

SENATE, No. 2760

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 2, 2022

Sponsored by:

Senator TROY SINGLETON
District 7 (Burlington)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns structural integrity regulations for certain residential buildings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/2022)

1 **AN ACT** concerning structural integrity regulation for certain
2 residential structures, supplementing P.L.1975, c.217 (C.52:27D-
3 119 et seq.), and amending and supplementing P.L.1977, c.419.

4

5 **BE IT ENACTED by the Senate and General Assembly of the State**
6 *of New Jersey:*

7

8 1. (New section) The Legislature finds and declares that:

9 a. The importance of the structural integrity of residential
10 buildings in New Jersey has become a growing concern for many,
11 especially in the wake of the tragic collapse of a high-rise,
12 multifamily housing structure in Florida.

13 b. In light of these growing concerns, it is appropriate for the
14 Legislature to put in place appropriate procedures for inspecting,
15 evaluating and maintaining the structural integrity of certain
16 residential housing structures within this State.

17

18 2. (New section) As used in this P.L. , c. (C.) (pending
19 before the Legislature as this bill):

20 “Bureau” means the Bureau of Housing Inspection in the
21 Department of Community Affairs.

22 “Corrective maintenance” means maintenance to be undertaken
23 following the detection of deterioration of the primary load bearing
24 system with the goal of remediating the condition reported by the
25 structural inspector.

26 “Covered building” means a residential building that is
27 categorized as use group R-1 or use group R-2, as those terms are
28 defined in N.J.A.C.5:70-1.5, having load bearing concrete,
29 masonry, steel, hybrid structure including, but not limited to, heavy
30 timber, and a building with podium decks.

31 “Covered building owner” means the owner of a covered
32 building, whose name appears of record with the county clerk or
33 register, or the association of a common interest community.

34 “Primary load bearing system” means the assemblage of
35 structural components within a building that by contiguous
36 interconnection form a path by which external and internal forces
37 applied to the building are delivered to the ground.

38 “Structural inspector” means:

39 (1) a construction official, as that term is used in section 8 of
40 P.L.1975, c.217 (C.52:27D-126), who is also an engineer licensed
41 by the State;

42 (2) an employee of the bureau who is also an engineer licensed
43 by the State; or

44 (3) an engineer licensed by the State with whom the covered
45 building owner, enforcing agency, or bureau contracts to perform
46 inspections of covered buildings under sections 3 and 4 of P.L. ,

EXPLANATION – Matter enclosed in bold-faced brackets **thus in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 c. (C. and C.) (pending before the Legislature as this
2 bill).

3

4 3. (New section) a. When a construction application that
5 proposes to create, amend, or modify the primary load bearing
6 system of a covered building is filed with the enforcing agency,
7 prior to issuing a construction permit, the enforcing agency shall
8 consult with a structural inspector chosen by the enforcing agency
9 or covered building owner and set forth an inspection schedule to
10 confirm that the primary load bearing system conforms to the
11 building plans submitted by the applicant. Inspection, however,
12 shall not be required pursuant to this subsection as a condition of
13 construction permit issuance if the structural inspector determines
14 that the building is not a covered building.

15 b. Inspections conducted pursuant to the schedule set forth in
16 subsection a. of this section shall be performed under the direction
17 of a construction structural inspector. The construction structural
18 inspector may be assisted by other licensed professionals qualified
19 in various special disciplines, including but not limited to
20 geotechnical and civil engineering practices, as needed to conduct
21 the structural inspections required by this section.

22 c. In conducting inspections pursuant to subsections a. and b. of
23 this section, the construction structural inspector shall review the
24 construction plans submitted with the construction application, and
25 issue a written report determining whether the primary load bearing
26 system conforms to the building plans. If the construction
27 structural inspector determines that the primary load bearing system
28 is not in conformance with the building plans, the applicant shall
29 provide additional plans which show conformance with a
30 modification to the primary load bearing system. No certificate of
31 occupancy shall be issued pursuant to section 15 of P.L.1975, c.217
32 (C.52:27D-133), until the structural inspector issues a written report
33 which confirms that the construction of the primary load bearing
34 system of the building is in conformance with the approved
35 construction plans.

