



# COMMUNITY BUILDER

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## Florida 2022 Legislative Update

As you may likely already be aware, in a Special Session in late May, the Florida Legislature unanimously adopted [Senate Bill 4-D](#), which was subsequently signed into law by Governor DeSantis on May 26, 2022. This special edition Community Builder has been produced to help board members better understand the new laws and significant updates affecting **condominium and cooperative** buildings across the state of Florida.



Following the tragic loss of life and collapse of the Champlain Towers South condominium in Surfside, Florida, the Legislature imposed a statewide structural inspection program for aging condominium and cooperative buildings to “ensure that such buildings are safe for continued use.” Importantly, the new law stipulates the following “milestone inspection” requirements for **condominium buildings of three (3) stories or higher**:

- A “milestone inspection” is required and must be performed by a licensed architect or engineer within 30 years from the date the Certificate of Occupancy was issued (or within 25 years if the building is located within 3 miles of a coastline).
- The “Phase 1” milestone inspection requires an architect or engineer to perform a visual examination of the building(s) to assess the condition and identify signs of structural deterioration. A written, signed and sealed inspection report must be provided to both the association and local building officials, and a copy must be posted on the association’s website, irrespective of findings. A summary of findings must also be conspicuously posted onsite and distributed to all unit owners.
- If signs of structural deterioration are identified during the “Phase 1” inspection, a “Phase 2” inspection is required which “may involve destructive or nondestructive testing at the inspector’s direction.” A written inspection report

and a summary from this supplemental inspection must also be posted and provided to both the association and local building officials.

- An association has 180 days to perform a “Phase 1” inspection, following notification from the “local enforcement agency” of the milestone inspection requirements.
- Penalties for non-compliance may be established by local building officials at their discretion, and timelines for necessary repairs identified in a post-inspection report can be adopted by the respective board of county commissioners.
- Milestone inspections are not required for “a single family, two-family, or three-family dwelling with three or fewer habitable stories above ground.”

In addition to the above referenced milestone inspection(s), a newly defined “Structural Integrity Reserve Study,” must be commissioned and maintained as part of the official records of the association for review by owners and tenants. Adding to the components traditionally included in a standard Reserve Study, the new Structural Integrity Reserve Study requires both a visual inspection of and a recommended replacement funding plan for the following structural building components: roofs; load bearing walls or other primary structural members; floors; foundations; fireproofing and fire protection systems; plumbing; electrical systems; waterproofing and exterior paint; windows; and, other items exceeding \$10,000.00 identified by an architect or engineer performing the inspection.

According to the new law, the Structural Integrity Reserve Study must be prepared by December 31, 2024 for buildings three (3) stories or higher, and updates must then be completed at least every 10 years thereafter. Furthermore, association members may no longer vote to waive or reduce reserve funding for the components identified in the Structural Integrity Reserve Study.

Condominiums and cooperatives (existing before this month), must also submit the following information to the Division of Florida Condominiums, Timeshares and Mobile Homes on or before January 1, 2023:

1. The number of buildings on the condominium property that are three (3) stories or higher in height;
2. The total number of units in all such buildings;
3. The addresses of each such building; and,
4. The counties in which all such buildings are located.

Although it’s likely there will be new legislation introduced next year to address the serious complications with the new laws (e.g., reserve funding requirements, inspection costs, the limited number of qualified firms available to complete such inspections, etc.), boards are strongly encouraged to solicit the advice of the association’s legal counsel and reserve analyst beforehand to discuss the implications and realities of the new legislation. Moreover, budgeting for the cost of these professional inspections (which may vary greatly by association based on size, age, location, condition, type of construction, number of inspections required, etc.) should be seriously considered during the 2023 and 2024 budget cycles. Importantly, failure to complete the milestone inspections and Structural Integrity Reserve Study as currently required constitutes “a breach of an officer’s and director’s fiduciary relationship to the unit owners.”

As your community association management partner, Sentry Management is taking efforts to educate Community Managers and boards of the new requirements, assist with the

compilation of the required Division reporting data, and proactively engage legislators on the topic. Moreover, Sentry is actively collaborating with other professional management companies and industry lobbyists to influence the lawmaking process on behalf of our clients and residents. To this end, your assigned Sentry team will continue to share critical information about this new legislation and any material updates in the coming months.

**Note:** Nothing in this publication should be interpreted as legal advice. This publication does not cover each and every aspect of Florida Senate Bill 4-D and is designed to be a general overview. The information contained herein is not intended to serve as a substitute for professional legal advice.



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