

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1702

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Mandatory Building Inspections

DATE: February 21, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
3.	<u>Hunter</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1702 establishes a mandatory structural inspection program for multi-family residential buildings in the state of Florida. Under the bill, multi-family residential buildings greater than three stories are required to have a “milestone inspection” once the building reaches 30 years in age, and every 10 years thereafter. If the building is within three miles of coastline, the requirements drop to 20 years in age, and every 7 years thereafter. Inspections must be done by a licensed architect or engineer. The bill provides a two-phase milestone inspection process consisting of a phase-one visual inspection and a phase-two structural inspection, which may involve more intensive destructive and nondestructive testing, if the phase-one visual inspection identifies structural distress.

The bill requires that a licensed engineer or architect submit a copy of their inspection report to the building owner or board of a condominium or cooperative, and to the building official in the jurisdiction of the building. Condominium or cooperative boards must distribute the report to all unit owners.

The bill requires that milestone inspection reports be added to the list of documents that are official records and must be provided for buyer review in condominium and cooperative unit resales, along with other nondeveloper disclosures.

The bill allows local enforcement agencies to prescribe timelines and penalties with respect to compliance with milestone inspections.

Additionally, the bill directs the Florida Building Commission to establish comprehensive structural and life safety standards beyond the bill's requirements for maintaining and inspecting all building types, and to make them available for adoption by local governments at their discretion.

The act takes effect July 1, 2022.

II. Present Situation:

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code (Building Code).³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission (commission) was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.⁵ The commission reviews several International Codes published by the International Code

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 26, 2021).

² *Id.*; see also DBPR, *Building Code Information System*, at: <https://floridabuilding.org/c/default.aspx#> (last visited Jan. 26, 2022).

³ *Id.*

⁴ Section 553.72(1), F.S.

⁵ Section 553.74, F.S.

Council,⁶ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated, and adopts an updated Building Code every three years.⁷

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁸ Every local government must enforce the Building Code and issue building permits.⁹ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹⁰

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹¹ Construction work may not be done beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.¹²

The Florida Building Code does not contain mandatory requirements for the maintenance and inspection of existing buildings in the state. However, local governments are empowered to enact such requirements at their discretion to apply throughout a local jurisdiction. Some local jurisdictions in the state have used the following model standards to aid in their adoption of local requirements for the maintenance and inspections of existing buildings: the International Property Maintenance Code, the Standard Housing Code, and the Standard Unsafe Building Abatement Code, or some combination thereof.¹³

Mandatory inspections of existing condominium buildings were once required by Florida law, but the law was repealed shortly after enactment. In 2008, the Legislature mandated that every condominium greater than three stories in height be inspected for maintenance, useful life, and replacement costs of the common elements every five years by an engineer or architect licensed in the state.¹⁴ A condominium association could waive this requirement for five years by a

⁶ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 26, 2022).

⁷ Sections 553.73(7), F.S.

⁸ Section 553.72, F.S.

⁹ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹⁰ Sections 125.56(4)(a) and 553.79(1), F.S.

¹¹ 2020 Florida Building Code (7th ed.), s. 110.

¹² Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, at: <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%93Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Jan. 26, 2022).

¹³ See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 1702* at p. 2 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

¹⁴ Ch. 2008-28, Laws of Fla.

majority vote of interests present at a properly called meeting of the association.¹⁵ This provision was repealed in 2010.¹⁶

Building Code Administrators and Inspectors and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board (FBCAIB) within the DBPR. The FBCAIB consists of nine members appointed by the Governor and subjected to confirmation by the Senate.¹⁷

A building code administrator, otherwise known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.¹⁸

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories in which the inspector has been licensed. The inspector categories are:¹⁹

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

A plans examiner reviews plans submitted for building permits to determine design compliance with construction codes. The term includes a residential plans examiner who is qualified to determine that plans submitted for building permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other applicable construction codes. A plans examiner's ability to practice is limited to the category or categories in which the plans examiner has been licensed. The plans examiner categories are:²⁰

- Building plans examiner;
- Plumbing plans examiner;
- Mechanical plans examiner; and
- Electrical plans examiner.