36 d. The creation of, or repair, renovation, alteration, or
37 modification to the primary load bearing system of a covered
38 building required pursuant to any inspection shall be conducted by a
39 construction structural inspector prior to the issuance of a certificate
40 of occupancy required pursuant to section 15 of P.L.1975, c.217
41 (C.52:27D-133).

42 e. Any additional cost to the enforcing agency incurred as a
43 result of inspections made under this section shall be recovered
44 through a fee associated with the construction application of a
45 covered building which shall be paid by the covered building owner
46 during the application process.

47 f. The commissioner shall adopt rules and regulations, pursuant
48 to the provisions of the "Administrative Procedure Act," P.L.1968,

1 c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this
2 section.

3

4 4. (New section) a. Following the issuance of a certificate of
5 occupancy, an initial structural inspection of the building
6 components forming the primary load bearing system of a covered
7 building shall be undertaken by a post-occupancy structural
8 inspector retained by the covered building owner within the earlier
9 of: (1) 15 years of the date on which the covered building receives a
10 certificate of occupancy pursuant to section 15 of P.L.1975, c.217
11 (C.52:27D-133); or (2) 60 days after observable damage to the
12 primary load bearing system. If a covered building has received a
13 certificate of occupancy pursuant to section 15 of P.L.1975, c.217
14 (C.52:27D-133) prior to the effective date of P.L. , c. (C.)
15 (pending before the Legislature as this bill), then an initial
16 structural inspection shall be undertaken by a structural inspector
17 within two years of the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19 b. After the post-occupancy structural inspector has performed
20 an inspection pursuant to subsection a. of this section, the post-
21 occupancy structural inspector shall issue a written report
22 describing the condition of the primary load bearing system. The
23 post-occupancy structural inspection report shall:

24 (1) set forth with specificity any required maintenance or repairs
25 needed by the primary load bearing system;

26 (2) determine when the next inspection of the primary load
27 bearing system shall be performed, but in no event shall a
28 secondary inspection occur more than the earlier of: (a) 10 years
29 after the initial inspection has taken place; or (b) not more than 60
30 days after there is observable damage to the primary load bearing
31 system;

32 (3) be provided to the municipal appointing authority, the
33 construction official and the enforcing agency;

34 (4) be prepared in accordance with the protocol established by
35 the American Society of Civil Engineers, for the structural
36 condition assessment of a covered building or a similar protocol by
37 another nationally recognized structural engineering organization;
38 and

39 (5) provide any other information or guidance necessary to
40 maintain the structural integrity of a covered building.

41 c. If the structural inspector's report created pursuant to
42 subsection b. of this section finds that corrective maintenance of the
43 primary load bearing system is required, the report shall specify
44 with reasonable detail the required corrective maintenance.

45 d. Notwithstanding the structural inspector's initial inspection
46 and report undertaken pursuant to subsections a. through c. of this
47 section, subsequent structural inspections and reports shall be

1 provided for as set forth by the structural inspector's preceding
2 report as follows:

3 (1) The structural inspector will determine a reasonable period
4 of time within which the next inspection shall take place provided,
5 however, that any subsequent inspection under this paragraph shall
6 not take place:

7 (a) more than 10 years after a preceding inspection during the
8 first 20 years following issuance of a certificate of occupancy of a
9 covered building; or

10 (b) more than five years after a preceding inspection if the
11 covered building is more than 20 years old.

