

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 2760**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 12, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2760 (1R), with committee amendments.

This bill, as amended, supplements the “State Uniform Construction Code Act” (UCCA) to require that certain covered buildings, which are limited to condominiums and cooperatives, and plans be inspected and reviewed by a structural inspector, as defined in the bill, during the building’s pre-construction, construction, and post-construction phases. In addition, this bill assures that planned real estate developments have adequate reserve funds to make certain required maintenance repairs to building components and common areas.

Specifically, this bill supplements the UCCA to require that a structural inspector, designated by the construction permit applicant or, in the absence of a designation, chosen by the enforcing agency, review the construction plans submitted with a construction application, set forth an inspection schedule to confirm that the primary load bearing system conforms to the building plans, and issue a written report which determines whether the primary load bearing system conforms to the building plans. A certificate of occupancy is not to be issued under this bill until the structural inspector’s report confirms that the construction of the primary load bearing system of the building is in conformance with the approved construction plans. Further, a certificate of occupancy is not to be issued under this bill if the construction permit applicant does not state at the time of application, or prior to the first occupancy creating a condominium or cooperative, that the building is to be a condominium or cooperative, until the required inspections have occurred. Similarly, this bill precludes the issuance of a certificate of occupancy until any necessary repairs, renovations, alterations, or modifications to the structural components of a covered building are made pursuant to the inspector’s report. Under the bill, certain timelines for inspections are dependent on when a certificate of occupancy was issued. Any additional cost to the enforcing agency incurred as a result of inspections required under

this bill are to be recovered through a fee associated with the construction application.

In addition, this bill requires that a planned real estate development undertake a capital reserve study to identify and assess the adequacy of the association's capital reserve funds to meet the anticipated costs associated with maintaining the structural integrity of the buildings that the association is obligated to maintain. This capital reserve study is to be conducted by a credentialed reserve specialist, or licensed engineer or architect, and is to include an analysis of certain provisions enumerated in the bill.

In addition, this bill requires that a planned real estate development create and fund a plan to ensure that adequate reserve funds are available to repair or replace one or more components of common elements and facilities that the association is obligated to maintain without need to create a special assessment or loan obligation. The bill also allows an planned real estate development's executive board to adopt an assessment payable by the owners over one or more fiscal years, or obtain a loan on terms as the board determines to be reasonable, when necessary to fund the cost of corrective maintenance of the primary load bearing system of the planned real estate development. Prior to adopting the assessment, the board is to be required to obtain a written report from a licensed engineer or architect explaining that the failure to undertake corrective maintenance of the primary load bearing system would produce certain results enumerated in the bill.

The bill requires that the developer of a planned real estate development prepare a document setting forth a schedule for the preventative maintenance tasks to be undertaken by the association over the life of the common area components, including, but not limited to, periodic inspections of the structural components of the buildings or common areas that the association is obligated to maintain. This document is also to be made available to prospective purchasers or owners of units, parcels, or other interests of the planned real estate development. This preventative maintenance document is to also be updated pursuant to the specifications of any structural inspections or reports performed under the UCCA.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to add a definition for "balcony" and limit the definition of "covered buildings" to condominiums or cooperatives that have a primary load bearing system that is comprised of certain components. The amendments also add a definition for "excluded structure" that excludes certain buildings from the inspections mandated by the bill. The committee amendments add columns, beams, or bracing that deliver forces to the building's foundation, and to include balconies as part of the evaluation, to the definition of "primary load bearing system."

The amendments also require that construction permit applications are to indicate whether the residential building will be a condominium or cooperative and that a permit applicant may designate a structural inspector. The amendments provide that no certificate of occupancy is to be issued for a unit in a covered building until the inspections of the primary load bearing system have occurred.

The committee amendments also provide for certain timelines for inspections dependent on when a certificate of occupancy was issued.

The committee amendments provide that associations of a planned real estate developments are to undertake certain studies and eliminated reference to the Association of Professional Reserve Analysts, replacing that reference with the Community Associations Institute.

Lastly, the committee amendments allow for different timelines concerning the recovery of certain association funds, and make technical changes.

#### FISCAL IMPACT:

The Office of Legislative Services concludes that the bill will result in an indeterminate increase in annual costs to State and local code enforcing agencies, including the Department of Community Affairs, associated with conducting structural inspections of covered buildings, and with administrative costs related to establishing inspection schedules and receiving inspection plans and documents.

The bill is also expected to result in an indeterminate increase in annual revenue to State and local code enforcing agencies associated with the collection of a fee to be paid by a covered building owner during the construction application process. The fee is required to offset certain additional costs incurred by the code enforcing agencies resulting from the bill.