

ASSEMBLY, No. 2274

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Concerns structural integrity regulations for certain residential buildings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

WITHDRAWN



1 AN ACT concerning structural integrity regulation for certain
2 residential structures, supplementing P.L.1975, c.217 (C.52:27D-
3 119 et seq.), and amending and supplementing P.L.1977, c.419.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) The Legislature finds and declares that:

9 a. The importance of the structural integrity of residential
10 buildings in New Jersey has become a growing concern for many,
11 especially in the wake of the tragic collapse of a high-rise,
12 multifamily housing structure in Florida.

13 b. In light of these growing concerns, it is appropriate for the
14 Legislature to put in place appropriate procedures for inspecting,
15 evaluating and maintaining the structural integrity of certain
16 residential housing structures within this State.
17

18 2. (New section) As used in this P.L. , c. (C.) (pending
19 before the Legislature as this bill):

20 "Balcony" means an extension of the interior living space of the
21 building that extends outwards from the facade of a covered building
22 and is exposed to the elements.

23 "Bureau" means the Bureau of Housing Inspection in the
24 Department of Community Affairs.

25 "Corrective maintenance" means maintenance to be undertaken
26 following the detection of deterioration of the primary load bearing
27 system with the goal of remediating the condition reported by the
28 structural inspector.

29 "Covered building" means a residential condominium or
30 cooperative building that has a primary load bearing system that is
31 comprised of a concrete, masonry, steel, or hybrid structure including,
32 without limitation, heavy timber and a building with podium decks,
33 but not including an excluded structure.

34 "Covered building owner" means the owner of a covered building,
35 whose name appears of record with the county clerk or register, or the
36 association of a common interest community.

37 "Excluded structure" means:

38 (1) International Standardization Organization ISO type 1
39 construction or frame-built construction with combustible walls or
40 roofs, but not including a podium deck on which the frame-built
41 construction is situated;

42 (2) a building with ancillary elements that are not part of the
43 primary load bearing system such as, but not limited to elevator shafts
44 or concrete, masonry, steel or heavy timber that the primary load
45 bearing system does not deliver a building's load to the foundation;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) a building that is not a condominium or cooperative, and
2 consists primarily of rental dwellings; or

3 (4) a single-family dwelling.

4 “Podium deck” means a structural slab or deck that transfers
5 applied loads from the structure above to the structure below.

6 “Primary load bearing system” means the assemblage of structural
7 components within a building comprised of columns, beams, or
8 bracing that by contiguous interconnection form a path by which
9 external and internal forces applied to the building are delivered to the
10 foundation. The foundation as well as any connected or attached
11 balconies shall be included as part of the primary load bearing system
12 evaluation.

13 “Structural inspector” means:

14 (1) a construction official, as that term is used in section 8 of
15 P.L.1975, c.217 (C.52:27D-126), who is also an engineer licensed by
16 the State;

17 (2) an employee of the bureau who is also an engineer licensed by
18 the State; or

19 (3) an engineer licensed by the State who has the same
20 qualifications required of an engineer under contract with the
21 enforcing agency with whom the covered building owner contracts to
22 perform inspections of covered buildings under section 3 of
23 P.L. , c. (C.) (pending before the Legislature as this bill).

24
25 3. (New section) a. Following the issuance of a certificate of
26 occupancy, an initial structural inspection of the building components
27 forming the primary load bearing system of a covered building shall be
28 undertaken by a post-occupancy structural inspector retained by the
29 covered building owner within the earlier of:

30 (1) 15 years of the date on which the covered building receives a
31 certificate of occupancy pursuant to section 15 of P.L.1975, c.217
32 (C.52:27D-133); or

33 (2) 60 days after observable damage to the primary load bearing
34 system.