12 (2) The structural inspector shall review the preceding
13 inspection report prior to undertaking subsequent inspection of the
14 covered building. After the structural inspector completes this
15 review and inspection, the structural inspector will then issue a
16 subsequent inspection report which shall:

17 (a) make note of any new or progressive deterioration;

18 (b) set forth the covered maintenance required to address any
19 new or progressive deterioration; and

20 (c) be provided to the covered building owner, who shall
21 undertake measures necessary to effectuate the covered
22 maintenance, including, but not limited to, engaging the services of
23 an architect or engineer licensed by the State and qualified in
24 structural repairs or maintenance to create plans or specifications to
25 implement the covered maintenance. The covered building owner
26 shall cause any plans or specifications created pursuant to this
27 subparagraph to be filed with the municipal appointing authority or
28 enforcing agency.

29 (3) If the post-occupancy structural inspector's inspection finds
30 that there is no need for corrective maintenance, the written report
31 shall be filed with the enforcing agency or municipal appointing
32 authority.

33 (4) Any written reports issued by the post-occupancy structural
34 inspector pursuant to this section shall be provided to the covered
35 building's owner and shall be made available to any resident of a
36 covered building upon request.

37 e. Inspections conducted pursuant to this section may be
38 conducted in conjunction with other required inspections, including
39 but not limited to inspections required pursuant to the "Hotel and
40 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

41

42 5. (New section) A construction or post-occupancy structural
43 inspector who performs the duties set forth in sections 3 and 4 of
44 P.L. , c. (C. and C.) (pending before the Legislature
45 as this bill) in good faith and pursuant to the protocols adopted by
46 the American Society of Civil Engineers, or similar protocols by
47 another nationally recognized structural engineering association,

1 shall not incur any civil liability for injury associated with any
2 inspection undertaken by the structural inspector.

3

4 6. Section 6 of P.L.1977, c. 419 (C.45:22A-26) is amended to
5 read:

6 6. a. Unless otherwise exempted:

7 (1) No developer may offer or dispose of any interest in a
8 planned real estate development, prior to the registration of such
9 development with the agency.

10 (2) No developer may dispose of any lot, parcel, unit, or interest
11 in a planned real estate development, unless he: delivers to the
12 purchaser a current public offering statement, on or before the
13 contract date of such disposition.

14 b. Any contract or agreement for the purchase of any parcel, lot,
15 unit, or interest in a planned real estate development may be
16 canceled without cause by the purchaser by sending or delivering
17 written notice of cancellation by midnight of the seventh calendar
18 day following the day on which the purchaser has executed such
19 contract or agreement. Every such contract or agreement shall
20 contain, in writing, the following notice in 10-point bold type or
21 larger, directly above the space provided for the signature of the
22 purchaser:

23 "NOTICE TO THE PURCHASER: you have the right to cancel
24 this contract by sending or delivering written notice of cancellation
25 to the developer by midnight of the seventh calendar day following
26 the day on which it was executed. Such cancellation is without
27 penalty, and any deposit made by you shall be promptly refunded in
28 its entirety."

29 c. Notice as required in subsection b. shall, in addition to all
30 other requirements, be conspicuously located and simply stated in
31 the public offering statement.

32 d. The developer shall make copies of the public offering
33 statement freely available to prospective purchasers prior to the
34 contract date of disposition.

35 e. The developer shall make copies of any written report or
36 document prepared pursuant to sections 3, 4, or 10 of P.L. , c.
37 (C. , C. , or C.) (pending before the Legislature as this
38 bill) available to prospective purchasers prior to the contract date of
39 disposition.

40 (cf: P.L.1977, c.419, s.6)

41

42 7. (New section) a. Any association created pursuant to
43 P.L.1977, c.419 (C.45:22A-21 et seq.) shall undertake and fund a
44 capital reserve study which shall determine or assess the adequacy
45 of the association's capital reserve funds to meet the anticipated
46 costs of replacement or repair of the capital assets of a common
47 interest community that the association is obligated to maintain.
48 All capital reserve studies shall be prepared in conformity with the

1 latest edition of the National Reserve Study Standards of the
2 Community Associations Institute or similar standards by another
3 recognized national organization. A capital reserve study
4 conducted pursuant to this section shall be performed or overseen
5 by a reserve specialist who is credentialed through the Association
6 of Professional Reserve Analysts or an engineer or architect who is
7 licensed by the State and shall include, but be not limited to, the
8 following:

9 (1) the association's capital reserve fund balances;
10 (2) the association's anticipated income and expenses;
11 (3) an analysis of the physical status and of the common area
12 components of the buildings and other common areas that the
13 association is obligated to maintain;

14 (4) the anticipated costs associated with the building
15 maintenance, as well as the anticipated costs of repair or
16 replacement of common area building components, which are
17 necessary to maintain the structural integrity of the buildings and
18 other common area components that the association is obligated to
19 maintain;

20 (5) a reasonable estimate of the cost of future reserve studies or
21 updates;

22 (6) a reasonable estimate of the costs associated with
23 implementing any corrective maintenance deemed necessary
24 pursuant to section 4 of P.L. , c. (C.) (pending before the
25 Legislature as this bill);

26 (7) a proposed 30-year funding plan, as described in section 8 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 that establishes the adequate proposed capital reserve funding over
29 a 30-year time period; and

30 (8) any other information necessary to perform an analysis of
31 the adequacy of the association's capital reserve funds relative to
32 maintaining the structural integrity of buildings and common areas
33 which the association is obligated to maintain.

34 b. Associations which have not undertaken a reserve study
35 within five years of the effective date of P.L. , c. (C.)
36 (pending before the Legislature as this bill) shall undertake a
37 reserve study within one year of the effective date of P.L. , c.
38 (C.) (pending before the Legislature as this bill). Associations
39 formed after the effective date of P.L. , c. (C.) (pending
40 before the Legislature as this bill) shall undertake a reserve study as
41 soon as practicable after the election of a majority of an executive
42 board pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in
43 no event shall such study be undertaken more than two years
44 following the election of a majority of the executive board under
45 section 5 of P.L.1983, c.30 (C.45:22A-47).

46 c. A covered building owner shall ensure that a capital reserve
47 study conducted pursuant to this section shall be reviewed by a
48 licensed architect, engineer, or credentialed reserve specialist, and

1 that a capital reserve study be conducted and reviewed at least once
2 every five years.

3 d. This section shall not apply to an association created pursuant
4 to P.L.1977, c.419 (C.45:22A-21 et seq.) with less than \$25,000 in
5 total common area capital assets.

6

7 8. (New section) a. An association created pursuant to
8 P.L.1977, c.419 (C.45:22A-21 et seq.) shall obtain a reserve study
9 including a 30-year funding plan in order to ensure that the
10 association has adequate reserve funds available to repair or replace
11 the capital assets located on the common elements and facilities that
12 the association is obligated to maintain without need to create a
13 special assessment or loan obligation, except that in those cases in
14 which a capital asset reaches the end of its established useful life
15 earlier than predicted by the reserve study, nothing herein is
16 intended to prevent the imposition of a special assessment or
17 obtaining a loan. These reserve funds shall be used for the repair or
18 replacement of components that have reached the end of their
19 established useful life as set forth in the most recent reserve study
20 undertaken pursuant to section 7 of P.L. , c. (C.) (pending
21 before the Legislature as this bill).

22 b. When an expenditure of the reserve funds is required to repair
23 or replace a component pursuant to subsection a. of this section, the
24 association shall use only the amount of reserve funds allocated by
25 the reserve study to make such repair or replacement, unless:

26 (1) the use of such additional funds from the reserve fund is not
27 reasonably anticipated to prevent or interfere with the ability of the
28 association to undertake additional repairs or replacements in the
29 five years subsequent to the additional expenditure; and

30 (2) the association's executive board adopts a written resolution
31 requiring that the expenditure of these additional funds shall be
32 recovered within the following three fiscal years.