¹⁵ *Id.*

¹⁶ Ch. 2010-176, s. 59, Laws of Fla.

¹⁷ Section 468.605, F.S.

¹⁸ Section 468.603(2), F.S.

¹⁹ Section 468.603(5), F.S.

²⁰ Section 468.603(8), F.S.

Threshold Building Inspections

In 1981, a “five-story Harbour Cay Condominium building in Cocoa Beach, Florida, collapsed during the placement of concrete for the roof slab, killing 11 workers and injuring 23 more.”²¹ In response to this tragedy, the Legislature instituted threshold building inspections, requiring licensed “special inspectors” to conduct inspections for all threshold buildings.²² A special inspector is a licensed architect or registered engineer who is certified under chs. 471 or 481, F.S., to conduct inspections of threshold buildings.²³

A threshold building is defined as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification, as defined in the Building Code, which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.²⁴ An enforcing agency must require a special inspector to perform structural inspections on a threshold building during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.²⁵

For a building that qualifies as a threshold building, a structural inspection plan must be submitted by the special inspector and the design professional of record to the enforcing agency prior to the issuance of a building permit for the construction of or modification to the building.²⁶ However, a fee-simple owner may declare a building a threshold building even when it does not meet the definitions.²⁷

The inspection plan for a threshold building provides specific inspection instructions to provide for the adequate inspection of the construction. The owner must retain the services of a special inspector who must inspect the building according to the special inspection plan. In addition, the inspector must determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency.²⁸ Special inspectors report directly to local building administrators and officials. The role of threshold building inspectors is unique to Florida.²⁹

There were 8,515 active Building Code Administrators/Inspectors licensed in Florida in Fiscal Year 2020-2021.³⁰

²¹ National Institute of Standards and Technology, Harbour Cay Condominium Collapse Florida 1981, available at <https://www.nist.gov/el/harbour-cay-condominium-collapse-florida-1981> (last visited Jan. 26, 2022).

²² Florida Building Commission, Florida Building Construction Standards available at https://www.floridabuilding.org/fbc/commission/FBC_0413/Commission_Education_POC/173/173-1-MATERIAL%20.pdf (last visited Jan. 26, 2022).

²³ See s. 553.71, F.S.

²⁴ See s. 553.71, F.S.

²⁵ Section 553.79(5)(a), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Florida Board of Professional Engineers, What Are Threshold Building Inspectors?, at <https://fbpe.org/what-are-threshold-building-inspectors/> (last visited Jan. 26, 2022).

³⁰ Department of Business and Professional Regulation, *2020-2021 Annual Report, Division of Certified Public Accounting, Division of Professions, Division of Real Estate, Division of Regulation* at p. 20, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 27, 2022).

Local Building Recertification Programs

Florida does not require recertification of buildings or regular inspections of existing buildings, which is consistent with state building codes across the country. Miami-Dade and Broward Counties have amended their local building codes requiring a recertification process and inspection of buildings 40 years and older. Miami-Dade's program was established in the 1970s, and Broward County's program was modeled after Miami-Dade's and has been in effect since January 2006.³¹

Miami Dade's recertification program states that:

All buildings, except single-family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner. Subsequent recertification shall be required at ten (10) years interval. In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.³²

Inspection procedures shall "conform, in general, with the minimum inspection procedural guidelines" issued by the county, and are for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible which affects the safety of the building or structure.³³ Miami Dade's recertification program exempts buildings under 2,000 square feet,³⁴ and Broward's program exempts buildings under 3,500 square feet.³⁵ The inspections must be carried out by a professional engineer or architect registered with the State of Florida.³⁶

Following the 2021 tragedy in Surfside, Florida, where a 12-story condominium building, known as Champlain Towers South, unexpectedly experienced structural failure and partially collapsed, resulting in the death of 98 people, the concept of recertification programs gained considerable attention. The City of Boca Raton recently instituted a building recertification program for

³¹Broward County, Building Safety Inspection Program, available at <https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 26, 2022).

