

SENATE, No. 1419

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

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District 14 (Mercer and Middlesex)

Co-Sponsored by:

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SYNOPSIS

Concerns structural integrity regulations for certain residential buildings.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

5

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

8

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

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

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

18

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

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

24 “Bureau” means the Bureau of Housing Inspection in the
25 Department of Community Affairs.

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

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

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

38 “Excluded structure” means:

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

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

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 load bearing system does not deliver a building's load to the
2 foundation;

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

5 (4) a single-family dwelling.

6 "Podium deck" means a structural slab or deck that transfers
7 applied loads from the structure above to the structure below.

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

15 "Structural inspector" means:

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

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

21 (3) an engineer licensed by the State who has the same
22 qualifications required of an engineer under contract with the
23 enforcing agency with whom the covered building owner contracts
24 to perform inspections of covered buildings under sections 3 and 4
25 of P.L. , c. (C. and C.) (pending before the Legislature
26 as this bill).

27
28 3. (New section) a. When a construction application that
29 proposes to create, amend, or modify the primary load bearing
30 system is filed with the enforcing agency, the construction permit
31 applicant shall state whether the residential building will be a
32 condominium or cooperative, in which case, prior to issuing a
33 construction permit, the enforcing agency shall consult with a
34 structural inspector designated by the construction permit applicant
35 or, in the absence of this designation, chosen by the enforcing
36 agency, and set forth an inspection schedule to confirm that the
37 primary load bearing system conforms to the building plans
38 submitted by the applicant. Inspection, however, shall not be
39 required pursuant to this subsection as a condition of construction
40 permit issuance if the structural inspector determines that the
41 building is not a covered building. If the construction permit
42 applicant does not state at the time of application, or prior to the
43 first occupancy creating a condominium or cooperative, that the
44 building shall be a condominium or cooperative, then no certificate
45 of occupancy shall be issued for any individual unit in the building
46 until the required inspections of the primary load bearing system
47 have occurred.

1 b. Inspections conducted pursuant to the schedule set forth in
2 subsection a. of this section shall be performed under the direction
3 of a construction structural inspector. The construction structural
4 inspector may be assisted by other licensed professionals qualified
5 in various special disciplines, including but not limited to
6 geotechnical and civil engineering practices, as needed to conduct
7 the structural inspections required by this section.

8 c. In conducting inspections pursuant to subsections a. and b.
9 of this section, the construction structural inspector shall review the
10 construction plans submitted with the construction application, and
11 issue a written report determining whether the primary load bearing
12 system conforms to the building plans. If the construction
13 structural inspector determines that the primary load bearing system
14 is not in conformance with the building plans, the applicant shall
15 provide additional plans which show conformance with a
16 modification to the primary load bearing system. No certificate of
17 occupancy shall be issued pursuant to section 15 of P.L.1975, c.217
18 (C.52:27D-133), until the structural inspector issues a written report
19 which confirms that the construction of the primary load bearing
20 system of the building is in conformance with the approved
21 construction plans.

22 d. The creation of, or repair, renovation, alteration, or
23 modification to the primary load bearing system of a covered
24 building required pursuant to any inspection shall be conducted by a
25 construction structural inspector prior to the issuance of a certificate
26 of occupancy required pursuant to section 15 of P.L.1975, c.217
27 (C.52:27D-133).

28 e. Any additional cost to the enforcing agency incurred as a
29 result of inspections made under this section shall be recovered
30 through a fee associated with the construction application of a
31 covered building which shall be paid by the covered building owner
32 during the application process.

33 f. The commissioner shall adopt rules and regulations,
34 pursuant to the provisions of the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
36 this section.

37
38 4. (New section) a. Following the issuance of a certificate of
39 occupancy, an initial structural inspection of the building
40 components forming the primary load bearing system of a covered
41 building shall be undertaken by a post-occupancy structural
42 inspector retained by the covered building owner within the earlier
43 of:

44 (1) 15 years of the date on which the covered building receives a
45 certificate of occupancy pursuant to section 15 of P.L.1975, c.217
46 (C.52:27D-133); or

47 (2) 60 days after observable damage to the primary load bearing
48 system.