33 c. If an association existing as of the effective date of P.L. , c.
34 (C.) (pending before the Legislature as this bill) does not have
35 an adequate reserve fund as described in subsection a. of this
36 section, and the increase in the association's budget line item for
37 reserve funding to render it adequate as set forth in the reserve
38 study would, without reference to any other budget line item
39 adjustments, require an increase of more than 10 percent of the
40 previous year's common expense assessment, the deficiency shall
41 be made adequate within the following five fiscal years, provided
42 that each annual increase in reserve funding during the following
43 five fiscal years shall be an equal annual line item increase in the
44 reserve fund until the reserve fund is made adequate,
45 notwithstanding causing an increase of more than 10 percent in the
46 annual common expense assessment.

47 d. If an association existing as of the effective date of P.L. , c.
48 (C.) (pending before the Legislature as this bill) does not have

1 an adequate reserve fund as described in subsection a. of this
2 section, and the increase in the association's budget line item for
3 reserve funding to render it in conformity with the reserve study
4 would, without reference to any other item adjustments, require an
5 increase of less than 10 percent of the previous year's common
6 expense assessment, the deficiency shall be made adequate within
7 the following two fiscal years.

8

9 9. (New section) a. Notwithstanding the terms of a declaration,
10 master deed, bylaws, or other governing document of an
11 association, the executive board may, without the consent of the
12 owners or approval of a developer selling units in the planned real
13 estate development, adopt an assessment payable by the owners
14 over one or more fiscal years or obtain a loan on such terms as the
15 board determines are reasonable, whenever necessary to fund the
16 cost of corrective maintenance of the primary load bearing system
17 of the planned real estate development pursuant to section 4
18 of P.L. , c. (C.) (pending before the Legislature as this
19 bill). Prior to adopting an assessment or obtaining a loan under this
20 section, the executive board shall make a determination that the
21 assessment or loan are necessary to maintain structural integrity of a
22 building and shall obtain a written report from an engineer or
23 architect licensed by the State that states that the failure to
24 undertake corrective maintenance of the primary load bearing
25 system will:

26 (1) constitute an imminent or reasonably foreseeable hazard to
27 health or safety;

28 (2) constitute a violation of sections 3 and 4 of
29 P.L. , c. (C. and C.) (pending before the Legislature
30 as this bill), or

31 (3) will result in a material increase in the cost of such
32 corrective maintenance if delayed.

33 b. Nothing in this section shall prevent or interfere with the right
34 of an association to pursue a lawsuit concerning claims for
35 construction defects related to any common element of the planned
36 real estate development.

37

38 10. (New section) The developer shall prepare a document
39 which sets forth the preventative maintenance tasks to be
40 undertaken by the association over the life of the common area
41 components. This preventive maintenance document shall provide
42 the maintenance schedule and timing for preventive maintenance,
43 including, but not limited to, periodic inspections of the structural
44 components of the buildings or common areas which the association
45 is obligated to maintain. The developer shall include within the
46 budget prepared in accordance with the rules and regulations
47 adopted pursuant to section 15 of P.L.1977, c.419 (C.45:22A-35) all
48 operating expenses associated with the preventative maintenance set

1 forth in the preventative maintenance document prepared pursuant
2 to this section. The preventative maintenance document shall be
3 updated at the completion of any structural inspections performed
4 pursuant to section 3 of P.L. , c. (C.) (pending before the
5 Legislature as this bill) in order to reflect and address any required
6 corrective maintenance.

7

8 11. (New section) Within 60 days after the conveyance of 75
9 percent of the lots, parcels, units or interests, the developer shall
10 relinquish control of the association, and the unit owners shall
11 accept control, as required by section 5 of P.L.1993, c.30
12 (C.45:22A-47). At that time, the developer shall also deliver to the
13 association all property of the unit owners and of the association
14 held or controlled by the developer, including, but not limited to,
15 the following items, if applicable, as to each lot, parcel, unit or
16 interest operated by the association:

17 a. A photocopy of the recorded master deed or declaration and
18 all amendments thereto, certified by affidavit of the developer, or an
19 officer or agent of the developer, as being a complete copy of the
20 actual master deed.