³² See Code of Miami-Dade, ch. 8 Building Code, s. 8-11(f)(ii), at https://library.municode.com/fl/miami_-_dade_county/codes_of_ordinances?nodeId=PTIICOOR_CH8BUCO_ARTIAD_S8-11EXBU (last visited Jan. 26, 2022).

³³ *Id.* at s. 8-11(f)(i).

³⁴ *Id.* at s. 8-11(f)(ii).

³⁵Broward County, Building Safety Inspection Program, available at: <https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf> (last visited Jan. 19, 2022)

³⁶ See *id.*, and Code of Miami-Dade, ch. 8, Building Code, s. 8-11(iv).

buildings over 30 years of age that are greater than three stories or 50 feet in height, or greater than 5,000 square feet and have an occupancy greater than 500 people.³⁷

Condominiums and Cooperatives

Condominiums

A condominium is a “form of ownership of real property created under ch. 718, F.S.”³⁸ the Condominium Act. Condominium unit owners are in a unique legal position because they are exclusive owners of property within a community, joint owners of community common elements, and members of the condominium association.³⁹ For unit owners, membership in the association is an unalienable right and required condition of unit ownership.⁴⁰

A condominium association is administered by a board of directors referred to as a “board of administration.”⁴¹ The board of administration is comprised of individual unit owners elected by the members of a community to manage community affairs and represent the interests of the association. Association board members must enforce a community's governing documents and are responsible for maintaining a condominium's common elements which are owned in undivided shares by unit owners.⁴²

There are 1,529,764 condominium units in Florida operated by 27,588 associations.⁴³ Approximately 912,376 of these condominium units in Florida are at least 30 years in age.⁴⁴ Further breakdown of the age of condominium units in Florida is as follows:

- 105,404 units – 50 years old or older;
- 479,435 units – 40-50 years old;
- 327,537 units – 30-40 years old;
- 141,773 units – 20-30 years old;
- 428,657 units – 10-20 years old; and
- 46,958 units – 0-10 years old.⁴⁵

It is estimated that there are over 2 million residents occupying condominiums 30 years or older in Florida, based upon census data of approximately 2.2 persons living in an average condominium unit.⁴⁶

³⁷ City of Boca Raton. Ordinance 5589, available at: <https://www.myboca.us/DocumentCenter/View/28152/Ordinance-No-5589?bidId=> (last visited Jan. 21, 2022)

³⁸ Section 718.103(11), F.S.

³⁹ See s. 718.103, F.S., for the terms used in the Condominium Act.

⁴⁰ *Id.*

⁴¹ Section 718.103(4), F.S.

⁴² Section 718.103(2), F.S.

⁴³ Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force (Task Force Report), p. 4, available at: <https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf> (last visited Jan. 21, 2022).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

Cooperatives

Section 719.103(12), F.S., defines a “cooperative” to mean:

[T]hat form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative owner receives an exclusive right to occupy the unit based on their ownership interest in the cooperative entity as a whole. A cooperative owner is either a stockholder or member of a cooperative apartment corporation who is entitled, solely by reason of ownership of stock or membership in the corporation, to occupy an apartment in a building owned by the corporation.⁴⁷ The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.⁴⁸ There are 778 cooperative associations in Florida that are registered with the DBPR.⁴⁹

Official Records

Florida law specifies the official records that condominium and cooperative associations must maintain.⁵⁰ Generally, the official records must be maintained in Florida for at least seven years.⁵¹ Certain of these records must be accessible to the members of an association.⁵² Additionally, certain records are protected or restricted from disclosure to members, such as records protected by attorney-client privilege, personnel records, and personal identifying records of owners.⁵³

Condominium associations with 150 or more units are required to post digital copies of specified documents on their website or make such documents available through an application that can be downloaded on a mobile device.⁵⁴ Cooperative associations are not required to maintain such a website.

