

# TOWN OF PALM BEACH


Information for Town Council Meeting on: February 9, 2022

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To: Mayor & Town Council

Via: Kirk Blouin, Town Manager

Cc: Jay Boodheshwar, Deputy Town Manager, Police Chief Nicholas Caristo,  
Fire Chief Darrel Donatto, Paul Brazil, Dir. Of Public Works

From: Wayne Bergman, Director of Planning, Zoning & Building 

Re: Building Recertification Program

Date: January 31, 2022

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## **GENERAL INFORMATION**

As you know, staff has been working on a draft Building Safety Inspections and Recertification Program. The program that was presented to you last month is basically the same program used today in Dade and Broward Counties, but as amended by a Palm Beach County Task Force over the past six months. At the January 12, 2022 Town Council meeting, the Mayor and Council granted approval to move forward with the Town's version of this program.

The Palm Beach County Board of County Commissioners were moving forward to adopt this program, but stopped in November of 2021, as they waited to see if any mandatory building safety program from the State would emerge during this legislative session in Tallahassee. It appears that the County was correct in waiting.

Last week the Senate Community Affairs Committee reviewed a draft State building safety program (contained in Senate Bill SB 1702) and unanimously approved the program. The draft State program is different from the current south Florida building safety programs in that the State version does not address electrical safety and the State program accelerates the inspection and recertification cycles. The bill next moves to the Regulated Industries Committee tomorrow (February 1, 2022), then onto the Rules Committee. A companion House Bill, HB 1391, is moving through the Regulatory Reform Subcommittee at this time.

We are pleasantly surprised to see this action and we will follow the proposed legislation as it moves through this session. With this in mind, I believe the best thing for the Town to do is to pause on implementing its own program and closely follow the actions at the State. We should know by April or May whether the State version would move to the Governor's office to become law. In addition, if the State does adopt a building safety program, the Town may need to adopt enabling language to move forward with the State program. Staff has the final versions of the needed ordinances and resolutions required to create and implement a Town program, if the State fails to adopt their own program.

Enclosed is a copy of the article from Florida Politics, January 26, 2022; and a copy of the present Senate Bill 1702.

# Senate panel signs off on first condominium regulation update since Surfside

By Anne Geggis – Florida Politics  
Jan 26, 2022

The first condominium regulation update since the Surfside disaster last year sailed through a Senate committee Tuesday, aiming to require 30-year-old, multifamily buildings taller than three stories get inspected.

The proposed legislation (SB 1702) received unanimous approval from the Senate Community Affairs Committee. The legislation would require a two-part inspection at these buildings' 30-year mark and then once every 10 years thereafter. Buildings within three miles of the coastline would be inspected after 20 years and every seven years thereafter. Ninety-eight people died in the implosion of the 12-story Champlain Towers South. Engineers had warned years before the tragedy about abundant cracking in the 40-year-old structure, along with damaged and exposed rebar. After it imploded in the predawn hours of June, 24, it quickly made the list of the country's worst building disasters. The legislation proposes that a structural engineer or architect perform a visual exam of the building to look for structural distress and a threshold inspector would look at the building and perhaps conduct some testing to analyze the point at which components might fail. The reports would be filed with the condo board, the building owners and the building official who has jurisdiction over where the building is.

"We have half a million condo units in our state that are between 40 and 50 years old or greater," said Sen. Jennifer Bradley, who sponsored the bill. "There is no requirement that they be inspected. There is no requirement that the unit owners are aware of the condition of their building. So, while we all wish we could turn back time, what we can do is take meaningful action today to hopefully prevent this tragedy in other communities." The 30-year milestone for starting inspections was in recommendations received from several task forces that were galvanized to action when the tragedy struck.

"I'm not a building structural specialist," Bradley said, explaining how she arrived at those thresholds. Other recommendations that have yet to get hearings would also require that condos' reserves get more scrutiny and require more education for board members. Lobbyist Travis Moore thanked Bradley for introducing this first piece of legislation with the rules update. "There are many vital and important things that you will do this session, but I'm not sure there's anything that will be more important than what we woke up to that day ... never, ever happens again," he said.

