



Seismic Safety Policy for Leased Buildings

AUGUST 15, 2008



Judicial Council of California

I. General

It is the policy of the judicial branch, administered by the Judicial Council of California, to acquire space in buildings owned by others that provide adequate seismic life safety to occupants. The requirements for establishing compliance with this Seismic Safety Policy for Leased Buildings (the policy) are set forth in the standard herein contained. Note that all evaluations performed under this standard are to consider the whole building and all of its structural components. Where a seismic hazard to the subject building clearly is posed by adjacent buildings, e.g., an elevated unreinforced masonry wall that may collapse onto the subject building, these hazards are to be included in the assessment required below. It is not the intent of this standard to require detailed analyses of adjacent buildings.

This policy applies to new leases, and only upon renewal for leases which transferred to the state under the Trial Court Facilities Act of 2002 (Senate Bill 1732 [Escutia]; Stats. 2002, ch. 1082). This policy does not apply to leases that have not transferred to the state. The policy applies to any judicial branch entity, such as trial and appellate courts and the Judicial Council's Governmental Affairs and regional offices.

The Judicial Council will not evaluate any existing leased spaces to determine if they provide adequate seismic life safety to occupants. Application of this policy is initiated by two events:

1. Creation of a new lease; and
2. Renewal of an existing lease, including exercising an option to extend a lease term.

Newly leased or re-leased space may be occupied only if it satisfies the seismic safety requirements of this standard at the time of occupancy (for a new lease) or commencement of the renewed lease term in the case of re-leased space, which can be established by one of the following acceptable evaluation documents:

1. Alternative A: A determination that a Waiver Letter can be issued, see Section II.A., or
2. Alternative B: A Certificate of Applicable Code indicating the building was designed to modern code requirements and does not have characteristics known to be hazardous, see Section II.B.,¹ or
3. Alternative C: An Independent Review Report stating that the building has an earthquake damageability Level of IV or better, as defined in the table titled "Earthquake Damageability Levels for Existing Buildings," see Section II.C. and Attachment A., or
4. Alternative D: Administrative Exception stating the overriding conditions that require the lease of the building or buildings for the judicial branch entity when Alternatives A, B, and C cannot be met. The Administrative Director has the authority to determine all Administrative Exceptions, see Section II. D.

¹ A building meeting either of the two requirements for a Certificate of Applicable Code, as listed under Section II.B., is generally considered to have the equivalent of earthquake damageability Level IV or better.

The Judicial Council shall not approve for leasing or renewal of leases any building having an Earthquake Damageability Level of V (see the table titled “Earthquake Damageability Levels for Existing Buildings” presented in Attachment A), except in instances where the building qualifies by either Alternative A or Alternative D.² The Judicial Council shall not, under any circumstances, approve for leasing or renewal of lease of a building judged by the Judicial Council to have an Earthquake Damageability Level of VI or worse (see the table titled “Earthquake Damageability Levels for Existing Buildings” presented in Attachment A).

The documents establishing Alternatives A, B, and C listed above may be produced by the Judicial Council, the building owner, or the building owner’s technical agent and will be accepted subject to the review by the Judicial Council, as detailed in Section II. The Judicial Council shall provide the written documentation supporting Alternative D, as indicated in Section II.D. below. The judicial branch entity—for which the lease is entered into or renewed by the Judicial Council—does not have the responsibility or burden for producing any documents for Alternatives A, B, C, or D. When the supporting documentation is provided to meet the conditions of Alternatives A, B, C, or D, the alternative will be met for the duration of the upcoming lease term.

II. Acceptable Evaluation Documents

A. Alternative A—Waiver Letter

The requirements for seismic qualification under this standard may be waived under the following conditions, except that under no circumstances shall a building judged by the Judicial Council to have an Earthquake Damageability Level of VI or worse (see the table titled “Earthquake Damageability Levels for Existing Buildings” presented in Attachment A) be considered acceptable:

1. The space will be occupied for fewer than two years, and a judicial branch entity does not currently occupy space in the building; or
2. The area of the space to be occupied by the judicial branch is 10,000 square feet, or less; or
3. The building is a one-story, wood-framed building; or
4. The building is a structure that was originally designed to be movable even if permanently located, such as a trailer, and it has an earthquake disconnect for natural gas installed or has no natural gas connection; or
5. The space to be occupied is within a structure currently occupied by the court and was previously qualified under Section II.B. or Section II.C. of this standard.

For any building not qualifying for a Waiver Letter, then either Section II.B., Section II.C. or Section II.D. below must be satisfied.