Pre-sale Disclosures

Developers and nondeveloper owners of condominium or cooperative units must give certain documents to a prospective buyer or lessee before the execution of a contract for the sale of a residential unit.⁵⁵

⁴⁷ See *Walters v. Agency for Health Care Administration*, 288 So.3d 1215 (Fla. 3d DCA 2019), review dismissed 2020 WL 3442763 (Fla. 2020).

⁴⁸ See ss. 719.106(1)(g) and 719.107, F.S.

⁴⁹ See Task Force Report, pp. 4-5.

⁵⁰ See ss. 718.111(12) and 719.104(2), F.S.

⁵¹ See ss. 718.111(12)(b) and 719.104(2)(b), F.S.

⁵² See ss. 718.111(12)(b) and 719.104(2)(c), F.S.

⁵³ See ss. 718.111(12)(c) and 719.104(2)(c), F.S.

⁵⁴ Section 718.111(12)(g), F.S.

⁵⁵ Sections 718.503 and 719.503, F.S.

The developer may not close for 15 days following the execution of a purchase contract, or execution of a lease of a residential unit for an unexpired term of more than five years, and delivery of the required documents to the buyer, including the documents creating the association, the bylaws, and the estimated operating budget of the association. A prospective purchaser may void the contract within 15 days of his or her receipt of all the required documents.⁵⁶

A nondeveloper unit owner must provide the prospective buyer certain information, including the articles of incorporation, bylaws and rules, a copy of the most-recent financial information, and a “Frequently Asked Questions and Answers” document.⁵⁷ These documents must be provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract, or the sales contract is voidable by the prospective purchaser. These disclosures do not apply to the leasing of a residential unit by a nondeveloper owner.⁵⁸

Each contract for sale of a residential unit must contain in conspicuous type a statement acknowledging that the purchaser has received the document and his or her right to void the contract if the required documents are not provided more than three days, excluding Saturdays, Sundays, and legal holidays, before the execution of the contract.

Apartment Buildings

The Division of Hotels and Restaurants (division) within the DBPR is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.⁵⁹

A nontransient apartment is defined as a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants. A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.⁶⁰ As of the end of Fiscal Year 2020-2021, the division issued public lodging establishment licenses to 873 transient apartments and 18,117 nontransient apartments.⁶¹

Every public lodging establishment that is three stories or more in height in the state currently must file a certificate stating that any and all balconies, platforms, stairways, and railways have been inspected by a person competent to conduct such inspections and are safe, secure, and free

⁵⁶ Sections 718.503(1) and 719.503(1), F.S., providing the developer disclosures before the sale or lease of a residential condominium or cooperative unit, respectively.

⁵⁷ See ss. 718.503(2) and 719.503(2), F.S., providing the nondeveloper disclosures before the sale of a residential condominium or cooperative unit, respectively.

⁵⁸ *Id.*

⁵⁹ Section 509.242(1), F.S.

⁶⁰ *Id.*

⁶¹ Department of Business and Professional Regulation, *2020-2021 Annual Report, Division of Hotels & Restaurants* at p. 8, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 27, 2022).

of defects.⁶² Certificates of balcony inspections must be filed every three years with the division and the applicable county or municipal authority responsible for building and zoning permits.⁶³

Architects and Engineers

Engineers

Section 471.008, F.S., authorizes the Board of Professional Engineers (board) to adopt rules to implement the provisions of ch. 471, F.S., and ch. 455, F.S., which provides the general licensing procedures for professional licensing of engineers by the DBPR. The board has adopted responsibility rules for the profession of engineering addressing a variety of issues, including the design of structures and fire protection systems.⁶⁴

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have graduated from:

- An approved engineering science curriculum of four years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of four years or more in a board-approved school, college, or university.⁶⁵

