

# FL Statute 718 Legislative Changes 2022

*Detail Information Provided by Paul St. Clair*

During the 2022 Legislative session, the following bills effecting condominiums were approved:

- House Bill 423 – Building Regulation & Building Code Inspectors
- Senate Bill 898 – Lodging Standards
- Senate Bill 2D – Insurance
- Senate Bill 4D – Structural Integrity Reporting, Inspections & Reserves

## **House Bill 423 – Building Regulation & Building Code Inspectors**

House Bill 423:

- Revises eligibility requirements for a person applying to become certified as a building code inspector or plans examiner.
- Provides that a local government may not prohibit or restrict demolition permits for single family residential structures located in certain areas.
- Limits the administrative fee that a local jurisdiction can charge when an owner or contractor hires a private provider for inspection services.
- Revises requirements for when a local government requests certain additional information from an applicant for a building permit.

## **Senate Bill 898 – Lodging Standards**

House Bill 898:

- Requires landlords of nontransient or transient apartments to require employees to undergo background screenings as a condition of employment; specifying requirements for the employee background screenings; authorizing landlords to disqualify persons from employment under certain circumstances relating to criminal offenses.
- Requires public lodging establishments licensed as nontransient or transient apartments to take certain actions relating to employee background screenings and keys for dwelling units.
- Prohibits an operator of a public lodging establishment from offering an hourly rate for an accommodation, providing applicability and effective dates.

## **Senate Bill 2D – Insurance**

Senate Bill 2D makes numerous changes in the property insurance laws to attempt to impact increasing property insurance policy costs. Highlights of the changes include:

- Creates the Reinsurance to Assist Policyholders program to be administered by the State Board of Administration and requires certain property insurers to obtain coverage under the program.
- Specifies requirements for the Florida Hurricane Catastrophe Fund if an insurer or the Citizens Property Insurance Corporation accepts assignments of unsound insurers.

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- Requires certain property insurers to reduce rates to reflect cost savings through rate filings by a specified date and prohibits such insurers from making other rate changes.
- Revises homeowner eligibility criteria for mitigation grants, specifies matching grant requirement, and revises reporting requirements.
- Requires the Office of Insurance Regulation to aggregate on a statewide basis and make publicly available certain data submitted by insurers and insurer groups.
- Revises conditions for the award of reasonable attorney fees to apply to all suits brought under residential or commercial property insurance policies, limiting the transfer, assignment, or acquisition of rights to attorney fees in certain property insurance suits.
- Revises conditions authorizing property insurers to limit certain roof claim payments, prohibits insurers from refusing to issue or renew homeowners' policies insuring certain structures, requires insurers to allow homeowners to have roof inspections performed before requiring roof replacement, and specifies the manner of calculating the age of certain roofs.

### **Senate Bill 4D – Structural Integrity Reporting, Inspections & Reserves**

Here's a Summary of Senate Bill 4D Passed in Special Session:

#### **Information Reporting Required to DBPR**

Condominium and Cooperative associations existing on or before July 1, 2022, must provide the following information:

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

The information must be provided to the Division in writing on or before January 1, 2023, by e-mail, United States Postal Service, or hand delivery, at a physical address or e-mail address provided by the Division and on a form posted on the Division's website.

#### **Milestone Inspection Requirements**

A Milestone Inspection is required of all condominium and cooperative buildings three or more stories in height. It is a "structural inspection of a building, including an inspection of load-bearing walls and the primary structural members and primary structural systems."

The structural inspection of the building must be performed by a licensed Architect or Engineer, attesting to (as reasonably possible):

1. Life safety
2. Adequacy of the structural components
3. General structural condition of the building which affects safety.

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4. Determination of any necessary maintenance, repair, or replacement of any structural component.

Inspections are divided into two Phases: Phase 1 and Phase 2.

### **Phase 1 Milestone Inspection**

Conduct a visual examination of habitable and non-habitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building.

If the architect or engineer finds no signs of substantial structural deterioration to any building components under visual examination, phase two of the inspection is not required.

### **Phase 2 Milestone Inspection**

A Phase 2 inspection must be performed if any substantial structural deterioration is identified during phase one.

A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to:

- fully assess areas of structural distress to confirm that the building is structurally sound and safe for its intended use and
- Recommend a program for fully assessing and repairing distressed and damaged portions of the building.

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

An inspector who completes a phase two milestone inspection shall prepare and submit an inspection report as defined below.

Milestone inspections of buildings three or more stories in height must be completed as follows:

- By December 31st of the year in which the building reaches 30 years of age based on the Certificate of Occupancy (CO), afterwards every 10 years.
- For buildings located within three miles of the coastline, the inspections must be completed by December 31st of the year in which the building reaches 25 years of age (based on CO), afterwards every 10 years.
- Buildings with certificates of occupancy issued on or before July 1, 1992 or July 1, 1997 and within 3 miles of Coastline must have the initial milestone inspection performed before December 31, 2024.

If the CO issuance date is not available, the date of occupancy shall be that which is evidenced in any record of the local building official.

### **Milestone Inspection Report**

The Milestone Inspection Report must:

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- Bear the seal and signature, or electronic signature, of the licensed engineer or architect who performed the inspection,
- Indicate the manner and type of inspection forming the basis for the inspection report,
- Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.
- State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.
- Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.
- Identify and describe any items requiring further inspection.

The purpose of such inspections is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code.

Substantial Structural Deterioration does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the inspection determines that such surface imperfections are a sign of substantial structural deterioration.

This provision does not apply to single, two, or three family dwellings with 3 or fewer habitable stories above ground.

### **Structural Integrity Reserve Study**

Condominium and Cooperative Associations existing on or before July 1, 2022, controlled by unit owners other than the developer with buildings of 3 or more stories, must have the Structural Integrity Reserve Study completed by December 31, 2024. Studies must be completed at least once every 10 years thereafter.

The visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471 or an architect licensed under chapter 481.

At a minimum, a structural integrity reserve study must:

- Identify the common areas being visually inspected,
- State the estimated remaining useful life,
- State the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected, and
- Provide a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each common area being visually inspected by the end of the estimated remaining useful life of each common area.

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The components included in a Structural Reserve Study are:

- Roof
- Load-bearing walls or other primary structural members.
- Floor.
- Foundation.
- Fireproofing and fire protection systems.
- Plumbing.
- Electrical systems.
- Waterproofing and exterior painting.
- Windows.
- Any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000 and the failure to replace or maintain such item negatively affects the items listed above.

### **New Reserve Requirements**

The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed by December 31, 2024. Effective December 31, 2024, the members of a unit-owner controlled association may not determine to provide no reserves or less reserves than required by this subsection for items listed above.