

Community Trends[®]



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LEGISLATIVE UPDATE



Community Associations Institute – LAC New Jersey Support S2760 & A4384 - Structural Integrity & Reserve Funding

In the wake of the tragic Champlain Towers building collapse in Florida, CAI and the New Jersey Legislative Action Committee (NJ-LAC) have engaged with New Jersey legislators in developing appropriate legislation to address building safety and replacement reserve funding on a statewide basis. The tragedy of Champlain Towers should never occur in New Jersey. New Jersey has many buildings that were built more than 40 years ago. As buildings age, inevitable deterioration occurs that must be cured. When proper inspections and maintenance of structural components are delayed, costs are more extensive and result in significant assessments or sizeable loans. These assessments or loans have routinely created hardships for some residents and have increased the number of owners that cannot pay on a current basis.

Required inspections and reserve funding will mitigate assessments through proper planning and contain costs over time. Though it has taken a while for our proposed legislation to reach the floors of the Assembly and Senate, these legislative bodies are now poised for consideration and action in June and July. The NJ-LAC offers for your review, consideration, and support S2760 sponsored by Senator Troy Singleton (Burlington) and A4384 sponsored by Assemblywoman Yvonne Lopez (Middlesex). The following are the key highlights to the legislation.

Amendments to Uniform Construction Code Act Concerning Structural Inspections

Covered Building and System in the Legislation is Defined as:

- Covered building means a residential condominium or cooperative building, only, that is categorized as use group R-1 or use group R-2, as those terms are defined in N.J.A.C.5:70-1.5, having a primary load bearing

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system comprised of concrete, masonry, steel, hybrid structure including, without limitation, heavy timber, and a building with podium decks, but not including excluded structures.

- The covered buildings must have a primary load bearing system, as described above. These types of buildings are generally characterized as mid and high rise building.

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- Excluded structures are single family residences and frame buildings constructed with combustible walls and roofs, unless supported by the structures mentioned above. Typical and traditional townhomes are not included.
- **New Building Construction Inspection Requirements for Covered Buildings**
 - Structural inspection is required during and upon completion of the construction.
 - No certificate of occupancy may be issued without a written report from licensed structural inspector confirming the primary load bearing system conforms with approved construction plans.
 - For buildings being converted to condominium or cooperative, a structural inspection report shall be issued as part of the Planned Real Estate Full Disclosure registration process.
- **New and Existing Building Inspection Requirements for Covered Buildings**
 - All covered buildings with a certificate of occupancy (C.O.) must have their first inspection, post adoption of the legislation, within the earlier of:
 - One day to 5 years old, within 6 years – Max is 11 years
 - 5 years and one day to 10 years old , within 4 years – Max is 14 years
 - 10 years and one day or longer, within 2 years – Max is 12 years
 - Structural inspector (NJ licensed professional engineer) must issue a written report identifying any necessary corrective maintenance (repairs) needed by the primary load bearing system to the building owner. The reports shall be made available to any building resident and the municipal construction official.
 - Structural inspector shall determine a reasonable period of time for next inspection but in no event will it be more than 10 years following the first inspection during the first 20 years following the C.O. issuance or more than 5 years if the building is older than 20 years.

Amendments to Planned Real Estate

Development Full Disclosure Act - Reserves

- **Developer Requirements to Provide Plans/Specifications and Preventative Maintenance (PM) Schedule**
 - Developer shall provide the association with the plans and specifications utilized in construction, including plans setting forth all field changes impacting any structural components
 - Developer must identify the PM tasks to be undertaken by the association and budget to support.
- **Community Association (CA) Requirement for Capital Reserve Studies**
 - CA is required to undertake and fund a capital reserve study (adequacy study to establish money to be set aside for future replacements and maintenance) that shall determine the funds anticipated for the cost of replacement or repair of CA assets.
 - Study shall conform to Community Association Institute's National Reserve Study Standards.
 - CA that haven't conducted a capital reserve study within 5 years of the effective date of the legislation, have 1 year to do so.
 - New association's must conduct reserve study as soon as practicable after the election of a majority of a resident owner executive board but no later than 2 years from effective date of legislation.
 - Reserve studies thereafter must be undertaken at least every 5 years
- **Community Association Funding of Capital Reserves**
 - An association must obtain a reserve study including a 30-year funding plan in order to increase the likelihood that funds will be available without the need for a special assessment or loan obligation, which is then characterized as a deficiency. The reserve study shall include cost of structural inspections for a covered building. The type of funding plan will be in the discretion of the executive board.
 - If, following the effective date of the bill it is determined that funding in the capital reserve account is deficient and could result in a more than 10% increase in common expense assessment to catch up, then the deficiency must

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be recovered in not more than ten (10) fiscal years, to avoid an assessment, loan, or to be certain funding does not go below zero at the end of any year.

- If a deficiency in capital reserve account would require an increase in the annual assessment of less than 10%, the deficiency must be recovered within two (2) fiscal years

- **Funding for Corrective Maintenance as it Affects the Primary Load Bearing System**

- Superseding anything in the governing documents, an executive board may adopt an assessment payable over one or more fiscal years or obtain a loan whenever necessary to fund the cost of maintenance, repair, or replacement of the

primary load bearing system. The executive board must first obtain a written report from a New Jersey licensed engineer or architect that there (a) is an imminent or reasonably foreseeable hazard to health or safety (b) is a violation of the legislation or (c) will be a material increase in the cost of same if delayed.

As we go through this legislative process, we encourage you to contact representatives of LAC who shall be available to assist you with the understanding of the legislation, it's vital need for our constituent community members, and lend you the support to campaign for the successful passage by our two houses of legislation and then the governor's signature. ■