Under s. 471.015(2), F.S., the board must certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience. For graduates of an approved engineering science curriculum, the applicant must have a record of at least four years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of an approved engineering technology curriculum must have a record of at least six years of such qualified experience.⁶⁶

Architects

Chapter 481, part I, F.S., governs the licensing and regulation of architects and related business organizations. The Board of Architecture and Interior Design (board) exists under the DBPR's Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

An architect must complete, before licensure, an internship of diversified architectural experience approved by the board.⁶⁷ To qualify to take the examination for licensure as an architect an applicant must also graduate from a school or college of architecture with a program accredited by the National Architectural Accreditation Board.⁶⁸ Persons who are licensed in

⁶² Section 509.2112, F.S.

⁶³ *Id.*

⁶⁴ The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2020).

⁶⁵ Section 471.013(1), F.S.

⁶⁶ *See* ss. 471.015(2)(a)1. and 2., F.S.

⁶⁷ Section 481.211, F.S.

⁶⁸ Section 481.209(1), F.S.

another state or jurisdiction may also apply for a license by endorsement.⁶⁹ An architect who is licensed in another state who seeks qualification for a license in Florida must complete a two-hour class approved by the board on wind mitigation techniques.⁷⁰

III. Effect of Proposed Changes:

The bill creates s. 553.899, F.S. to establish a mandatory structural inspection program for multi-family residential buildings in the state of Florida, and state the following legislative purpose and intent:

The Legislature finds that maintaining the structural integrity of a building throughout its service life is of paramount importance in order to ensure that buildings are structurally sound so as to not pose a threat to the public health, safety, or welfare. As such, the Legislature finds that the imposition of a statewide structural inspection program for aging multifamily residential buildings in this state is necessary to ensure that such buildings are safe for continued use.

The bill provides the term “milestone inspection” means:

[A] structural inspection of a building by a licensed architect or engineer authorized to practice in this state for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code.

Under the bill, multi-family residential buildings greater than three stories must have a milestone inspection conducted by December 31 of the year in which a the building reaches 30 years in age based on the date the certificate of occupancy was issued, and every 10 years thereafter. If such a building is within three miles of a coastline,⁷¹ the timeframes are reduced to 20 years in age, and every 7 years thereafter.

In addition, if a milestone inspection is required and the building’s certificate of occupancy was issued on or before July 1, 1992, the building’s initial milestone inspection must be performed before December 31, 2024.

For condominium or cooperative buildings required to have a milestone inspection, the board of administration of the applicable condominium or cooperative association must arrange for the inspection, is responsible for ensuring compliance with all requirements set forth in s. 553.899, F.S., created in the bill, and is responsible for all costs associated with the inspection.

⁶⁹ Section 481.213(3), F.S.

⁷⁰ Section 481.213(3)(c), F.S.

⁷¹ The term “coastline” is defined in s. 376.031, F.S., as “the line of mean low water along the portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters, as determined under the Convention on Territorial Seas and the Contiguous Zone, 15 U.S.T. (Pt. 2) 1606.”

The bill provides for a two phase milestone inspection process. Phase one of the inspection requires a licensed architect or engineer to perform a visual examination of all habitable and non-habitable areas of the building to inspect for structural distress of components and provide a qualitative assessment of the structural conditions of the building. Surface imperfections such as cracks, distortion, sagging, excessive deflections, significant misalignment, signs of leakage, or peeling of finishes constitute signs of structural distress. If the architect or engineer finds no signs of structural distress to any building components under visual examination, phase two of the inspection is not required.

If structural distress is identified during a phase one inspection, the inspector in charge of a phase two milestone inspection must be a licensed engineer or licensed architect with a minimum of five years' experience designing structural components and five years' experience inspecting existing buildings of similar size, scope, and type of construction. A phase two inspection may involve destructive and non-destructive testing at the inspector's direction and may be as extensive or as limited as necessary to assess the damaged areas. As stated in the bill, the purpose of the phase two inspection is to "confirm that the building is safe for its intended use or to recommend a program for fully assessing and repairing damaged portions of the building."