By Senator Bradley

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A bill to be entitled

An act relating to mandatory building inspections; creating s. 553.899, F.S.; providing legislative findings; defining the term "milestone inspection"; specifying that the purpose of a milestone inspection is not to determine compliance with the Florida Building Code; requiring owners of certain multifamily residential buildings to have milestone inspections performed at specified times; requiring the boards of administration for condominium and cooperative associations to arrange for milestone inspections of condominium buildings and cooperative buildings, respectively; specifying that such associations are responsible for costs relating to milestone inspections; providing applicability; requiring that initial milestone inspections for certain buildings be performed before a specified date; specifying that milestone inspections consist of two phases; providing requirements for each phase of a milestone inspection; requiring architects and engineers performing a milestone inspection to submit a sealed copy of the inspection report to certain entities; requiring boards of administrations of condominium associations and cooperative associations to distribute a copy of each inspection report for a condominium building or cooperative building to unit owners and publish the report on the association's website under certain circumstances; authorizing local enforcement agencies to prescribe timelines and penalties relating to

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milestone inspections; requiring the Florida Building Commission to develop certain standards by a specified date and make such standards available to local governments for adoption; amending s. 718.111, F.S.; revising the types of records that constitute the official records of a condominium association; amending s. 718.503, F.S.; revising nondeveloper disclosure requirements relating to resales of residential condominium units; amending s. 719.104, F.S.; revising the types of records that constitute the official records of a cooperative association; amending s. 719.503, F.S.; entitling prospective purchasers of an interest in a cooperative to a copy of milestone inspection reports; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 553.899, Florida Statutes, is created to read:

553.899 Mandatory structural inspections for multifamily residential buildings.—

(1) The Legislature finds that maintaining the structural integrity of a building throughout its service life is of paramount importance in order to ensure that buildings are structurally sound so as to not pose a threat to the public health, safety, or welfare. As such, the Legislature finds that the imposition of a statewide structural inspection program for aging multifamily residential buildings in this state is



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59 necessary to ensure that such buildings are safe for continued  
60 use.

61 (2) As used in this section, the term "milestone  
62 inspection" means a structural inspection of a building by a  
63 licensed architect or engineer authorized to practice in this  
64 state for the purposes of attesting to the life safety and  
65 adequacy of the structural components of the building and, to  
66 the extent reasonably possible, determining the general  
67 structural condition of the building as it affects the safety of  
68 such building. The purpose of such inspection is not to  
69 determine if the condition of an existing building is in  
70 compliance with the Florida Building Code.

71 (3) The owner of a multifamily residential building that is  
72 greater than three stories in height must have a milestone  
73 inspection performed by December 31 of the year in which the  
74 building reaches 30 years of age, based on the date the  
75 certificate of occupancy was issued, and every 10 years  
76 thereafter. The owner of a multifamily residential building that  
77 is greater than three stories in height and is located within 3  
78 miles of a coastline as defined in s. 376.031 must have a  
79 milestone inspection performed by December 31 of the year in  
80 which the building reaches 20 years of age, based on the date  
81 the certificate of occupancy was issued, and every 7 years  
82 thereafter. If a condominium building or cooperative building is  
83 required to have a milestone inspection performed pursuant to  
84 this section, the board of administration of the condominium  
85 association or cooperative association must arrange for the  
86 milestone inspection to be performed and is responsible for  
87 ensuring compliance with the requirements of this section. The

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88 building owner or board of administration of a condominium  
89 association or cooperative association responsible for the  
90 milestone inspection is responsible for all costs associated  
91 with the inspection. This subsection does not apply to two-  
92 family dwellings or to buildings less than 3,500 square feet.

93 (4) If a milestone inspection is required under this  
94 section and the building's certificate of occupancy was issued  
95 on or before July 1, 1992, the building's initial milestone  
96 inspection must be performed before December 31, 2024.

97 (5) A milestone inspection consists of two phases:

98 (a) For phase one of the milestone inspection, a licensed  
99 architect or engineer authorized to practice in this state shall  
100 perform a visual examination of all habitable and nonhabitable  
101 areas of a building and provide a qualitative assessment of the  
102 structural conditions of the building. Surface imperfections  
103 such as cracks, distortion, sagging, excessive deflections,  
104 significant misalignment, signs of leakage, or peeling of  
105 finishes constitute signs of structural distress. If the  
106 architect or engineer finds no signs of structural distress to  
107 any building components under visual examination, phase two of  
108 the inspection, as provided in paragraph (b), is not required.  
109 An architect or engineer who completes the first phase of a  
110 milestone inspection shall prepare and submit an inspection  
111 report pursuant to subsection (6).

112 (b) Phase two of the milestone inspection must be performed  
113 if any structural distress is identified during phase one. Only  
114 a special inspector as defined in s. 553.71 may perform a phase  
115 two inspection. A phase two inspection may involve destructive  
116 or nondestructive testing at the special inspector's direction.



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117 The inspection may be as extensive or as limited as necessary to  
118 fully assess damaged areas of the building in order to confirm  
119 that the building is safe for its intended use or to recommend a  
120 program for fully assessing and repairing damaged portions of  
121 the building. When determining testing locations, the special  
122 inspector must give preference to locations that are the least  
123 disruptive and most easily repairable while still being  
124 representative of the structure. A special inspector who  
125 completes the second phase of a milestone inspection shall  
126 prepare and submit an inspection report pursuant to subsection  
127 (6).

