958.7 or 18941.5, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

(b) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards reasonably necessary because of local climatic, geological, or topographical conditions, pursuant to subdivision (a) of Section 17958.5, or to mitigate or address environmental conditions, pursuant to subdivision (b) of Section 17958.5. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply to that finding. Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Further, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

Approved _____, 2008

Governor