The bill provides that the inspector, when determining testing locations, must give preference to "locations that are the least disruptive and most easily repairable while still being representative of the structure."

Upon completion of a phase one or phase two inspection the engineer or architect must submit a sealed copy of their inspection report to the building owner, any applicable condominium or cooperative board, and the building official in the jurisdiction of the building. Condominium and cooperative boards must distribute the report to all unit owners, regardless of whether there are reported deficiencies, and if the association is required to have a website, the board must publish the report on the website.

The bill provides that local enforcement agencies may prescribe timelines and penalties with respect to compliance with milestone inspection requirements set forth in the bill.

The bill adds all milestone inspection reports as official records to be maintained by a condominium or cooperative association, and which must be provided for buyer review in condominium and cooperative unit resales along with other nondeveloper disclosures.

The bill directs the Florida Building Commission to establish "comprehensive structural and life safety standards for maintaining and inspecting all building types and structures" in Florida by December 31, 2022 to supplement the requirements set forth in the bill, and to make them available for adoption by local governments at their discretion.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill will require county and municipal building departments to expend funds to comply with the provisions of the bill. However, counties and municipalities retain the ability to charge fees to accommodate such expenses. For example, a county or municipality may decide to charge a filing fee for inspection reports submitted to the building department. As such, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Apartment building owners and condominium and cooperative associations of buildings which meet the milestone inspection requirements will see increased costs associated with the inspection and possible restoration of the buildings. According to the Florida Building Commission comments in the analysis of the bill by the DBPR, the cost of these types of inspections will vary considerably based on the size of the building.⁷² The recertification and building safety inspections currently being conducted in Miami-Dade and Broward counties can cost as much as \$20,000 to \$40,000 for the inspection of a 15 to 20 story condominium, and between \$2,000 and \$4,000 for the inspection of a small commercial building. Any remedial work to remedy issues identified during the inspection would be in addition to these costs.⁷³

⁷² See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 1702* at p. 7 (Jan. 7, 2022) (on file with the Senate Committee on Regulated Industries).

⁷³ *Id.*

Licensed architects and engineers will experience a significant increase in demand for their services as a result of the bill.

C. Government Sector Impact:

The bill will likely result in additional costs for county and municipal building departments to comply with the requirements of the bill. Specifically, counties and municipalities will need to establish internal procedures and possibly procure software to track the ages of multi-family residential buildings, provide notice to affected building owners, and manage milestone inspection reports submitted by inspectors. Additional staffing may be needed to enforce the inspection requirements and address noncompliance with the requirements of the bill. However, counties and municipalities may choose to charge certain fees to building owners to accommodate the costs associated with the bill.

According to the Florida Building Commission comments in the analysis of the bill by the DBPR, the Florida Building Commission will need to appoint a workgroup of approximately 10 to 12 members to develop the comprehensive structural and life safety standards for maintaining and inspecting buildings and structures, as required by the bill. The workgroup will likely need two to three onsite meetings, which is estimated to cost between \$5,000 and \$10,000, based on the cost of previous onsite Florida Building Commission meetings.⁷⁴

Additionally, the Florida Building Commission will likely need to hire a group of experts to assist with the development of the maintenance and inspection standards, the cost of which is indeterminate.⁷⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.111, 718.503, 719.104, and 719.503.

This bill creates section 553.899 of the Florida Statutes.

⁷⁴ *Id.* at 6-7.

⁷⁵ *Id.*

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on February 1, 2022:

The committee substitute requires that the inspector in charge of a phase two milestone inspection must be a licensed engineer or licensed architect with a minimum of five years' experience designing structural components and five years' experience inspecting existing buildings of similar size, scope, and type of construction.

- B. **Amendments:**

None.