35 b. If a covered building has received a certificate of occupancy
36 pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133) prior to the
37 effective date of P.L. , c. (C.) (pending before the Legislature
38 as this bill), then an initial structural inspection shall be undertaken by
39 a structural inspector based on the number of years the certificate of
40 occupancy preceded the effective date of P.L. , c. (C.) (pending
41 before the Legislature as this bill), as provided in this subsection. If
42 the certificate of occupancy was provided:

43 (1) one day to 14 years and 364 days prior to the effective date of
44 P.L. , c. (C.) (pending before the Legislature as this bill), then
45 the structural inspection shall occur within one year of the date 15
46 years following the date of the issuance of the certificate of
47 occupancy; or

1 (2) 15 or more years prior to the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill), then
3 the structural inspection shall occur within two years following the
4 effective date of P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6 c. A building that has been converted to a condominium or
7 cooperative form of ownership after the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill) shall,
9 as part of the process of registering the project pursuant to the
10 “Planned Real Estate Development Full Disclosure Act,” P.L.1977,
11 c.419 (C.45:22A-21 et seq.) and the regulations promulgated
12 thereunder, be required to follow the schedule of inspections provided
13 in paragraphs (1) and (2) of subsection b. of this section.

14 d. After the post-occupancy structural inspector has performed an
15 inspection pursuant to subsection a. of this section, the post-occupancy
16 structural inspector shall issue a written report describing the condition
17 of the primary load bearing system. The post-occupancy structural
18 inspection report shall:

19 (1) set forth with specificity any required maintenance or repairs
20 needed by the primary load bearing system;

21 (2) determine when the next inspection of the primary load bearing
22 system shall be performed, but in no event shall a secondary inspection
23 occur more than the earlier of: (a) 10 years after the initial inspection
24 has taken place; or (b) not more than 60 days after there is observable
25 damage to the primary load bearing system;

26 (3) be provided to the municipal appointing authority, the
27 construction official and the enforcing agency;

28 (4) be prepared in accordance with the protocol established by the
29 American Society of Civil Engineers, for the structural condition
30 assessment of a covered building or a similar protocol by another
31 nationally recognized structural engineering organization; and

32 (5) provide any other information or guidance necessary to
33 maintain the structural integrity of a covered building.

34 e. If the structural inspector’s report created pursuant to
35 subsection d. of this section finds that corrective maintenance of the
36 primary load bearing system is required, the report shall specify with
37 reasonable detail the required corrective maintenance.

38 f. Notwithstanding the structural inspector’s initial inspection and
39 report undertaken pursuant to subsections a. through e. of this section,
40 subsequent structural inspections and reports shall be provided for as
41 set forth by the structural inspector’s preceding report as follows:

42 (1) The structural inspector shall determine a reasonable period of
43 time within which the next inspection shall take place provided,
44 however, that any subsequent inspection under this paragraph shall not
45 take place more than five years after a preceding inspection.

46 (2) The structural inspector shall review the preceding inspection
47 report prior to undertaking subsequent inspection of the covered
48 building. After the structural inspector completes this review and

1 inspection, the structural inspector will then issue a subsequent
2 inspection report which shall:

- 3 (a) make note of any new or progressive deterioration;
4 (b) set forth the covered maintenance required to address any new
5 or progressive deterioration; and
6 (c) be provided to the covered building owner, who shall
7 undertake measures necessary to effectuate the covered maintenance,
8 including, but not limited to, engaging the services of an architect or
9 engineer licensed by the State and qualified in structural repairs or
10 maintenance to create plans or specifications to implement the covered
11 maintenance. The covered building owner shall cause any plans or
12 specifications created pursuant to this subparagraph to be filed with the
13 municipal appointing authority or enforcing agency.

14 (3) If the post-occupancy structural inspector's inspection finds
15 that there is no need for corrective maintenance, the written report
16 shall be filed with the enforcing agency or municipal appointing
17 authority.

18 (4) Any written reports issued by the post-occupancy structural
19 inspector pursuant to this section shall be provided to the covered
20 building's owner and shall be made available to any resident of a
21 covered building upon request.

