

# Community Trends



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## LEGISLATIVE UPDATE

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### **STRUCTURAL INTEGRITY AND RESERVE FUNDING: S2760/A4384... It's Now the Law in NJ** **What Happened, Why it's Important, What You Need to Know, and Thanks**

By Ed San George, MPA, PCAM,  
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#### **What Happened**

On behalf of CAI-NJ, the CAI National Legislative Action Committee for New Jersey (NJ-LAC), and all residents and stakeholders in common interest communities (CICs), I am thrilled to announce that structural inspections for certain covered buildings and reserve funding mandates for all



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CIC associations are now the law in New Jersey. On December 21, 2023, both Chambers of NJ Government, the Senate and Assembly voted to pass S2760 and A4384, respectively. On January 8, 2024, Governor Phil Murphy signed the legislation into law.

New Jersey is now only the second state in the country to adopt structural integrity legislation for building safety and joins about a dozen other states with statutory reserve funding requirements. The structural integrity portion amends the Uniform Construction Code and reserve funding amends the Planned Real Estate Full Disclosure Act. In addition to building safety and reserve funding, the new law also places additional disclosure responsibilities for developers of Common Interest Communities.

The process by LAC-NJ began after the tragic building collapse in Surfside, Florida in the summer of 2021. The

first full version of the legislation was introduced in the Senate in June 2022, testimony was provided to the Senate Community and Urban Affairs Committee and the Senate Budget and Appropriations Committee, and the Assembly Housing Committee. After a long process of lobbying

***"The process by LAC-NJ began after the tragic building collapse in Surfside, Florida in the summer of 2021."***

efforts and amendments the final version was approved on December 21, 2023. ***See the roll call voting and chronology at the end of this article. The final published version of the law should be released in February.***

#### **Why It's Important**

NJ-LAC and CAI-NJ have a history of success with legislation, notably the Municipal Services Act, the Super Lien Legislation, Electric Vehicle Charging, and the Covid Immunity legislation. As vital and important as those acts have been, this new legislation has the most broad and influential effect on the **operations** of all common interest communities in NJ. The legislation is consequential as it will

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save lives and will provide confidence for residents in the safety of their buildings. Its transformative in that it produces a clear and mandated process for reserve funding, cost containment, preventive maintenance, and board fiduciary duty. Other than the original Condominium Act and the Planned Real Estate Full Disclosure Act, no one piece of legislation is so influential and beneficial to our constituent base of residents and communities.

While we had guidance from CAI National via their Public Policy on Building Safety publication, your LAC Committee really believes that we have produced model legislation. We hope our success and model will help CAI in its national efforts to promote this similar legislation and gives encouragement to other LACs throughout the country to make the attempt at passing such vital structural and reserve legislation.

### What You Need to Know

For covered buildings to remain safe, the law provides for the timely and strategic inspections by qualified engineers to create baseline building structural conditions and monitor those conditions with critically timed inspections over the life of the building. Covered Buildings are condo and coop residential buildings with structural steel, reinforced concrete, hybrids, and heavy timber. Excluded buildings are traditional single family and wood frame constructed townhomes. Expert eyes on a building's structure will provide boards with an awareness of their building's condition and allow for cost effective financial planning to maintain the structure and conduct any needed corrective maintenance.

So that board's with the most knowledge of their building's conditions and financial status can act as proper fiduciaries, the law provides our boards with the power to levy a special assessment or borrow funds without membership approval, irrespective of what existing governing documents may currently require for approval. Such superseding of the governing documents is applied only for vital structural corrective maintenance that are identified in an **engineering report**.

The law requires that each engineering report that is issued must be provided to the municipal building inspector and be available to all owners and tenants of the CIC.

Further, with the demands being placed by Fannie and Freddie Mac for placing mortgages, the value of having these engineering reports speak for themselves to address their criteria and can then be issued to the banks is important to the continuance of mortgage financing for the covered buildings in the legislation.