² Only buildings with an earthquake damageability Level of IV or better, as defined in the table titled “Earthquake Damageability Levels for Existing Buildings,” are eligible for Alternatives B and C.

B. Alternative B—Certificate of Applicable Code

A Certificate of Applicable Code (certificate) may be provided if the entire building was constructed under a permit approved by the local jurisdiction and was designed to meet one of the following requirements:

1. 1998 or subsequent editions of the California Building Code (CBC); or,
2. 1976 or subsequent editions of the Uniform Building Code and, in addition, the building does not have any one of the enumerated characteristics or conditions listed below:
 - Unreinforced masonry elements, whether load-bearing or not; not including brick veneer; or
 - Precast, prestressed, or post-tensioned structural or architectural elements, except piles; or
 - Masonry or concrete shear wall system with flexible (e.g., plywood) diaphragm; or
 - Apparent additions, alterations, or repairs to the structural system made without a building permit; or
 - Constructed on a site with a slope with one or more stories partially below grade (taken as 50 percent or less) for a portion of their exterior; or
 - Soft or weak story, including wood-frame structures with cripple walls, or is constructed over first-story parking; or
 - Seismic retrofit of the building, whether voluntary or mandated, whether partial or complete; or
 - Repairs following an earthquake; or
 - Welded steel moment frames (WSMF) that constitute the primary seismic force-resisting system for the building, and the structure was designed to code requirements preceding those of the 1997 edition of the Uniform Building Code, and the building site has experienced an earthquake of sufficient magnitude and site peak ground motions that inspection is required when any of the conditions of Section 3.2 of the FEMA-352 report indicate an investigation of beam-column connections is warranted; or
 - Visible signs of distress or deterioration of structural or nonstructural systems, e.g., excessively cracked and/or spalling concrete walls or foundations, wood dry rot, etc.

The Certificate of Applicable Code must be signed and stamped by a structural engineer licensed by the State of California. The certificate must contain an assurance that the signatory was responsible for establishing the findings reported in the certificate and had no prior involvement in the building's design, and that the signatory firm or individuals of the firm have no ownership interest in the property.

The Certificate of Applicable Code must reflect current analysis and be dated not more than 12 months before execution of a new lease or a lease renewal. The Certificate of Applicable Code can be dated up to three years before execution of a new lease or a lease renewal provided that it is accompanied by a current letter dated, signed and stamped by the author of the Certificate certifying that there have been: (i) no material changes in the structural system, either as part of building modifications or as the result of accidents, and (ii) no substantive change in the standards of evaluating buildings that would change the certificate's conclusions, and (iii) no seismic event that could change the certificate's conclusions.

C. Alternative C—Independent Review Report

An Independent Review Report (report) of the building structure and of its critical nonstructural elements for purposes of establishing the building's Earthquake Damageability Level may be provided. The Independent Review Report and its preparation, at a minimum, shall include the following:

1. A visit to the building to observe its condition and characteristics;
2. A review of available design drawings and soil reports for original construction and subsequent modifications;
3. A qualitative (and quantitative if deemed necessary by the evaluating structural engineer or Judicial Council) evaluation of the building's gravity and lateral load-resisting structural systems;
4. A qualitative (and quantitative if deemed necessary by the evaluating structural engineer or Judicial Council) evaluation of the likelihood of earthquake-induced site failure that could cause damage to the facility—that is, the building is in the vicinity of earthquake faults listed in the State of California Earthquake Zones Act of 1990 (previously Alquist-Priolo) or in the liquefaction susceptibility zone as identified by the local jurisdiction—or of whether the building site is subject to failure due to earthquake-induced landslide risk;
5. A qualitative (and quantitative if deemed necessary by the evaluating structural engineer or Judicial Council) evaluation of the expected seismic performance of the building when evaluated against structural provisions of American Society of Civil Engineers (ASCE)-31 at the life safety performance level or CBC Chapter 34 for Occupancy Categories I–III performance criteria considering the building type, site location, and physical condition;
6. Identification of nonstructural falling hazards with a significant consequence of failure during an earthquake (e.g., large plaster ceiling or heavy exterior cladding); and
7. A list of the documents, plans, and other materials examined.

The Independent Review Report must be signed and stamped by a structural engineer licensed by the State of California who certifies that the Earthquake Damageability Level is/will be IV or better (see the table titled “Earthquake Damageability Levels for Existing Buildings” given in Attachment A) before occupancy occurs. The report must contain an assurance that the signatory was in responsible charge of the work described in the report and had no prior involvement in the building’s design, and that the signatory firm or individuals of the firm have no ownership interest in the property. The Judicial Council, at its discretion, may have the Independent Review Report reviewed by qualified engineers to confirm its technical reliability prior to acceptance of the report’s conclusions and reliance upon it in execution of the real estate transaction.

