

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2910 (Santiago) – As Amended April 18, 2024

SUBJECT: State Housing Law: local regulations: conversion of commercial or industrial buildings

SUMMARY: Allows a city that meets specified requirements to adopt alternative building regulations for the conversion of commercial or industrial buildings and structures to residential uses, subject to approval by the California Building Standards Commission (CBSC).

Specifically, **this bill:**

- 1) Allows a city to adopt alternative building regulations for the conversion of commercial buildings and structures, or portions thereof, to Residential Group R-1 or R-2 uses, as described in the California Building Standards Code.
 - a) Requires any building and structure subject to the alternative building regulations to remain subject to local zoning regulations.
 - b) Clarifies that the alternative building regulations adopted pursuant to this bill are not required to impose the same requirements as existing law relating to the regulation of buildings used for human habitation. However, in permitting repairs, alterations, and additions necessary to accommodate the conversion to Residential Group R-1 or R-2 uses, the alternative building regulations shall, in the determination of the local governing body, impose requirements that protect the public health, safety, and welfare.
- 2) Requires a city to meet all of the following before a city is allowed to adopt alternative building regulations:
 - a) The city shall have a compliant housing element.
 - b) The city shall adopt an ordinance to facilitate, or expedite the review of, adaptive reuse projects, as specified.
 - c) The city, as of January 1, 2025, has a population of 400,000 or greater.
- 3) Requires a city to submit the proposed alternative building regulations to the CBSC before the city can adopt the alternative building standards.
 - a) Requires the CBSC, in consultation with the Department of Housing and Community Development, Energy Commission, Public Utilities Commission, and State Fire Marshal, to review the proposed alternative building regulations within 90 days of receiving the proposed regulations, and shall approve or deny the proposed regulations, or may request the city to revise or amend the proposed regulations in order to protect public health, safety, and welfare.
 - b) Requires, if CBSC requests revisions or amendments to the proposed alternative building regulations, the city to consider the requested revisions or amendments and to respond

with at least one of the following within 30 days of receiving the request for revisions or amendments:

- i) Revised or amended proposed alternative building regulations.
 - ii) Written findings explaining why the city believes that the proposed alternative building regulations sufficiently protect the public health, safety, and welfare.
- c) Requires the CBSC to provide written comments regarding the revisions or amendments to the proposed regulations needed to protect public health, safety, and welfare, if the revisions to the alternative building standards are still inadequate.
 - d) Requires that the adoption of the approved alternative regulations be adopted at a public meeting of the legislative body of the city. The city shall submit the adopted alternative building regulations to the California Building Standards Commission.
- 4) Provides that the Legislature recognizes that while the working group established pursuant to Section 17921.9 is identifying and recommending amendments to state building standards to facilitate the creation and promotion of adaptive reuse residential projects statewide while not reducing minimum health and safety standards, there is a period of time before such amendments may be proposed during which adaptive reuse projects are subject to existing building standards which may warrant revisions or modifications.
 - 5) Allows the CBSC, HCD, Energy Commission, Public Utilities Commission, State Fire Marshal, and any member of the working group to request additional information from the city regarding regulations adopted pursuant to this section.
 - 6) Provides that this bill and any alternative building standards adopted pursuant to this bill shall remain in effect only until the effective date of any state adaptive reuse building standards, as specified, or January 1, 2029, whichever is earlier, and as of that date shall be repealed.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill allows pro-housing cities with populations of 400,000 or more to establish their own alternative building standards for adaptive reuse projects. These alternative building standards are intended to be less stringent than the regulations in state law for buildings used for human habitation. The alternative building standards would be subject to review by CBSC, HCD, Energy Commission, Public Utilities Commission, and State Fire Marshal. Before a city could adopt these alternative building standards, the CBSC is required to approve the alternative standards. If the CBSC denies approval, it could request revisions of the standards from the city and provide feedback on the potential threats to health and safety the alternative standards pose.

This bill is sponsored by the Central City Association of Los Angeles.

- 2) **Author’s Statement.** According to the author, “Shifts in current and projected office demand have led declining commercial office building valuations, which threaten local governments’ budgets that rely heavily on property taxes on commercial real estate to provide public goods and services. Adaptive reuse of underutilized commercial buildings has the potential to provide quality, infill residential units, offering a potential solution to meeting both housing supply and environmental sustainability goals. AB 2910 would give local governments the flexibility and nuance needed to amend their local building codes to better enable conversion projects, while ensuring the State has the appropriate level of oversight and discretion in the process to protect public health, safety, and welfare.”

- 3) **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). Local governments may adopt “reach codes” that incorporate additional requirements, but may not reduce requirements below the thresholds in the state standards.

There are approximately 20 state agencies that develop building standards and propose them for adoption to CBSC. HCD is responsible for the standards for residential buildings, hotels and motels. The California Existing Building Code governs the structural capacity, life-safety system, and environmental performance requirements for adaptive reuse projects. Updates and changes to building standards are adopted on two timelines: 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.

- 4) **Adaptive Reuse.** Adaptive reuse refers to the repurposing of existing building structures for new uses. This can include small projects, like converting an old church into a storefront or restaurant, or large projects, such as converting former offices, malls, or business parks into mixed-use spaces or multifamily housing. In communities with historic architecture, adaptive reuse can serve as a form of historic preservation by maintaining exterior facades of buildings while allowing the conversion of interiors for modernized or different uses. Adaptive reuse for residential projects can also promote greenhouse gas reduction by facilitating infill development near existing jobs, transit, and retail and reducing the need for vehicle trips. In some instances, rehabilitating an existing building can bring new housing online quicker than a traditional new construction project. Adaptive reuse also eliminates the need to demolish the existing building, which can be an expensive component of the overall development costs of a project.

