

Thinking of Moving into a Condominium in the New Year? Here Are Some Important Insights to Keep in Mind.

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Following the Surfside collapse in June 2021, Governor Ron DeSantis signed the Senate Bill 4D, otherwise known as The Building Safety Act (the “Act”). The Act has brought a sweeping effect on Florida’s current building safety laws and we are likely to see how impactful it will be in the upcoming years. There are three major components to the Act to be aware of: (1) milestone inspections consisting of two phases for buildings that are three or more stories in height, (2) association mandated reserves, and (3) sheer transparency between associations and unit owners.

First and foremost, all existing condominium associations must divulge the following information to the Department of Business and Professional Regulation, Division of Condominium, Timeshares, and Mobile Homes by January 1, 2023:

1. The name of the association;
2. The number of buildings with three stories and higher;
3. The number of units in each building; and
4. The physical address and county where each building is located.

After the association provides this information, they will have to consider the milestone inspections. The first milestone inspection will occur when the building either reaches 30 years of age and every 10 years thereafter, or 25 years of age and every 10 years thereafter if the building is located within three miles of a coastline.

The purpose of the milestone inspection is to test the structure of building and it can be broken down into two phases. Phase one would entail an engineer or architect to conduct a visual inspection of habitable and non-habitable areas of the building and provide an assessment. Based the results of these findings, a phase two inspection may be required. A phase two inspection would be required if the inspector believes there are substantial structural deterioration to any part of building. Ultimately, the test is to find whether any portion of the building has substantial structural distress that could negatively impact the building’s integrity.

Once the milestone inspection(s) are completed, the inspector must submit a fully completed report to the local building official stating whether: (1) there was substantial structural deterioration and recommendations for repairs; (2) whether any unsafe or dangerous conditions were observed; and (3) recommendations for any remedial or preventative repairs for items not substantially deteriorated.

Potential unit owners or renters, would be entitled the right to receive a copy of the inspector’s report. Not only do unit owners receive a copy by mail, but the association is obligated to post the report on the association’s website and publish it in a common area of the building(s). As a potential buyer and/or current unit owner, it would be important to know what is going on with likely one of your biggest assets.

Now, here is the part where you, as potential buyer or current unit owner, may not like as it's going to cost you at your next association's annual budget meeting. The Act mandates that by December 31, 2024, all associations (with three stories and higher) must have a Structural Integrity Reserve Study, which allows for the association to include a reserve account specifically for the expenses that come with future major repairs, replacements, and maintenance of the building(s). The Structural Integrity Reserve Study must address the following:

1. Roofs;
2. Load bearing walls or other primary structural members;
3. Floors;
4. Foundations;
5. Fireproofing and fire protection systems;
6. Plumbing; electrical systems; waterproofing and exterior paint; windows; and
7. Any other item which exceeds \$10,000.00 in deferred maintenance cost and was identified by the engineer or architect performing the inspection portion of the structural integrity reserve study.

As a result, condominium associations are going to see a major shift in the dynamics of their budgeting and governing practices. Despite what may seem as overtly cumbersome on associations, engineers, and architects, these laws were enacted for the safety and wellbeing of condominium occupants throughout the state. While the potential for special assessments may cause some concern for future buyers and renters, the amenities that come with condominium living may offset those concerns.