21 b. A certified copy of the association's articles of incorporation,
22 or if not incorporated, then copies of the documents creating the
23 association.

24 c. A copy of the bylaws and all amendments thereto, certified by
25 affidavit of the developer, or an officer or agent of the developer, as
26 being a complete copy of the bylaws.

27 d. A preventative maintenance document or manual created by
28 the developer pursuant to section 10 of P.L. , c. (C.)
29 (pending before the Legislature as this bill) which sets forth a
30 schedule for monitoring on a periodic basis the structural integrity
31 of the buildings' primary load bearing system.

32 e. The minute books, including all minutes, and other books and
33 records of the association, if any.

34 f. Any house rules and regulations which have been
35 promulgated.

36 g. Resignations of officers and members of the governing board
37 or other form of administration who are required to resign because
38 the developer is required to relinquish control of the association.

39 h. An accounting for all association funds, including capital
40 accounts and contributions as of the date of the election of a
41 majority of the executive board members.

42 i. Association funds or control thereof.

43 j. All tangible personal property that is property of the
44 association, represented by the developer to be part of the common
45 elements or ostensibly part of the common elements, and an
46 inventory of that property.

47 k. A copy of the plans and specifications utilized in the
48 construction or remodeling of improvements and the supplying of

1 equipment to the planned real estate development, including plans
2 setting forth all field changes impacting any component of the
3 primary load bearing system and in the construction and installation
4 of all mechanical components serving the improvements and the
5 site, with a certificate in affidavit form of the developer, his agent,
6 or an architect or engineer authorized to practice in this State that
7 such plans and specifications represent, to the best of their
8 knowledge and belief, the actual plans and specifications utilized in
9 the construction and improvement of the condominium property and
10 for the construction and installation of the mechanical components
11 serving the improvements.

12 l. Insurance policies.

13 m. Copies of any certificates of occupancy which may have
14 been issued for the planned real estate development property.

15 n. Any other permits issued by governmental bodies applicable
16 to the planned real estate development property in force or issued
17 within one year prior to the date the unit owners other than the
18 developer take control of the association.

o. All written warranties of the contractor, subcontractors, suppliers, and manufacturers, if any, that are still effective.

21 p. A roster of unit owners and their addresses and telephone
22 numbers, if known, as shown on the developer's records.

23 q. Leases of the common elements and other leases to which the
24 association is a party.

25 r. Employment contracts, management contracts, maintenance
26 contracts, contracts for the supply of equipment or materials, and
27 service contracts in which the association is one of the contracting
28 parties and maintenance contracts and service contracts in which the
29 association or the unit owners have an obligation or responsibility,
30 directly or indirectly, to pay some or all of the fee or charge of the
31 person or persons performing the service.

32 s. All other contracts to which the association is a party.

33

34 12. This act shall take effect immediately.

35

STATEMENT

39 On June 24, 2021, Champlain Towers South, a 12-story
40 beachfront condominium building built in 1981 in Surfside, Florida,
41 collapsed, killing at least 98 people. Although the exact cause of
42 the building collapse remains under investigation, many reports
43 have surfaced stating that the building had major structural issues.
44 In addition, some experts argue that the repeal of a 2010 Florida
45 law requiring that condominiums plan for certain repairs, may have
46 contributed to this tragic building collapse.

Many New Jersey communities have similar multifamily housing structures. Although, the Department of Community Affairs (DCA)

1 conducts certain building inspections on a cyclical basis, under the
2 “Hotel and Multiple Dwelling Law” these inspections currently
3 only address maintenance issues and habitability concerns such as
4 heating, infestation, and lead content. In addition, these cyclical
5 inspections are not required to be conducted by an engineer or other
6 expert. This bill would supplement the “State Uniform
7 Construction Code Act” (UCCA) to require that certain covered
8 buildings and plans be inspected and reviewed by a structural
9 inspector, as defined in the bill, during the building’s pre-
10 construction, construction, and post-construction phases. In
11 addition, this bill would supplement “The Planned Real Estate
12 Development Full Disclosure Act” (PREDFDA) to assure that
13 associations created under PREDFDA maintain adequate reserve
14 funds to make certain required maintenance repairs to building
15 components and common areas.