128 (6) Upon completion of a phase one or phase two milestone  
129 inspection, the architect or engineer who performed the  
130 inspection must submit a sealed copy of the inspection report to  
131 the building owner or, if the building is a condominium or  
132 cooperative, to the board of administration of the condominium  
133 or cooperative, and to the building official of the local  
134 government which has jurisdiction. For a milestone inspection of  
135 a condominium or cooperative, the board of administration must  
136 distribute a copy of each inspection report to each condominium  
137 unit owner or cooperative unit owner, regardless of whether  
138 there are deficiencies reported, and, if the association is  
139 required by law to have a website, must publish the report on  
140 the association's website.

141 (7) A local enforcement agency may prescribe timelines and  
142 penalties with respect to compliance with this section.

143 (8) The commission shall develop comprehensive structural  
144 and life safety standards for maintaining and inspecting all  
145 building types and structures in this state by December 31,

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2022. The standards are in addition to those provided in this section and must be made available for local governments to adopt at their discretion.

Section 2. Paragraph (a) of subsection (12) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-



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mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s.

718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

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c. All audits, reviews, accounting statements, and financial reports of the association or condominium.

d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. A copy of the inspection report as described in s. 718.301(4)(p).

16. A copy of all milestone inspection reports required by s. 553.899.

17. Bids for materials, equipment, or services.

18.~~17.~~ All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

19.~~18.~~ All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

Section 3. Paragraph (c) of subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

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(2) NONDEVELOPER DISCLOSURE.—

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM; THE ARTICLES OF INCORPORATION OF THE ASSOCIATION; THE BYLAWS AND RULES OF THE ASSOCIATION; ALL MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 553.899, FLORIDA STATUTES; AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM; THE ARTICLES OF INCORPORATION; THE BYLAWS AND RULES OF THE ASSOCIATION; ALL MILESTONE INSPECTION REPORTS REQUIRED BY SECTION 553.899, FLORIDA STATUTES; AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY



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262 ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING.  
263 BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.  
264

265 A contract that does not conform to the requirements of this  
266 paragraph is voidable at the option of the purchaser prior to  
267 closing.

268 Section 4. Paragraph (a) of subsection (2) of section  
269 719.104, Florida Statutes, is amended to read:

270 719.104 Cooperatives; access to units; records; financial  
271 reports; assessments; purchase of leases.—

272 (2) OFFICIAL RECORDS.—

273 (a) From the inception of the association, the association  
274 shall maintain a copy of each of the following, where  
275 applicable, which shall constitute the official records of the  
276 association:

277 1. The plans, permits, warranties, and other items provided  
278 by the developer pursuant to s. 719.301(4).

279 2. A photocopy of the cooperative documents.

280 3. A copy of the current rules of the association.

281 4. A book or books containing the minutes of all meetings  
282 of the association, of the board of directors, and of the unit  
283 owners.

284 5. A current roster of all unit owners and their mailing  
285 addresses, unit identifications, voting certifications, and, if  
286 known, telephone numbers. The association shall also maintain  
287 the e-mail addresses and the numbers designated by unit owners  
288 for receiving notice sent by electronic transmission of those  
289 unit owners consenting to receive notice by electronic  
290 transmission. The e-mail addresses and numbers provided by unit

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owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the e-mail address or the number for receiving electronic transmission of notices.

6. All current insurance policies of the association.

7. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

8. Bills of sale or transfer for all property owned by the association.

9. Accounting records for the association and separate accounting records for each unit it operates, according to good accounting practices. The accounting records shall include, but not be limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

c. All audits, reviews, accounting statements, and financial reports of the association.

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.

10. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners,

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which shall be maintained for a period of 1 year after the date of the election, vote, or meeting to which the document relates.

11. All rental records where the association is acting as agent for the rental of units.

12. A copy of the current question and answer sheet as described in s. 719.504.

13. All affirmative acknowledgments made pursuant to s. 719.108(3)(b)3.

14. All milestone inspection reports required by s. 553.899.

15. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

Section 5. Paragraph (a) of subsection (2) of section 719.503, Florida Statutes, is amended to read:

719.503 Disclosure prior to sale.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter must comply with the provisions of this subsection prior to the sale of his or her interest in the association. Each prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative is entitled, at the seller's expense, to a current copy of the articles of incorporation of the association, the bylaws, and rules of the association, as well as a copy of the question and answer sheet as provided in s. 719.504 and all milestone inspection reports required by s. 553.899.

Section 6. This act shall take effect July 1, 2022.