

Senate Bill 4-D Building Safety

Background: Governor signed into law Senate Bill 4-D (May 26, 2022), passed during special legislative session and which is effective upon becoming law. This Bill is a response to the Surfside collapse last year and modifies Florida Statutes Chapters 553, 718, 719 and 720. The following web-site describes the new bill.

<https://www.flsenate.gov/Committees/BillSummaries/2022D/html/2875>

The Bill established a statewide structural inspection program, requiring Condominium and Cooperative Associations to conduct Milestone Structural Inspections of their buildings and to perform Structural Integrity Reserve Studies in order to ensure that Condominium and Cooperative buildings are safe for continued use.

Regarding building safety inspection:

- 1. What is a milestone inspection?** A “milestone inspection” is a structural inspection of a building, including its load-bearing walls and primary structural systems, by a licensed architect or engineer. Its purpose is to confirm the life safety and adequacy of the building’s structural components and determine its general structural condition as it affects building safety. A milestone inspection should include, to the extent reasonably possible, a determination of any necessary maintenance, repair or replacement of any structural component of the building.
- 2. When is a milestone inspection required?** Condominium associations must have milestone inspections performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 30 years of age, and every 10 years thereafter. If the building is located within three miles of a coastline (direct contact with the open sea), a milestone inspection is required by December 31 of the year in which the building reaches 25 years of age, and every 10 years thereafter. A building’s age is based on the date the certificate of occupancy was issued. **Note that 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.**
- 3. What is a phase one milestone inspection?** A milestone inspection consists of two phases. For phase one, a licensed architect or engineer performs a visual examination of a building, including its major structural components, and provides a qualitative assessment of the building’s structural condition. If no signs of substantial structural deterioration are found, then a phase two inspection is not required. “Substantial structural deterioration” means substantial structural distress that negatively affects a building’s general structural condition and integrity. It does not include surface

imperfections (cracks, sagging, peeling of finishes, etc.) unless they are a sign of substantial structural deterioration.

- 4. When is a phase two milestone inspection required?** A phase two milestone inspection must be performed if any substantial structural deterioration is identified during phase one. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building. The phase two inspection may involve destructive testing at the inspector's direction, though preference must be given to locations that are the least disruptive and most easily repairable.
- 5. What happens after a milestone inspection?** Upon completion of a phase one or phase two milestone inspection, the architect or engineer must submit a sealed copy of the inspection report to the condominium association, along with a separate summary of material findings and recommendations. A copy must also be furnished to the appropriate local building authority. The inspection report must include all the information required by the statute. Condominium associations must then distribute the inspector's summary to each unit owner and post a copy in a conspicuous place on the condominium property. Associations required to maintain a website must also make the full report and the inspector's summary available online.
- 6. Who is responsible for the cost of the milestone inspection.** Condominium and cooperative association are responsible for the scheduling and cost associated with the milestone inspection.
- 7. Will an association be advised when a milestone inspection should occur?** Local enforcement agencies will provide buildings required to comply with this law notice of required inspection by certified mail.
- 8. Once notice is received, how long does a building or condominium have to comply?** Upon receiving notice, condominium/cooperative associations will have 180 days to complete phase one of the inspection.

Regarding the Structural Integrity Reserve Study:

- 1. What is a Structural Integrity Reserve Study (SIRS)?** It is a newly developed form of reserve study, REQUIRED BY FL Statute, that are designed to ensure that condo and home owners associations are reserving funds for crucial structural elements in their buildings for repairs. What is so important to understand about SIRS is that the 10 elements that are identified in this study must be separately accounted for in the reserve study. Funds for repairs can only be used for that specific named purpose and are not able to be pooled.

2. What makes-up the SIRS? 10 Elements That Make Up SIRS:

- a. Roof
- b. Floor
- c. Load Bearing Walls
- d. Fireproofing & Fire Safety
- e. Exterior Painting & Water Proofing
- f. Plumbing
- g. Electrical Systems
- h. Foundation
- i. Windows
- j. Other elements over \$10,000 that have an impact on the structural integrity of the building

3. Do I Need a Reserve Study & SIRS? Condos (FL Statute 718) and Co-ops (FL Statute 719) over 3 stories must comply with the new standard laid out in the condo safety bill, by December 31, 2024 in order to remain in compliance. These studies will be required to be completed every 10 years in order to remain in compliance. This time clock is measure from the first certificate of occupancy. Annual budgets must have reserves accounted for.

4. How do condos stay fully funded and in compliance? In order to stay fully funded the funding schedule laid out in the reserve study must be followed and the appropriated funds must be accounted for. This does not mean that the entire projected funds laid out in the reserve study must be accounted for every year.

Fully Funded = Meeting Reserve Funding Schedule

Important Dates to Remember:

- a. **Register with DBPR before January 1, 2023.** All associations must submit the number of buildings on their property over 3 stories in writing. This must also include the following: the total number of units in each buildings on the property, the address of each building, and the county in which each building isn located.
- b. **December 31, 2024.** Reserve studies and SIRS must be submitted in order to remain in compliance (if SIRS has not already been conducted and submitted).

Conclusion: The new law makes each condominium association responsible for arranging milestone inspections and ensuring compliance with the law's requirements.