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# Florida Enacts Major New Reforms for Condominiums and Cooperatives in Response to Champlain Towers South Collapse

Clinton Morrell

Shumaker, Loop & Kendrick, LLP

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On May 26, 2022, Florida Governor DeSantis signed Senate Bill 4 into law, imposing substantial new structural safety and reserve requirements on Florida condominiums and cooperative associations. The law is effective immediately and is intended to prevent further disasters like the Champlain Towers South collapse in Surfside, Florida. The new requirements include:

- **Milestone Inspections.** Creation of Fla. Stat. Ch. 553 and amendment of Ch. 718/719, requiring submission to local building official of periodic “milestone inspections” of load bearing walls, structural members, and structural systems, sealed by a licensed architect or engineer, for any building three or more stories in height, except for a three story building with three or fewer single-family units.
  - For pre-turnover condominiums and cooperatives, the developer must obtain and provide the association with a milestone inspection at turnover.
  - For post-turnover condominiums and cooperatives with buildings with certificate of occupancies issued prior to July 1, 1992, the initial milestone inspection is due **December 31, 2024**, and every ten years thereafter.
  - For post-turnover condominiums and cooperatives with certificates of occupancy issued July 1, 1992 or after, milestone inspection due by December 31 of the year in which the building reaches:
    - 25 years of age, for buildings within 3 miles of coastline, or
    - 30 years of age, for buildings not within 3 miles of coastline

- And every 10 years thereafter
- Upon notification from enforcement agency of past-due milestone inspection, the association must submit the inspection report within 180 days.
- Willful and knowing failure to obtain milestone inspections constitute a breach of officers and directors' fiduciary duties.
- The association must post (physically and on web site, if applicable) and provide a copy of the milestone inspections to each unit owner, regardless of findings.
- Allows local enforcement agencies to prescribe timelines and penalties with respect to compliance with the requirements.
- Repairs recommended pursuant to milestone inspection must commence within the earlier of 1) 365 days from submission of the report; or 2) such sooner period of time as designated by the applicable Board of County Commissioners. Failure to perform repairs within the mandated time period requires the local enforcement authority to conduct a review to determine if the building is unsafe for human occupancy.
- **Structural Integrity Reserve Studies and Mandatory Reserves.** Amendment of Fla. Stat. Ch. 718 and 719 to require all condominium and cooperative associations with any building three or more stories in height to obtain “structural integrity reserve studies” every ten years to determine remaining useful life and funds necessary for repair of future major repairs and replacement, and to fully fund reserves for such components.
  - Must include:
    - 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 with deferred maintenance or replacement expense in excess of \$10,000 which, if not performed would negatively impact the aforementioned components.
- Visual inspection must be performed by licensed architect or engineer, but other “qualified” persons can perform other portions of reserve study. **Deadline of December 31, 2024** for any associations which do not already have structural integrity reserve studies. **Failure to complete a structural integrity reserve study constitutes a breach of officers’ fiduciary duty.**
- Association must post structural integrity reserve studies, milestone inspections, or other structural or life safety inspections on web site (if applicable), retain in its official records for 15 years, and make available to owners and renters.
- Developers are required to provide structural integrity reserve study at turnover for each building 3 or more stories in height.
- Reserves for included structural items are mandatory and cannot be waived, reduced, or repurposed. This change will have the effect of increasing the annual assessments for owners in condominiums which do not have reserves but will decrease the likelihood of an unavailability of funds when needed
- **DBPR Enforcement Authority and Reporting Requirements.** Amendment to Fla. Stat. Ch. 718 and 719 to:
  - Authorize the Division of Condominiums, Timeshares and Mobile Homes to enforce milestone inspection and structural integrity reserve studies.
  - **Require, no later than January 1, 2023,** each condominium and cooperative association to provide to the Division, and keep updated, information including:
    - The number of buildings on the condominium or cooperative property that are three stories or higher in height;
    - The total number of units in all such buildings;
    - The addresses of all such buildings;
    - The counties in which all such buildings are located.



- **Unit Owner Disclosure Requirements.** Amendment to Fla. Stat. Ch. 718 and 719 to require the developer to disclose to purchasers the milestone inspections and structural integrity reserve studies, and providing that subsequent purchasers are entitled to obtain such materials at their expense (without exclusion to other documents identified in the statute). Amendment to Fla. Stat. Ch. 718 and 719 to require the developer to include the milestone inspections and structural integrity reserve study in the prospectus filed with the Division.

Additional statutory amendments are possible in future legislative sessions, as Senate Bill 4 directed the Florida Building Commission to consult with the Florida Fire Marshall and prepare recommendations to the governor by December 31, 2022. Given the impending deadlines, condominium and cooperative associations should not delay in ensuring compliance with the new statutory requirements.

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Clinton Morrell

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