22 g. Inspections conducted pursuant to this section may be
23 conducted in conjunction with other required inspections, including
24 but not limited to inspections required pursuant to the "Hotel and
25 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

26
27 4. (New section) A post-occupancy structural inspector who
28 performs the duties set forth in section 3 of P.L. , c. (C.)
29 (pending before the Legislature as this bill) in good faith and pursuant
30 to the protocols adopted by the American Society of Civil Engineers,
31 or similar protocols by another nationally recognized structural
32 engineering association, shall not incur any civil liability for injury
33 associated with any inspection undertaken by the structural inspector.

34
35 5. Section 6 of P.L.1977, c. 419 (C.45:22A-26) is amended to
36 read:

37 6. a. Unless otherwise exempted:
38 (1) No developer may offer or dispose of any interest in a planned
39 real estate development, prior to the registration of such development
40 with the agency.

41 (2) No developer may dispose of any lot, parcel, unit, or interest in
42 a planned real estate development, unless he: delivers to the purchaser
43 a current public offering statement, on or before the contract date of
44 such disposition.

45 b. Any contract or agreement for the purchase of any parcel, lot,
46 unit, or interest in a planned real estate development may be canceled
47 without cause by the purchaser by sending or delivering written notice
48 of cancellation by midnight of the seventh calendar day following the

1 day on which the purchaser has executed such contract or agreement.
2 Every such contract or agreement shall contain, in writing, the
3 following notice in 10-point bold type or larger, directly above the
4 space provided for the signature of the purchaser:

5 "NOTICE TO THE PURCHASER: you have the right to cancel
6 this contract by sending or delivering written notice of cancellation to
7 the developer by midnight of the seventh calendar day following the
8 day on which it was executed. Such cancellation is without penalty,
9 and any deposit made by you shall be promptly refunded in its
10 entirety."

11 c. Notice as required in subsection b. shall, in addition to all other
12 requirements, be conspicuously located and simply stated in the public
13 offering statement.

14 d. The developer shall make copies of the public offering
15 statement freely available to prospective purchasers prior to the
16 contract date of disposition.

17 e. The developer shall make copies of any written report or
18 document prepared pursuant to sections 3 or 9 of P.L. , c. (C.
19 or C.) (pending before the Legislature as this bill) available to
20 prospective purchasers prior to the contract date of disposition.
21 (cf: P.L.1977, c.419, s.6)
22

23 6. (New section) a. Any association of a planned real estate
24 development shall undertake and fund a capital reserve study which
25 shall determine or assess the adequacy of the association's capital
26 reserve funds to meet the anticipated costs of replacement or repair of
27 the capital assets of a common interest community that the association
28 is obligated to maintain. All capital reserve studies shall be prepared
29 in conformity with the latest edition of the National Reserve Study
30 Standards of the Community Associations Institute or similar
31 standards by another recognized national organization. A capital
32 reserve study conducted pursuant to this section shall be performed or
33 overseen by a reserve specialist who is credentialed through the
34 Community Associations Institute or an engineer or architect who is
35 licensed by the State and shall include, but be not limited to, the
36 following:

- 37 (1) the association's capital reserve fund balances;
38 (2) the association's anticipated income and expenses;
39 (3) an analysis of the physical status and of the common area
40 components of the buildings and other common areas that the
41 association is obligated to maintain;
42 (4) the anticipated costs associated with the building maintenance,
43 as well as the anticipated costs of repair or replacement of common
44 area building components, which are necessary to maintain the
45 structural integrity of the buildings and other common area
46 components that the association is obligated to maintain;
47 (5) a reasonable estimate of the cost of:
48 (a) future reserve studies;