1 b. If a covered building has received a certificate of occupancy
2 pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133) prior to
3 the effective date of P.L. , c. (C.) (pending before the
4 Legislature as this bill), then an initial structural inspection shall be
5 undertaken by a structural inspector based on the number of years
6 the certificate of occupancy preceded the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), as
8 provided in this subsection. If the certificate of occupancy was
9 provided:

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

15 (2) 15 or more years prior to the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), then the
17 structural inspection shall occur within two years following the
18 effective date of P.L. , c. (C.) (pending before the
19 Legislature as this bill); or

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

28 d. After the post-occupancy structural inspector has performed
29 an inspection pursuant to subsection a. of this section, the post-
30 occupancy structural inspector shall issue a written report
31 describing the condition of the primary load bearing system. The
32 post-occupancy structural inspection report shall:

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

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

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

43 (4) be prepared in accordance with the protocol established by
44 the American Society of Civil Engineers, for the structural
45 condition assessment of a covered building or a similar protocol by
46 another nationally recognized structural engineering organization;
47 and

- 1 (5) provide any other information or guidance necessary to
2 maintain the structural integrity of a covered building.
- 3 e. If the structural inspector's report created pursuant to
4 subsection d. of this section finds that corrective maintenance of
5 the primary load bearing system is required, the report shall specify
6 with reasonable detail the required corrective maintenance.
- 7 f. Notwithstanding the structural inspector's initial inspection
8 and report undertaken pursuant to subsections a. through e. of this
9 section, subsequent structural inspections and reports shall be
10 provided for as set forth by the structural inspector's preceding
11 report as follows:
- 12 (1) The structural inspector shall determine a reasonable period
13 of time within which the next inspection shall take place provided,
14 however, that any subsequent inspection under this paragraph shall
15 not take place more than five years after a preceding inspection.
- 16 (2) The structural inspector shall review the preceding
17 inspection report prior to undertaking subsequent inspection of the
18 covered building. After the structural inspector completes this
19 review and inspection, the structural inspector will then issue a
20 subsequent inspection report which shall:
- 21 (a) make note of any new or progressive deterioration;
- 22 (b) set forth the covered maintenance required to address any
23 new or progressive deterioration; and
- 24 (c) be provided to the covered building owner, who shall
25 undertake measures necessary to effectuate the covered
26 maintenance, including, but not limited to, engaging the services of
27 an architect or engineer licensed by the State and qualified in
28 structural repairs or maintenance to create plans or specifications to
29 implement the covered maintenance. The covered building owner
30 shall cause any plans or specifications created pursuant to this
31 subparagraph to be filed with the municipal appointing authority or
32 enforcing agency.
- 33 (3) If the post-occupancy structural inspector's inspection finds
34 that there is no need for corrective maintenance, the written report
35 shall be filed with the enforcing agency or municipal appointing
36 authority.
- 37 (4) Any written reports issued by the post-occupancy structural
38 inspector pursuant to this section shall be provided to the covered
39 building's owner and shall be made available to any resident of a
40 covered building upon request.
- 41 g. Inspections conducted pursuant to this section may be
42 conducted in conjunction with other required inspections, including
43 but not limited to inspections required pursuant to the "Hotel and
44 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).
- 45
- 46 5. (New section) A construction or post-occupancy structural
47 inspector who performs the duties set forth in sections 3 and 4 of
48 P.L. , c. (C. and C.) (pending before the Legislature

1 as this bill) in good faith and pursuant to the protocols adopted by
2 the American Society of Civil Engineers, or similar protocols by
3 another nationally recognized structural engineering association,
4 shall not incur any civil liability for injury associated with any
5 inspection undertaken by the structural inspector.

6

7 6. Section 6 of P.L.1977, c. 419 (C.45:22A-26) is amended to
8 read:

9 6. a. Unless otherwise exempted:

10 (1) No developer may offer or dispose of any interest in a
11 planned real estate development, prior to the registration of such
12 development with the agency.

