

Senate Committee on Local Government
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State Capitol, Room 407
Sacramento, California 95814

Development After Disasters

What can homeowners, tenants, business owners, and local officials expect after disasters? State law offers several exceptions from the standard requirements for land use and taxation decisions, and offers opportunities for local governments to finance projects related to wildfires.

Building standards: State officials must promulgate fire protection building standards for construction in the State Responsibility Area, high and very high fire hazard severity zones, and Wildland Interface Fire Areas (Health & Safety Code §13108.5).

Within those areas, new dwellings and rebuilds of dwellings damaged by fire must comply with all applicable state and local building standards, including state fire protection building standards (Government Code §51182).

Coastal development: Coastal development permits are not required to replace private structures destroyed by disasters (Public Resources Code §30610 [g]).

Corporate income tax losses: After presidential or gubernatorial declared disasters, corporate taxpayers can carry-back and carry-forward their excess disaster losses (Revenue & Taxation Code §24347.14).

Developer fees: Local agencies can't charge impact fees for the reconstruction of property destroyed by a natural disaster, but they can charge processing fees (Government Code §66011).

Disaster Housing Repair Fund: The State Department of Housing and Community Development (HCD) can loan money from the Disaster Housing Repair Fund (Health & Safety Code §50661.5).

There are three HCD programs to assist those affected by natural disasters:

- ReCover CA Homebuyer Assistance Program (DR-HBA) - provides forgivable loans to low and moderate-income borrowers impacted by natural disasters. Last funded those impacted by fires in 2018 and 2020. *This program was funded by HUD through CDBG-DR funds.*
- Disaster Recovery Multifamily Housing Program (DR-MHP) - works with developers in areas impacted by disasters, helping to build multifamily housing projects and generate crucial affordable housing units. *This program was funded by HUD through CDBG-DR funds.*
- ReCover CA Rehabilitation/Reconstruction Programs - assists households living in HUD designated Most Impacted and Distressed (MID) Counties with the reconstruction of their disaster damaged homes in federally declared disaster areas. *This program was funded by HUD through CDBG-DR funds and funded disaster recovery assistance associated with fires in 2020 and 2021.*

Environmental review: The California Environmental Quality Act (CEQA) statutorily exempts from environmental review:

- Emergency repairs to public works needed to maintain services (Public Resources Code §21080 [b][2]).
- Repairs and replacement work after a declared disaster (Public Resources Code §21080 [b][3]).
- Actions to mitigate or prevent an emergency (Public Resources Code §21080 [b][4]).

CEQA guidelines establish these same exemptions, and also specify that this exemption includes projects that alter historical resources under certain conditions. (CEQA Guidelines §15269 [a-b])

CEQA guidelines also create an exemption for replacement or reconstruction of structures that are basically the same in form and function as the structure they replace (CEQA Guidelines §15302).

Expedited rebuilding: The Legislature recognizes that local ordinances can expedite permits for rebuilding after disasters, including waiving fees and streamlining requirements (Health & Safety Code §50660.5).

Fire safe standards: Subject to certain exceptions, owners of property in “state responsibility area” lands and those designated as very high fire hazard severity zones in “local responsibility area” lands with new development must follow the State Board of Forestry’s fire safe regulations for fuel breaks, roads, signs, and water supplies (Public Resources Code §4290, et seq.).

Infrastructure finance: Local agencies can create climate resilience districts (CRDs) and enhanced infrastructure financing districts (EIFDs), which can fund specified activities and infrastructure related to wildfire:

- *Climate resilience districts:* CRDs can use various financing tools, such as property tax increment and assessments, to build projects that address climate change impacts, including those that address the risk of wildfire, including establishing fire breaks, prescribed burning, structure hardening, or vegetation control. (Government Code §62300, et seq.)
- *Enhanced infrastructure financing districts:* EIFDs can use property tax increment financing to build projects of communitywide significance, including projects that enable communities to adapt to the impacts of climate change, including wildfires. (Government Code §53398.50, et seq.)

Natural disaster community assistance: If the Legislature appropriates money, the State Department of Housing and Community Development (HCD) can provide financial assistance to the victims of declared disasters. Priority goes to low- and moderate-income housing and recipients of in-home supportive services, with first priority given to funding housing for persons of low-income, including recipients of in-home supportive services. (Health & Safety Code §34050, et seq.)

Natural disaster emergency shelter program: If the Legislature appropriates money, the State Department of Housing and Community Development (HCD) can provide grants to pay for rent vouchers and emergency shelters (Health & Safety Code §34070, et seq.)

Personal income tax losses: After presidential or gubernatorial declared disasters, personal income taxpayers can carry-back and carry-forward their excess disaster losses (Revenue & Taxation Code §17207.14).

Property reassessment: Owners of substantially damaged property can ask the county assessor to reassess the property in its damaged or destroyed condition, and receive a corrected property tax bill reflecting the new valuation. If taxes have already been paid, the assessor may issue refunds and the state reimburses the county (Revenue & Taxation Code §170).

Property tax deferment: Taxpayers can file a claim to postpone the next installment of property taxes that occurs immediately after the disaster, which postpones that payment without penalty or interest until the county assessor reassesses the property (Revenue & Taxation Code §194.1).

Property value assessment: Reconstructing property that was destroyed by a declared disaster is not “newly constructed” property that triggers a new assessment of property value (California Constitution Article XIII A, §2 [c]).

Compiled by the staffs of the:
Senate Local Government Committee
Senate Environmental Quality Committee
Senate Natural Resources & Water Committee
Senate Revenue & Taxation Committee
Senate Housing Committee

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