However, a UC Berkeley Turner Center for Housing Innovation report from November 2021, “Adaptive Reuse Challenges and Opportunities in California,” finds that adaptive reuse of existing commercial buildings to multifamily housing “tends to be more expensive than new construction, particularly when unexpected expenses (e.g., seismic retrofitting or environmental remediation) are taken into account. The structure of the existing building also determines the feasibility and cost of conversion, meaning that not every commercial property will be a good candidate for redevelopment. Buildings with specific architectural characteristics, such as shallow floor plates, generous exterior exposure, or unique building features, are especially conducive to adaptive reuse.”

The report goes on to note that there are significant differences in building standard requirements for residential and commercial uses, which challenge the viability of these types of development in unique ways. These differences are most complex as they relate to requirements for natural light and ventilation, seismic safety, fire safety, and environmental quality or hazardous material remediation. The report recommends local jurisdictions adopt ordinances that clarify building code requirements for these projects, and notes that “the state could support more adaptive reuse projects by providing technical guidance or training in inspections, as well as by making revisions to the [California Existing Building Code] and/or to the California Residential Code.”

In response to this report and recent interest in adaptive reuse as a method to revitalize urban areas with vacant office space, the Legislature passed and the Governor signed AB 529 (Gabriel). That bill established a working group of various relevant code agencies helmed by HCD to review the building codes and identify challenges to, and opportunities that help support, the creation and promotion of adaptive reuse residential projects in a manner that does not reduce health and safety standards. The working group is charged with formulating recommendations for possible amendments to the state building standards and if such recommendations are made, the bill requires the respective entities to research, develop, and consider proposing such standards for adoption either in the next intervening code cycle beginning on or after January 1, 2025, or the next triennial cycle beginning on or after January 1, 2026.

This bill, by contrast, would allow a prohousing city the option of proposing its own alternative building regulations. The alternative building regulations would have to be submitted to five state agencies for review, including HCD and the CBSC. The CBSC would have the ability to approve, request modifications to, or deny the alternative standards.

- 5) **Previous Legislation.** AB 529 (Gabriel), Chapter 743, Statutes of 2023: Required HCD to convene a working group regarding adaptive reuse residential projects, including identifying and recommending amendments to state building standards, and made other changes to state law related to adaptive reuse projects.

AB 1695 (Santiago), Chapter 639, Statutes of 2022: Required HCD’s affordable multifamily housing loan programs to allow adaptive reuse as an eligible activity for a notice of funding availability application.

AB 2592 (McCarty), Chapter 439, Statutes of 2022: Requires the Department of General Services to prepare a plan to transition underutilized multistory state buildings into housing

for purposes of expanding affordable housing development and adaptive reuse opportunities of multistory state office buildings and for adaptive reuse incentive grants, and requires them to submit that plan as a report to the Legislature by January 1, 2024.

SB 1369 (Wieckowski) of the 2021-22 Session would have made an adaptive reuse project a use by right in all areas regardless of zoning, made changes to the Infill Infrastructure Grant program, and required the issuance of building standards that revise and clarify existing building codes applicable to adaptive reuse projects commencing with the next triennial edition of the California Building Standards Code adopted after January 1, 2023. This bill died pending a hearing in the Senate Committee on Governance and Finance.

- 6) **Arguments in Support.** The Central City Association of Los Angeles, sponsor of this bill, writes, “The COVID-19 pandemic spurred a significant shift in the way people work, reducing the amount of time spent working in offices and increasing the amount of work done on hybrid or remote schedules. Property values of office buildings have declined in parallel with diminished demand for office space, which has significant implications for tax revenues that cities, counties and the state depend on to fund critical public services. Adaptive reuse of underutilized commercial properties has the potential to breathe new life into downtowns across California reversing declining tax revenues while addressing the state’s housing crisis and furthering our ambitious sustainability goals, among other important public objectives...”

“A UC Berkeley Turner Center for Housing Innovation report from November 2021, ‘Adaptive Reuse Challenges and Opportunities in California,’ recommends that local jurisdictions adopt ordinances that clarify building code requirements for these projects, and notes that ‘the state could support more adaptive reuse projects by providing technical guidance or training in inspections, as well as by making revisions to the California Existing Building Code and/or to the California Residential Code.’

“In our 2024 issue brief ‘Building and Fire Code Updates to Support Adaptive Reuse,’ we found that ‘California Health and Safety Code Section 17958.11 was enacted in 1979 to allow local jurisdictions to establish alternative standards for conversion projects that would not be allowed otherwise in a traditional change of use project. However, this law narrowly applies to joint living and work quarters...’ As such, we recommend that ‘In order to provide a foundation for alternative standards for conversions of offices to new uses, including housing and hotels, both the California Health and Safety Code and the LA City Building Code must be updated to provide expanded flexibility for a broad range of adaptive reuse projects.’

“AB 2910 enables Prohousing jurisdictions with compliant Housing Elements to adopt alternative building regulations to facilitate the conversion of commercial or industrial buildings to residential units. Before a city or county may adopt alternative building regulations, the local jurisdiction must submit their proposed regulations to the California Building Standards Commission, which may offer technical assistance or request revisions to the proposed regulations, within a specified timeframe, in order to protect public health, safety, and welfare. This bill would give cities the flexibility and nuance needed to amend their local building codes to better enable conversion projects, while ensuring the state of California has the appropriate level of oversight and discretion in the process.”

7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Central City Association of Los Angeles [SPONSOR]

Axis/GFA

Better Angels (If Amended)

California Downtown Association

Council of Infill Builders

Housing Action Coalition

Miyamoto International, INC.

Opposition

None on file.

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