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

17 b. Any contract or agreement for the purchase of any parcel, lot,
18 unit, or interest in a planned real estate development may be
19 canceled without cause by the purchaser by sending or delivering
20 written notice of cancellation by midnight of the seventh calendar
21 day following the day on which the purchaser has executed such
22 contract or agreement. Every such contract or agreement shall
23 contain, in writing, the following notice in 10-point bold type or
24 larger, directly above the space provided for the signature of the
25 purchaser:

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

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

35 d. The developer shall make copies of the public offering
36 statement freely available to prospective purchasers prior to the
37 contract date of disposition.

38 e. The developer shall make copies of any written report or
39 document prepared pursuant to sections 3, 4, or 10 of P.L. _____,
40 c. (C. _____, C. _____, or C. _____) (pending before the Legislature as
41 this bill) available to prospective purchasers prior to the contract
42 date of disposition.

43 (cf: P.L.1977, c.419, s.6)

44

45 7. (New section) a. Any association of a planned real estate
46 development shall undertake and fund a capital reserve study which
47 shall determine or assess the adequacy of the association's capital
48 reserve funds to meet the anticipated costs of replacement or repair

1 of the capital assets of a common interest community that the
2 association is obligated to maintain. All capital reserve studies
3 shall be prepared in conformity with the latest edition of the
4 National Reserve Study Standards of the Community Associations
5 Institute or similar standards by another recognized national
6 organization. A capital reserve study conducted pursuant to this
7 section shall be performed or overseen by a reserve specialist who
8 is credentialed through the Community Associations Institute or an
9 engineer or architect who is licensed by the State and shall include,
10 but be not limited to, the following:

11 (1) the association's capital reserve fund balances;

12 (2) the association's anticipated income and expenses;

13 (3) an analysis of the physical status and of the common area
14 components of the buildings and other common areas that the
15 association is obligated to maintain;

16 (4) the anticipated costs associated with the building
17 maintenance, as well as the anticipated costs of repair or
18 replacement of common area building components, which are
19 necessary to maintain the structural integrity of the buildings and
20 other common area components that the association is obligated to
21 maintain;

22 (5) a reasonable estimate of the cost of:

23 (a) future reserve studies;

24 (b) reserve study updates ; and

25 (c) periodic structural inspections required pursuant to section 4
26 of P.L. , c. (C.) (pending before the Legislature as this bill;

27 (6) a reasonable estimate of the costs associated with
28 implementing any corrective maintenance deemed necessary
29 pursuant to section 4 of P.L. , c. (C.) (pending before the
30 Legislature as this bill);

31 (7) a proposed 30-year funding plan, as described in section 8 of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 that establishes the adequate proposed capital reserve funding over
34 a 30-year time period; and

35 (8) any other information necessary to perform an analysis of
36 the adequacy of the association's capital reserve funds relative to
37 maintaining the structural integrity of buildings and common areas
38 which the association is obligated to maintain.

39 b. Associations which have not undertaken a reserve study
40 within five years of the effective date of P.L. , c. (C.)
41 (pending before the Legislature as this bill) shall undertake a
42 reserve study within one year of the effective date of P.L. ,
43 c. (C.) (pending before the Legislature as this bill).
44 Associations formed after the effective date of P.L. ,
45 c. (C.) (pending before the Legislature as this bill) shall
46 undertake a reserve study as soon as practicable after the election of
47 a majority of an executive board pursuant to section 5 of P.L.1983,
48 c.30 (C.45:22A-47), but in no event shall such study be undertaken

1 more than two years following the election of a majority of the
2 executive board under section 5 of P.L.1983, c.30 (C.45:22A-47).

3 c. A covered building owner, as defined in section 2 of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 shall ensure that a capital reserve study conducted pursuant to this
6 section shall be reviewed by a licensed architect, engineer, or
7 credentialed reserve specialist, and that a capital reserve study be
8 conducted and reviewed at least once every five years.

9 d. This section shall not apply to an association of a planned
10 real estate development with less than \$25,000 in total common
11 area capital assets.