- 1 (b) reserve study updates; and
- 2 (c) periodic structural inspections required pursuant to section 3 of
- 3 P.L. , c. (C.) (pending before the Legislature as this bill);
- 4 (6) a reasonable estimate of the costs associated with
- 5 implementing any corrective maintenance deemed necessary pursuant
- 6 to section 3 of P.L. , c. (C.) (pending before the Legislature as
- 7 this bill);
- 8 (7) a proposed 30-year funding plan, as described in section 7 of
- 9 P.L. , c. (C.) (pending before the Legislature as this bill) that
- 10 establishes the adequate proposed capital reserve funding over a 30-
- 11 year time period; and
- 12 (8) any other information necessary to perform an analysis of the
- 13 adequacy of the association's capital reserve funds relative to
- 14 maintaining the structural integrity of buildings and common areas
- 15 which the association is obligated to maintain.
- 16 b. Associations which have not undertaken a reserve study within
- 17 five years of the effective date of P.L. , c. (C.) (pending
- 18 before the Legislature as this bill) shall undertake a reserve study
- 19 within one year of the effective date of P.L. , c. (C.) (pending
- 20 before the Legislature as this bill). Associations formed after the
- 21 effective date of P.L. , c. (C.) (pending before the Legislature
- 22 as this bill) shall undertake a reserve study as soon as practicable after
- 23 the election of a majority of an executive board pursuant to section 5
- 24 of P.L.1983, c.30 (C.45:22A-47), but in no event shall such study be
- 25 undertaken more than two years following the election of a majority of
- 26 the executive board under section 5 of P.L.1983, c.30 (C.45:22A-47).
- 27 c. A covered building owner, as defined in section 2 of
- 28 P.L. , c. (C.) (pending before the Legislature as this bill), shall
- 29 ensure that a capital reserve study conducted pursuant to this section
- 30 shall be reviewed by a licensed architect, engineer, or credentialed
- 31 reserve specialist, and that a capital reserve study be conducted and
- 32 reviewed at least once every five years.
- 33 d. This section shall not apply to an association of a planned real
- 34 estate development with less than \$25,000 in total common area
- 35 capital assets.
- 36
- 37 7. (New section) a. An association of a planned real estate
- 38 development shall obtain a reserve study including a 30-year funding
- 39 plan in order to ensure that the association has adequate reserve funds
- 40 available to repair or replace the capital assets located on the common
- 41 elements and facilities that the association is obligated to maintain
- 42 without need to create a special assessment or loan obligation, except
- 43 that in those cases in which a capital asset reaches the end of its
- 44 established useful life earlier than predicted by the reserve study,
- 45 nothing herein is intended to prevent the imposition of a special
- 46 assessment or obtaining a loan. These reserve funds shall be used for
- 47 the repair or replacement of components that have reached the end of
- 48 their established useful life as set forth in the most recent reserve study

1 undertaken pursuant to section 6 of P.L. , c. (C.) (pending
2 before the Legislature as this bill).

3 b. When an expenditure of the reserve funds is required to repair
4 or replace a component pursuant to subsection a. of this section, the
5 association shall use only the amount of reserve funds allocated by the
6 reserve study to make such repair or replacement, unless:

7 (1) the use of such additional funds from the reserve fund is not
8 reasonably anticipated to prevent or interfere with the ability of the
9 association to undertake additional repairs or replacements in the five
10 years subsequent to the additional expenditure; and

11 (2) the association's executive board adopts a written resolution
12 requiring that the expenditure of these additional funds shall be
13 recovered within the following five fiscal years.

14 c. If an association existing as of the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill) does
16 not have an adequate reserve fund as described in subsection a. of this
17 section, and the increase in the association's budget line item for
18 reserve funding to render it adequate as set forth in the reserve study
19 would, without reference to any other budget line item adjustments,
20 require an increase of more than 10 percent of the previous year's
21 common expense assessment, the deficiency shall be made adequate
22 within the earlier of the following 10 fiscal years, or the projected date
23 predicted by the reserve study by which absent increased funding, the
24 balance in the association's reserve account would fall below zero. In
25 either case, the annual increase in reserve funding during the required
26 period of time shall be an equal annual line item increase in the reserve
27 fund until the reserve fund is made adequate, notwithstanding causing
28 an increase of more than 10 percent in the annual common expense
29 assessment.

