

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Regulated Industries

CS/CS/SB 154 — Condominium and Cooperative Associations

by Fiscal Policy Committee; Regulated Industries Committee; and Senators Bradley and DiCeglie

The bill revises the milestone inspection requirements for condominium and cooperative buildings that are three or more stories in height to:

- Limit the milestone inspection requirements to buildings that include a residential condominium or cooperative;
- Provide that the milestone inspection requirements apply to buildings that in whole or in part are subject to the condominium or cooperative forms of ownership, such as mixed-ownership buildings;
- Clarify that all owners of a mixed-ownership building in which portions of the building are subject to the condominium or cooperative form of ownership are responsible for ensuring compliance and must share the costs of the inspection;
- Require a building that reaches 30 years of age before December 31, 2024, to have a milestone inspection before December 31, 2024;
- Delete the 25-year milestone inspection requirements for buildings that are within three miles of the coastline;
- Authorize the local enforcement agencies that are responsible with enforcing the milestone inspection requirements the option to set a 25-year inspection requirement if justified by local environmental conditions, including proximity to seawater;
- Authorize the local enforcement agency to extend the inspection deadline for a building upon a petition showing good cause that the owner or owners of the building have entered into a contract with an architect or engineer to perform the milestone inspection and it cannot reasonably be completed before the deadline;
- Permit local enforcement agencies to accept an inspection and report that was completed before July 1, 2022, if the inspection and report substantially comply with the milestone requirements; however, associations must still comply with the unit owner notice requirements, and if a local enforcement agency accepts a previous inspection as a milestone inspection, the deadline for a subsequent 10-year re-inspection is based on the date of a previous inspection;
- Provide that the inspection services may be provided by a team of design professionals with an architect or engineer acting as a registered design professional in responsible charge;
- Provide that the condominium or cooperative association is responsible for all costs associated with the inspection attributable to the portions of the building for which it is responsible under the governing documents of the association;
- Require associations to give unit owners notice about the inspection deadlines, electronically or by posting on the association's website, within 14 days after they receive the initial milestone inspection notice from local enforcement agency;
- Require the milestone inspector to submit a phase two progress report to the local enforcement agency within 180 days of submitting the phase one inspection report; and

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- Clarify that an association must distribute a copy of the summary of the inspection reports to unit owners within 45 days of its receipt.

The Florida Building Commission is required by the bill to establish by rule a building safety program to implement the milestone inspection requirements within the Florida Building Code. The commission must specify the minimum requirements for the commission's building safety program by December 31, 2024, including inspection criteria, testing protocols, standardized inspection and reporting forms that are adaptable to an electronic format, and record maintenance requirements for the local authority having jurisdiction.

The bill exempts unit owner policies from the requirement that all personal lines residential policies issued by the Citizens Property Insurance Corporation must include flood coverage.

Regarding the governance of condominium or cooperative, the bill:

- Clarifies that any unit owner and any person authorized by any owner as his or her representative may inspect the official records of the association; and
- Excludes insurance premiums from the calculation which permit members to petition for a substitute budget if assessments increase by 115 percent.

The reserve funding requirements relating to condominium and cooperative associations are revised by the bill to:

- Require associations that are subject to the structural integrity reserve study (SIRS) requirement to base a budget adopted on or after January 1, 2025, on the findings and recommendations of the association's most recent SIRS;
- Clarify that reserves are required for the SIRS items for which the association is responsible under the condominium declaration;
- Clarify that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the SIRS study may recommend a deferred maintenance expense amount for such item;
- Permit associations that are not subject to the SIRS requirement to waive reserves if approved by a majority vote of the total voting interests of the association;
- Permit multicondominium associations to waive reserves if an alternative funding method has been approved by the division; and
- Provide that reserve assessments may be adjusted for inflation.

The bill amends the SIRS requirements to:

- Limit the SIRS requirement to residential condominiums and cooperatives;
- Clarify that the SIRS recommendation must include a reserve funding schedule;
- Include the building structure as a SIRS building component, consisting of load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706, F.S., and delete "floor" and "foundation" from the list;
- Permit the visual inspection portion of the SIRS to be verified by an engineer or architect;

- Permit persons who have been certified as a reserve specialist, or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts to perform or verify the visual inspection portion of the SIRS;
- Exempt from the SIRS requirement:
 - o Single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; and
 - o Any portion or component of a building that has not been submitted to the condominium or cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the condominium or cooperative association.
- Permit associations that are required to complete a milestone inspection on or before December 31, 2026, to complete the SIRS simultaneously with the milestone inspection, but the associations must complete the SIRS by December 31, 2026; and
- Permit associations to satisfy the SIRS requirement with a previous milestone inspection, or an inspection performed for a similar local requirement, if the inspection had been performed within the previous five years.

Effective July 1, 2027, the bill permits condominium and cooperative unit owners to use the mediation process in this section for specified disputes related to compliance with the milestone inspection or SIRS requirements.

Regarding the turnover inspection report that a developer must provide to the association when condominium and cooperative unit owners other than the developer are authorized to elect the majority of the board, the bill permits reserve specialists and professional reserve analysts to prepare the turnover report in addition to engineers and architects, and adds the turnover inspection report to the required presale disclosures.

The bill also provides additional presale notice requirements in contracts for sales of a unit by a developer or nondeveloper. A developer and a nondeveloper must give a prospective buyer of a condominium or cooperative unit a copy of a turnover inspection report completed on or after July 1, 2023, if applicable, and a copy of the inspector-prepared summary of the milestone inspection, if applicable. This provision is similar to current contract notices to unit owners obligated to furnish certain governing documents to the prospective buyer of a unit more than three days before closing for sales by a nondeveloper or 15 days before closing for sales by a developer. A contract that does not conform to these notice requirements is voidable at the option of the purchaser prior to closing.

The bill also provides an appropriation (\$1,301,928 recurring and \$67,193 nonrecurring) to the Division of Florida Condominiums, Timeshare, and Mobile Homes within the Department of Business and Professional Regulation to implement the requirements in the bill, including funds for 10 additional full-time employees.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 118-0