12

13 8. (New section) a. An association of a planned real estate
14 development shall obtain a reserve study including a 30-year
15 funding plan in order to ensure that the association has adequate
16 reserve funds available to repair or replace the capital assets located
17 on the common elements and facilities that the association is
18 obligated to maintain without need to create a special assessment or
19 loan obligation, except that in those cases in which a capital asset
20 reaches the end of its established useful life earlier than predicted
21 by the reserve study, nothing herein is intended to prevent the
22 imposition of a special assessment or obtaining a loan. These
23 reserve funds shall be used for the repair or replacement of
24 components that have reached the end of their established useful
25 life as set forth in the most recent reserve study undertaken pursuant
26 to section 7 of P.L. , c. (C.) (pending before the Legislature
27 as this bill).

28 b. When an expenditure of the reserve funds is required to
29 repair or replace a component pursuant to subsection a. of this
30 section, the association shall use only the amount of reserve funds
31 allocated by the reserve study to make such repair or replacement,
32 unless:

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

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

40 c. If an association existing as of the effective date of P.L. ,
41 c. (C.) (pending before the Legislature as this bill) does not
42 have an adequate reserve fund as described in subsection a. of this
43 section, and the increase in the association's budget line item for
44 reserve funding to render it adequate as set forth in the reserve
45 study would, without reference to any other budget line item
46 adjustments, require an increase of more than 10 percent of the
47 previous year's common expense assessment, the deficiency shall
48 be made adequate within the earlier of the following 10 fiscal years,

1 or the projected date predicted by the reserve study by which absent
2 increased funding, the balance in the association's reserve account
3 would fall below zero. In either case, the annual increase in reserve
4 funding during the required period of time shall be an equal annual
5 line item increase in the reserve fund until the reserve fund is made
6 adequate, notwithstanding causing an increase of more than 10
7 percent in the annual common expense assessment.

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

17
18 9. (New section) a. Notwithstanding the terms of a declaration,
19 master deed, bylaws, or other governing document of an
20 association, the executive board may, without the consent of the
21 owners or approval of a developer selling units in the planned real
22 estate development, adopt an assessment payable by the owners
23 over one or more fiscal years or obtain a loan on such terms as the
24 board determines are reasonable, whenever necessary to fund the
25 cost of corrective maintenance of the primary load bearing system
26 of the planned real estate development pursuant to section 4
27 of P.L. , c. (C.) (pending before the Legislature as this
28 bill). Prior to adopting an assessment or obtaining a loan under this
29 section, the executive board shall make a determination that the
30 assessment or loan are necessary to maintain structural integrity of a
31 building and shall obtain a written report from an engineer or
32 architect licensed by the State that states that the failure to
33 undertake corrective maintenance of the primary load bearing
34 system will:

35 (1) constitute an imminent or reasonably foreseeable hazard to
36 health or safety;

37 (2) constitute a violation of sections 3 and 4 of
38 P.L. , c. (C. and C.) (pending before the Legislature
39 as this bill), or

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

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

46
47 10. (New section) The developer shall prepare a document
48 which sets forth the preventative maintenance tasks to be

1 undertaken by the association over the life of the common area
2 components. This preventive maintenance document shall provide
3 the maintenance schedule and timing for preventive maintenance,
4 including, but not limited to, periodic inspections of the structural
5 components of the buildings or common areas which the association
6 is obligated to maintain. The developer shall include within the
7 budget prepared in accordance with the rules and regulations
8 adopted pursuant to section 15 of P.L.1977, c.419 (C.45:22A-35) all
9 operating expenses associated with the preventative maintenance set
10 forth in the preventative maintenance document prepared pursuant
11 to this section. The preventative maintenance document shall be
12 updated at the completion of any structural inspections performed
13 pursuant to section 3 of P.L. , c. (C.) (pending before the
14 Legislature as this bill) in order to reflect and address any required
15 corrective maintenance.

