

This info provided by LACC Firewise – Some aspects have already taken effect and some are coming soon.

## **Assembly Bill No. 38**

### CHAPTER 391

An act to add Sections 1102.6f and 1102.19 to the Civil Code, to add and repeal Article 16.5 (commencing with Section 8654.2) of Chapter 7 of Division 1 of Title 2 of the Government Code, and to add Section 4123.7 to the Public Resources Code, relating to fire safety.

[Approved by Governor October 2, 2019. Filed with Secretary of State October 2, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 38, Wood. Fire safety: low-cost retrofits: regional capacity review: wildfire mitigation.

**Existing law** requires the Director of Forestry and Fire Protection to designate specified areas as **very high fire hazard severity zones** and **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 take specified measures to protect that building or structure from wildfires.

**This bill** would require

- the Natural Resources Agency with others, by July 1, 2021 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.
- **On or after July 1, 2021**, the bill would **require a seller of real property located in a high or very high fire hazard severity zone to provide specified documentation to the buyer** that the real property is in compliance with the wildfire protection measures described above or a local vegetation management ordinance, or enter into an agreement with the buyer pursuant to which the buyer will obtain documentation of compliance, as provided.

**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**, on or after January 1, 2021, would

- require the seller of any real property located in a high or very high fire hazard severity zone to provide a prescribed disclosure notice to the buyer, if the home was constructed before January 1, 2020, of information relating to fire hardening improvements on the property and a list of specified features that may make the home vulnerable to wildfire and flying embers and which features, if any, that exist on the home of which the seller is aware.

**The bill, on or after July 1, 2025**, would:

- require the disclosure notice to also include the State Fire Marshal's list of low-cost retrofits. The bill would also require a seller who has obtained a specified final inspection report to provide to the buyer a copy of that report or information on where a copy may be obtained.

**Existing law** establishes, within the office of the Governor, the Office of Emergency Services, under the direction of the Director of Emergency Services. **Existing law** charges the Office of Emergency Services with coordinating various emergency activities within the state.

**This bill** would require the Office of Emergency Services to enter into a **Joint Powers Agreement** with the Department of Forestry and Fire Protection to develop and administer a comprehensive wildfire mitigation program to, among other things encourage cost-effective structure hardening and retrofitting to create fire-resistant homes, businesses, and public buildings.

- require the State Fire Marshal, in consultation with specified state officials, to identify building retrofits and structure hardening measures, and
- the Department of Forestry and Fire Protection to identify defensible space, vegetation management, and fuel modification activities, that are eligible for financial assistance under the program.
- specify the types of designated wildfire hazard areas eligible for funding under the program.
- authorize the joint powers authority administering the program to accept federal funds for the bill's purposes.
- The bill would require the joint powers authority to develop criteria and a scoring methodology to prioritize financial assistance provided through the program based on specific factors.
- impose specified reporting requirements on the joint powers authority and authorize it to enter into cooperative agreements with other federal, state, regional, and local agencies.
- **make the operation of the program contingent upon an appropriation by the Legislature and would repeal the program's provisions on July 1, 2025.**

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

- 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
- Wildfires have grown larger and have increased in intensity over the last several decades. 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.

Wildfires have resulted in enormous human and financial costs.

- 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. 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.

There is a pressing need for wildfire prevention and minimization strategies, on an area-specific basis.

- **Wildfire minimization programs.** Developed areas need to carry out comprehensive urban vegetation management programs to reduce vegetation wildfire fuel loads within developed areas.
- **Wildfire prevention programs.** Comprehensive wildlands vegetation management 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.

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

**On or after January 1, 2021** the seller of any real property that is located in a high or very high fire hazard severity zone shall provide a disclosure notice to the buyer, if the **home was constructed before January 1, 2010**, that includes the following information:

A statement as follows:

- “This home is located in a high or very high fire hazard severity zone and this home was built before the implementation of the Wildfire Urban Interface building codes which help to fire harden a home. To better protect your home from wildfire, you might need to consider improvements. Information on fire hardening, including current building standards and information on minimum annual vegetation management standards to protect homes from wildfires, can be obtained on the internet website <http://www.readyforwildfire.org>.”

**On or after July 1, 2025**, notice shall disclose which low cost retrofits, if any, have been completed during the time that the seller has owned the property.