16 Specifically, this bill would supplement the UCCA to require
17 that a structural inspector review the construction plans submitted
18 with a construction application, set forth an inspection schedule to
19 confirm that the primary load bearing system conforms to the
20 building plans, and issue a written report which determines whether
21 the primary load bearing system conforms to the building plans. A
22 certificate of occupancy would not be issued under this bill until the
23 structural inspector’s report confirms that the construction of the
24 primary load bearing system of the building is in conformance with
25 the approved construction plans. Similarly, this bill would preclude
26 the issuance of a certificate of occupancy until any necessary
27 repairs, renovations, alterations, or modifications to the structural
28 components of a covered building are made pursuant to the
29 inspector’s report. Any additional cost to the enforcing agency
30 incurred as a result of inspections required under this bill would be
31 recovered through a fee associated with the construction
32 application.

33 In addition, this bill would require that an association created
34 under PREDFDA undertake a capital reserve study to identify and
35 assess the adequacy of the association’s capital reserve funds to
36 meet the anticipated costs associated with maintaining the structural
37 integrity of the buildings which the association is obligated to
38 maintain. This capital reserve study would be conducted by a
39 credentialed reserve specialist, or licensed engineer or architect, and
40 would include, an analysis of the following:

- 41 • the association’s capital reserve fund balances;
- 42 • the association’s anticipated income and expenses;
- 43 • the physical status and structural integrity of the common
44 area components of the buildings and other common areas
45 that the association is obligated to maintain;
- 46 • the anticipated costs associated with the building
47 maintenance, as well as the anticipated costs of repair or

- 1 replacement of common area building components, that
2 the association is obligated to maintain;
- 3 • a reasonable estimate of the cost of future reserve studies
4 or updates;
- 5 • a reasonable estimate of the costs associated with
6 implementing any corrective maintenance and periodic
7 structural inspections;
- 8 • a reasonable estimate of the costs associated with
9 implementing any corrective maintenance deemed
10 necessary pursuant to the bill;
- 11 • a proposed 30-year funding plan that establishes the
12 adequate proposed funding over a 30-year time period;
13 and
- 14 • any other information necessary to perform an analysis of
15 the adequacy of the association's capital reserve funds
16 relative to the buildings' common area components and
17 other common areas which the association is obligated to
18 maintain.

19 In addition, this bill would require that the association create and
20 fund a plan to ensure that adequate reserve funds are available to
21 repair or replace one or more components of common elements and
22 facilities which the association is obligated to maintain without
23 need to create a special assessment or loan obligation. The bill
24 would also allow an association's executive board to adopt an
25 assessment payable by the owners over one or more fiscal years or
26 obtain a loan on such terms as the board determines to be
27 reasonable, when necessary to fund the cost of corrective
28 maintenance of the primary load bearing system of the planned real
29 estate development. Prior to adopting such an assessment, the
30 board would need to obtain a written report from a licensed
31 engineer or architect explaining that the failure to undertake
32 corrective maintenance of the primary load bearing system would:

- 33 • constitute an imminent or reasonably foreseeable hazard to
34 health or safety;
- 35 • constitute a violation of the UCCA, or
- 36 • result in a material increase in the cost of such corrective
37 maintenance if delayed.

38 This bill would also require that the developer of a planned real
39 estate development prepare a document setting forth a schedule for
40 the preventative maintenance tasks to be undertaken by the
41 association over the life of the common area components, including,
42 but not limited to periodic inspections of the structural components
43 of the buildings or common areas which the association is obligated
44 to maintain. This document would also be made available to
45 prospective purchasers or owners of units, parcels or other interests
46 of the planned real estate development. This preventative

1 maintenance document would also be updated pursuant to the
2 specifications of any structural inspections or reports performed
3 under the UCCA.