30 d. If an association existing as of the effective date of
31 P.L. , c. (C.) (pending before the Legislature as this bill) does
32 not have an adequate reserve fund as described in subsection a. of this
33 section, and the increase in the association's budget line item for
34 reserve funding to render it in conformity with the reserve study
35 would, without reference to any other item adjustments, require an
36 increase of less than 10 percent of the previous year's common
37 expense assessment, the deficiency shall be made adequate within the
38 following two fiscal years.

39

40 8. (New section) a. Notwithstanding the terms of a declaration,
41 master deed, bylaws, or other governing document of an association,
42 the executive board may, without the consent of the owners or
43 approval of a developer selling units in the planned real estate
44 development, adopt an assessment payable by the owners over one or
45 more fiscal years or obtain a loan on such terms as the board
46 determines are reasonable, whenever necessary to fund the cost of
47 corrective maintenance of the primary load bearing system of the
48 planned real estate development pursuant to section 3 of

1 P.L. , c. (C.) (pending before the Legislature as this bill).
2 Prior to adopting an assessment or obtaining a loan under this section,
3 the executive board shall make a determination that the assessment or
4 loan are necessary to maintain structural integrity of a building and
5 shall obtain a written report from an engineer or architect licensed by
6 the State that states that the failure to undertake corrective
7 maintenance of the primary load bearing system will:

8 (1) constitute an imminent or reasonably foreseeable hazard to
9 health or safety;

10 (2) constitute a violation of section 3 of P.L. , c. (C.)
11 (pending before the Legislature as this bill), or

12 (3) will result in a material increase in the cost of such corrective
13 maintenance if delayed.

14 b. Nothing in this section shall prevent or interfere with the right
15 of an association to pursue a lawsuit concerning claims for
16 construction defects related to any common element of the planned
17 real estate development.

18
19 9. (New section) The developer shall prepare a document which
20 sets forth the preventative maintenance tasks to be undertaken by the
21 association over the life of the common area components. This
22 preventive maintenance document shall provide the maintenance
23 schedule and timing for preventive maintenance, including, but not
24 limited to, periodic inspections of the structural components of the
25 buildings or common areas which the association is obligated to
26 maintain. The developer shall include within the budget prepared in
27 accordance with the rules and regulations adopted pursuant to section
28 15 of P.L.1977, c.419 (C.45:22A-35) all operating expenses associated
29 with the preventative maintenance set forth in the preventative
30 maintenance document prepared pursuant to this section. The
31 preventative maintenance document shall be updated at the completion
32 of any structural inspections performed pursuant to P.L. , c. (C.)
33 (pending before the Legislature as this bill) in order to reflect and
34 address any required corrective maintenance.

35
36 10. (New section) Within 60 days after the conveyance of 75
37 percent of the lots, parcels, units or interests, the developer shall
38 relinquish control of the association, and the unit owners shall accept
39 control, as required by section 5 of P.L.1993, c.30 (C.45:22A-47). At
40 that time, the developer shall also deliver to the association all
41 property of the unit owners and of the association held or controlled by
42 the developer, including, but not limited to, the following items, if
43 applicable, as to each lot, parcel, unit or interest operated by the
44 association:

45 a. A photocopy of the recorded master deed or declaration and all
46 amendments thereto, certified by affidavit of the developer, or an
47 officer or agent of the developer, as being a complete copy of the
48 actual master deed.