A list of the following features that may make the home vulnerable to wildfire and flying embers. The notice shall disclose which of the listed features, if any, that exist on the home of which the seller is aware:

- Eave, soffit, and roof ventilation where the vents have openings in excess of one-eighth of an inch or are not flame and ember resistant.
- Roof coverings made of untreated wood shingles or shakes.
- Combustible landscaping or other materials within five feet of the home and under the footprint of any attached deck.
- Single pane or nontempered glass windows.
- Loose or missing bird stopping or roof flashing.
- Rain gutters without metal or noncombustible gutter covers.

**On and after July 1, 2021**, a seller of a real property subject to this article that is located in a high or very high fire hazard severity zone shall provide to the buyer documentation stating that the property is in compliance with Section 4291 of the Public Resources Code or local vegetation management ordinances, as follows:

- In a local jurisdiction that **has enacted** an ordinance requiring an owner of real property to obtain documentation that the property is in compliance with Section 4291, **the seller shall provide the buyer with a copy of the documentation.**
- In a local jurisdiction that **has not enacted** an ordinance for an owner of real property to obtain documentation that a property is in compliance with Section 4291, **the seller shall provide the buyer with the documentation obtained in the six-month period preceding the date the seller enters into a transaction to sell that real property**

**On and after July 1, 2021**, if the seller of a real property has not obtained documentation of compliance, **the seller and the buyer shall enter into a written agreement pursuant to which the buyer agrees to obtain documentation of compliance with Section 4291**

## **Financial Assistance**

The joint powers authority may accept any **federal funds granted**, by act of Congress or by executive order, for all or any of the purposes of this chapter.

The joint powers authority shall develop criteria and a scoring methodology to prioritize financial assistance to areas and communities based upon criteria that include, but are not limited to, all of the following:

- Area and community vulnerability to wildfire.
- The impact of future climate risk factors on area and community wildfire vulnerability assessments.
- Factors that lead some populations to experience a greater risk to wildfire, adverse health outcomes, or an inhibited ability to respond to a wildfire, including socioeconomic characteristics of the areas or communities that would be protected by financial assistance. For purposes of this paragraph “relevant socioeconomic characteristics” may include, among other things, data on poverty levels, residents with disabilities, language barriers, residents over 65 or under 5 years of age, and households without a car.

Gov Code 8654.8 & 8654.9

**The joint powers authority shall develop eligibility criteria** for property owners, community organizations, and local governments who may receive financial assistance under the wildfire mitigation program. The joint powers authority may also establish financial assistance limits and matching funding or other recipient contribution requirements, as necessary, to ensure the viability and efficient operation of the wildfire mitigation program and to maximize the program’s impact.

**The joint powers authority may enter into cooperative agreements** with any of the following eligible entities to perform those functions eligible for financial assistance under the wildfire mitigation program in lieu of, or in addition to, an award of financial assistance.

- (1) The California Conservation Corps.
- (2) University of California fire advisors.
- (3) Regional conservation corps.
- (4) Resource conservation districts.
- (5) **Fire safe councils.**
- (6) **Fire protection districts.**
- (7) State conservancies.
- (8) Cities.
- (9) **Counties.**
- (10) **Any other qualified state and local agencies.**

The Department of Forestry and Fire Protection may specify the required training, experience, or other qualifications necessary before a person may perform those functions eligible for financial assistance under the wildfire mitigation program pursuant to a cooperative agreement. (←Kathy – this may have been what Don Gasser had worked on and expressed frustration about on last PVFSC meeting)

**No later than July 1, 2024**, the joint powers authority shall submit a report which shall include, but is not limited to, all of the following:

- An evaluation of the cost-effectiveness of the wildfire mitigation program compared to other structure hardening, defensible space, vegetation management, and fuel reduction incentive programs.
- An evaluation of the overall wildfire risk reduction achieved statewide through awards of financial assistance under the wildfire mitigation program.
- Detailed information about the quantity, monetary value, geographic distribution, and categories of awards of financial assistance made under the wildfire mitigation program.
- Detailed information about the sources and amounts of funds appropriated or granted to the wildfire mitigation program.
- Detailed information about barriers encountered to completing work awarded financial assistance under the wildfire mitigation program, including state, regional, or local permitting requirements.

**On or before July 1, 2021**, the Natural Resources Agency shall review the regional capacity of each county that contains a very high fire hazard severity zone. The review shall include, but not be limited to, all of the following:

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