The Independent Review Report must reflect current analysis and be dated not more than 12 months before execution of a new lease or a lease renewal. The Independent Review Report can be dated, signed and stamped up to three years before execution of a new lease or a lease renewal provided that it is accompanied by a current letter, signed and stamped by the author of the report certifying that there have been: (i) no material changes in the structural system, either as part of building modifications or as the result of accidents, and (ii) no substantive change in the standards of evaluating buildings that would change the report’s conclusions, and (iii) no seismic event that could change the report’s conclusions.

A landlord who intends to complete modifications to bring a building into compliance with the required (minimum) Earthquake Damageability Level rating shall: (i) certify that the work to be completed will meet the requirements of this standard, and (ii) provide a description of the work in sufficient detail to allow for the Judicial Council’s technical review and approval. In addition, upon completion of the identified modifications, the landlord’s structural engineer shall prepare, sign, stamp, and submit to the Judicial Council a letter confirming that the building meets the requirements of this standard. All lease documents under this provision must contain specific terms that in the event the Landlord fails to achieve this confirmation, the lessee (State/ Judicial Council) has no obligation to the lessor and the lease *may be terminated* without any penalties to the lessee.

D. Alternative D—Administrative Exception

The Judicial Council may recommend to the Administrative Director that the building or buildings be leased on behalf of the judicial branch entity when the conditions of Alternatives A, B, and C cannot be met. The Judicial Council shall provide written documentation supporting the exception, including but not limited to a cost- benefit analysis relative to availability of other facilities, standard due diligence, and other specific features of the particular judicial branch entity’s needs, the community needs, and the lease advantages. The Judicial Council shall, in their recommendation, consult with the judicial branch entity in the analyses. The Administrative Director shall make the final determination of the granting of any Administrative Exception in writing.

III. References

American Society of Civil Engineers, *Seismic Evaluation of Existing Buildings*, ASCE-31, (ASCE/SEI Standard 31-03, 2003).

California Building Code, (California Code of Regulations, Title 24, Part 2, 2007 Edition).

Federal Emergency Management Agency, *Recommended Postearthquake Evaluation and Repair Criteria for Welded Steel Moment-Frame Buildings*, (FEMA-352, June 2000).

Attachment A: Earthquake Damageability Levels for Existing Buildings

Rating Level ¹	Definitions	Implied Risk to Life ²
I – III	Not provided for purposes of this policy. (Note that buildings having an Earthquake Damageability Level rating of I, II, or III are judged to comply with the judicial branch's Seismic Safety Policy for Leased Buildings).	Negligible–Slight
IV	A building evaluated in accordance with ASCE-31 which substantially meets the life safety performance level for structural elements as well as those nonstructural elements with a significant consequence of failure. Note that “substantially meets the life safety performance level” is taken to mean that any deficiencies identified by the evaluation process have been carefully considered and can be waived by engineering judgment in light of mitigating circumstances such as the degree of overstress, the consequence of failure, etc. Alternatively, a building evaluated as meeting or exceeding the requirements of CBC chapter 34 for Occupancy Categories I–III performance criteria.	Small
V	A building evaluated in accordance with ASCE 31 or CBC chapter 34 as described for Rating Level IV above with deficiencies that preclude it from being rated as Level IV, the consequences of which could result in partial collapse of the structure or serious risk to life as a result of nonstructural element failure.	Serious
VI	A building evaluated in accordance with ASCE-31 or CBC chapter 34 as described for Rating Level IV above with deficiencies that preclude it from being rated as Level IV, the consequences of which could result in total collapse of the structure or severe risk to life.	Severe
VII	A building evaluated as posing an immediate life safety hazard to its occupants under gravity loads. The building should be evacuated and posted as dangerous until remedial actions are taken to assure the building can support CBC-prescribed dead and live loads.	Dangerous

Notes:

1. Earthquake damageability levels are indicated by roman numerals I through VII. Assignments are to be made following a professional assessment of the building's expected seismic performance as measured by the referenced technical standard.
2. *Implied risk to life* is a subjective measure of the threat of a life-threatening injury or death that is expected for an average building in compliance with the indicated technical requirements. The terms *negligible* through *dangerous* are not specifically defined but are linguistic indications of the relative degree of hazard posed to an individual occupant.