- 1 b. A certified copy of the association's articles of incorporation, or
2 if not incorporated, then copies of the documents creating the
3 association.
- 4 c. A copy of the bylaws and all amendments thereto, certified by
5 affidavit of the developer, or an officer or agent of the developer, as
6 being a complete copy of the bylaws.
- 7 d. A preventative maintenance document or manual created by the
8 developer pursuant to section 9 of P.L. , c. (C.) (pending
9 before the Legislature as this bill) which sets forth a schedule for
10 monitoring on a periodic basis the structural integrity of the buildings'
11 primary load bearing system.
- 12 e. The minute books, including all minutes, and other books and
13 records of the association, if any.
- 14 f. Any house rules and regulations which have been promulgated.
- 15 g. Resignations of officers and members of the governing board or
16 other form of administration who are required to resign because the
17 developer is required to relinquish control of the association.
- 18 h. An accounting for all association funds, including capital
19 accounts and contributions as of the date of the election of a majority
20 of the executive board members.
- 21 i. Association funds or control thereof.
- 22 j. All tangible personal property that is property of the association,
23 represented by the developer to be part of the common elements or
24 ostensibly part of the common elements, and an inventory of that
25 property.
- 26 k. A copy of the plans and specifications utilized in the
27 construction or remodeling of improvements and the supplying of
28 equipment to the planned real estate development, including plans
29 setting forth all field changes impacting any component of the primary
30 load bearing system and in the construction and installation of all
31 mechanical components serving the improvements and the site, with a
32 certificate in affidavit form of the developer, his agent, or an architect
33 or engineer authorized to practice in this State that such plans and
34 specifications represent, to the best of their knowledge and belief, the
35 actual plans and specifications utilized in the construction and
36 improvement of the condominium property and for the construction
37 and installation of the mechanical components serving the
38 improvements.
- 39 l. Insurance policies.
- 40 m. Copies of any certificates of occupancy which may have been
41 issued for the planned real estate development property.
- 42 n. Any other permits issued by governmental bodies applicable to
43 the planned real estate development property in force or issued within
44 one year prior to the date the unit owners other than the developer take
45 control of the association.
- 46 o. All written warranties of the contractor, subcontractors,
47 suppliers, and manufacturers, if any, that are still effective.

1 p. A roster of unit owners and their addresses and telephone
2 numbers, if known, as shown on the developer's records.

3 q. Leases of the common elements and other leases to which the
4 association is a party.

5 r. Employment contracts, management contracts, maintenance
6 contracts, contracts for the supply of equipment or materials, and
7 service contracts in which the association is one of the contracting
8 parties and maintenance contracts and service contracts in which the
9 association or the unit owners have an obligation or responsibility,
10 directly or indirectly, to pay some or all of the fee or charge of the
11 person or persons performing the service.

12 s. All other contracts to which the association is a party.

13
14 11. This act shall take effect immediately.

15
16
17 STATEMENT

18
19 This bill supplements the “State Uniform Construction Code Act”
20 (UCCA) to require that certain covered buildings, which are limited to
21 condominiums and cooperatives, and plans be inspected and reviewed
22 by a structural inspector, as defined in the bill, at certain times and
23 intervals. In addition, this bill assures that planned real estate
24 developments have adequate reserve funds to make certain required
25 maintenance repairs to building components and common areas.

26 Under the bill, following the issuance of a certificate of occupancy,
27 an initial structural inspection of the building components forming the
28 primary load bearing system of a covered building is required to be
29 completed by a post-occupancy structural inspector. The bill further
30 establishes certain timelines for inspections, dependent on when a
31 certificate of occupancy was issued.

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

40 In addition, this bill requires that a planned real estate development
41 create and fund a plan to ensure that adequate reserve funds are
42 available to repair or replace one or more components of common
43 elements and facilities that the association is obligated to maintain
44 without need to create a special assessment or loan obligation. The
45 bill also allows a planned real estate development’s executive board to
46 adopt an assessment payable by the owners over one or more fiscal
47 years, or obtain a loan on terms as the board determines to be
48 reasonable, when necessary to fund the cost of corrective maintenance

1 of the primary load bearing system of the planned real estate
2 development. Prior to adopting the assessment, the board is to be
3 required to obtain a written report from a licensed engineer or architect
4 explaining that the failure to undertake corrective maintenance of the
5 primary load bearing system would produce certain results enumerated
6 in the bill.

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

WITHDRAWN