

## Senate Bill No. 1226

### CHAPTER 1010

An act to add Section 17958.12 to the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1226, Bates. Building standards: building permits.

Existing law, the Planning and Zoning Law, provides for the adoption and administration of zoning laws, ordinances, rules, and regulations by counties and cities.

The State Housing Law requires the housing or building department or, if there is no building department, the health department, of every city, county, or city and county, or a specified environmental agency to enforce within its jurisdiction all of the State Housing Law, the building standards published in the California Building Standards Code, and other specified rules and regulations. The State Housing Law prohibits the application of rules and regulations promulgated pursuant to the State Housing Law and building standards published in the State Building Standards Code, relating to the erection or construction of buildings or structures, to existing buildings or structures, or to buildings or structures as to which construction is commenced or approved prior to the effective date of the rules, regulations, or building standards, except by act of the Legislature. If there is a violation of these provisions or any order or notice that gives a reasonable time to correct that violation, or if a nuisance exists, an enforcement agency is required, after 30 days' notice to abate the nuisance, to institute appropriate action or proceedings to prevent, restrain, correct, or abate the violation or nuisance.

The State Housing Law requires local ordinances or regulations governing alterations and repair of existing buildings to permit the replacement, retention, and extension of original materials and the use of original methods of construction for any building or accessory structure subject to this law, including a dwelling or portions thereof, as long as the portion of the building and structure subject to the replacement, retention, or extension of original materials and the use of original methods of construction complies with the building code provisions governing that portion of the building or accessory structure at the time of construction, and the other rules and regulations of the department or alternative local standards governing that portion at the time of its construction and adopted pursuant to provisions of existing law regarding fire safety, and the building or accessory structure does not become or continue to be a substandard building, as defined.

The California Building Standards Law requires that only those building standards approved by the California Building Standards Commission, and that are effective at the local level at the time an application for a building permit is submitted, apply to the construction performed under that building permit.

This bill would require the department to propose the adoption of a building standard to the California Building Standards Commission pursuant to existing law that would authorize, when a record of the issuance of a building permit for the construction of an existing residential unit does not exist, the above-described enforcement officials to determine when the residential unit was constructed and then apply the State Housing Law, the building standards published in the California Building Standards Code, and other specified rules and regulations in effect on that date and issue a retroactive building permit for that construction. This bill would declare that the provisions of the bill are declaratory of existing law.

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

SECTION 1. Section 17958.12 is added to the Health and Safety Code, to read:

17958.12. (a) The Legislature hereby finds and declares the following:

(1) Building officials, pursuant to this code and the California Building Standards Code, have broad authority as part of their enforcement authority to render interpretations of the code and to adopt policies and procedures to clarify the application of its provisions.

(2) A building official has the discretion to apply the building standards that were in effect at the time a residential unit was constructed. This is permissible under the authority to grant modifications on a case-by-case basis and the authority of a building department to approve a material, appliance, installation, device, arrangement, or method if it finds that the design is satisfactory and equivalent to the building standards code. Several jurisdictions were not aware of this existing authority.

(3) It is the intent of the Legislature to clarify that when a building permit for a residential unit does not exist, the appropriate enforcement official may make a determination of when a residential unit was constructed and then apply the California Building Standards Code and other specified rules and regulations in effect when the residential unit was determined to be constructed for purposes of issuing a building permit for the residential unit.

(b) The department shall propose the adoption of a building standard to the California Building Standards Commission pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 to authorize, when a record of the issuance of a building permit for the construction of an existing residential unit does not exist, a local enforcement official to determine the date of construction of that residential unit, apply this part, the building standards in the California Building Standards Code, and other specified rules and regulations in effect on that date of construction to that

residential unit, and issue a retroactive building permit for that construction. This authorization shall be consistent with the findings and declarations of subdivision (a).

(c) This section is declaratory of existing law.

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