16

17 11. (New section) Within 60 days after the conveyance of 75
18 percent of the lots, parcels, units or interests, the developer shall
19 relinquish control of the association, and the unit owners shall
20 accept control, as required by section 5 of P.L.1993, c.30
21 (C.45:22A-47). At that time, the developer shall also deliver to the
22 association all property of the unit owners and of the association
23 held or controlled by the developer, including, but not limited to,
24 the following items, if applicable, as to each lot, parcel, unit or
25 interest operated by the association:

26 a. A photocopy of the recorded master deed or declaration and
27 all amendments thereto, certified by affidavit of the developer, or an
28 officer or agent of the developer, as being a complete copy of the
29 actual master deed.

30 b. A certified copy of the association's articles of incorporation,
31 or if not incorporated, then copies of the documents creating the
32 association.

33 c. A copy of the bylaws and all amendments thereto, certified by
34 affidavit of the developer, or an officer or agent of the developer, as
35 being a complete copy of the bylaws.

36 d. A preventative maintenance document or manual created by
37 the developer pursuant to section 10 of P.L. , c. (C.)
38 (pending before the Legislature as this bill) which sets forth a
39 schedule for monitoring on a periodic basis the structural integrity
40 of the buildings' primary load bearing system.

41 e. The minute books, including all minutes, and other books and
42 records of the association, if any.

43 f. Any house rules and regulations which have been
44 promulgated.

45 g. Resignations of officers and members of the governing board
46 or other form of administration who are required to resign because
47 the developer is required to relinquish control of the association.

- 1 h. An accounting for all association funds, including capital
2 accounts and contributions as of the date of the election of a
3 majority of the executive board members.
- 4 i. Association funds or control thereof.
- 5 j. All tangible personal property that is property of the
6 association, represented by the developer to be part of the common
7 elements or ostensibly part of the common elements, and an
8 inventory of that property.
- 9 k. A copy of the plans and specifications utilized in the
10 construction or remodeling of improvements and the supplying of
11 equipment to the planned real estate development, including plans
12 setting forth all field changes impacting any component of the
13 primary load bearing system and in the construction and installation
14 of all mechanical components serving the improvements and the
15 site, with a certificate in affidavit form of the developer, his agent,
16 or an architect or engineer authorized to practice in this State that
17 such plans and specifications represent, to the best of their
18 knowledge and belief, the actual plans and specifications utilized in
19 the construction and improvement of the condominium property and
20 for the construction and installation of the mechanical components
21 serving the improvements.
- 22 l. Insurance policies.
- 23 m. Copies of any certificates of occupancy which may have
24 been issued for the planned real estate development property.
- 25 n. Any other permits issued by governmental bodies applicable
26 to the planned real estate development property in force or issued
27 within one year prior to the date the unit owners other than the
28 developer take control of the association.
- 29 o. All written warranties of the contractor, subcontractors,
30 suppliers, and manufacturers, if any, that are still effective.
- 31 p. A roster of unit owners and their addresses and telephone
32 numbers, if known, as shown on the developer's records.
- 33 q. Leases of the common elements and other leases to which the
34 association is a party.
- 35 r. Employment contracts, management contracts, maintenance
36 contracts, contracts for the supply of equipment or materials, and
37 service contracts in which the association is one of the contracting
38 parties and maintenance contracts and service contracts in which the
39 association or the unit owners have an obligation or responsibility,
40 directly or indirectly, to pay some or all of the fee or charge of the
41 person or persons performing the service.
- 42 s. All other contracts to which the association is a party.
- 43
- 44 12. This act shall take effect immediately.

STATEMENT

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This bill, 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 of 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

1 obligation. The bill also allows an planned real estate
2 development's executive board to adopt an assessment payable by
3 the owners over one or more fiscal years, or obtain a loan on terms
4 as the board determines to be reasonable, when necessary to fund
5 the cost of corrective maintenance of the primary load bearing
6 system of the planned real estate development. Prior to adopting
7 the assessment, the board is to be required to obtain a written report
8 from a licensed engineer or architect explaining that the failure to
9 undertake corrective maintenance of the primary load bearing
10 system would produce certain results enumerated in the bill.

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

WITHDRAWN