For replacement reserve funding, the law requires that all NJ CICs possess or conduct a replacement reserve study in conformance with the Community Associations Institute (CAI) Reserve Standards. The law is the first statutory

***“Covered Buildings are condo and coop residential buildings with structural steel, reinforced concrete, hybrids, and heavy timber.”***

reserve study requirement that obligates owner-controlled boards to secure a replacement reserve study, comply with National Standards for reserve funding, such as CAI Standards or others, update it within a defined schedule of time, and require that funding levels be adequate to avoid special assessments or loans.

The law recognizes that some communities may not currently have reserve studies or are not properly funding for reserves. The law allows for one to two years of time to get the study conducted and provides up to 10 years' time to catch up the funding to the levels required.

The law guides boards toward safe buildings and stable financial management. With the vigilance of structural inspections and maintaining proper reserve funding, CICs gain financial stability and cost containment through the life of the community and avoid the often unfair and significant assessments and costly loan financing that results from delayed action or outright inaction by boards.

***For more information and guidance, join us for our “Lunch with LAC” on Thursday February 29 or consult your professionals.***

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### MY THANKS

My special thanks to my two primary associates working with me to create, explain, educate, and succeed, Mitch Frumkin and Dave Ramsey. I appreciate and thank Matt Earle for making this legislative effort a priority for his agenda as our IAC Chairperson. Thanks to our Lobbyist, Michele Jaker who provided superb insights and vital timing of actions and attention. A special thanks to Liz Commando and her Political Action Committee for all the fund raising that enabled us to visit with, lobby, and attend political funding events with many legislators. Lastly, the sponsors of the legislation. In the Senate, Senators Singleton and Greenstein. In the Assembly, Assemblypersons Lopez and Wimberly. What an honor and wonderful experience it was to work with these legislators and to meet with so many others. They all demonstrated great interest, challenge, and sincerity in evaluating the legislation with us.

### The Vote, Chronology and History, from Legiscan.com

#### ROLL CALLS

##### 2023-12-21

Senate - Senate Floor: Third Reading - Final Passage (Y: 23 N: 11 NV: 6 Abs: 0) [PASS]

##### 2023-12-21

Senate - Senate Floor: Concur in Assembly Amendments (Y: 23 N: 4 NV: 13 Abs: 0) [PASS]

##### 2023-12-21

Assembly - Assembly Floor: Third Reading - Final Passage (Y: 57 N: 12 NV: 11 Abs: 0) [PASS]

##### 2023-12-21

Assembly - Assembly Floor: Substitute for A4384 (Voice Vote) (Y: 0 N: 0 NV: 0 Abs: 0) [PASS]

##### 2023-06-12

Senate - Senate Budget and Appropriations Committee: Reported with Amendments (Y: 7 N: 4 NV: 2 Abs: 0) [PASS]

##### 2022-09-29

Senate - Senate Community and Urban Affairs Committee: Reported with Amendments (Y: 3 N: 1 NV: 1 Abs: 0) [PASS]

### History

Date	Chamber	Action
2024-01-08	Senate	Approved P.L.2023, c.214.
2023-12-21	Senate	Passed Senate (Passed Both Houses) (23-4)
2023-12-21	Senate	Received in the Senate, 2nd Reading on Concurrence
2023-12-21	Assembly	Passed by the Assembly (57-12-0)
2023-12-21	Assembly	Substituted for A4384 (2R)
2023-12-21	Assembly	Assembly Floor Amendment Passed (Lopez)
2023-12-21	Assembly	Received in the Assembly without Reference, 2nd Reading
2023-12-21	Senate	Passed by the Senate (23-11)
2023-12-11	Senate	Senate Amendment (Voice) (Ruiz)
2023-06-12	Senate	Reported from Senate Committee with Amendments, 2nd Reading
2022-09-29	Senate	Referred to Senate Budget and Appropriations Committee
2022-09-29	Senate	Reported from Senate Committee with Amendments, 2nd Reading
2022-06-02	Senate	Introduced in the Senate, Referred to Senate Community and Urban Affairs Committee