



Senate Bill 2760, Structural Integrity Law
Capital Reserve Studies and Funding FAQ



Senate Bill 2760, otherwise known as the Structural Integrity Law, was signed into law in January 2024. The Bill amended N.J.S.A. 52:27D-132 et al. (attachment 1) to require structural inspections of certain residential buildings, as well as N.J.S.A. 45:22A-21 et al., the Planned Real Estate Development Full Disclosure Act (PREDFDA) relative to capital reserve studies for Planned Real Estate Developments (PREDS)

1. **Who is required to conduct a structural integrity inspection pursuant to N.J.S.A. 52:27D-132.4?**

Under the law, if an association building qualifies under the definition of a “covered building” (See N.J.S.A 52:27D-132.3) then the association is required to obtain a structural inspection and report as prescribed by the legislation. The cost of an inspection and structural report is a common expense to be shared by all association unit owners.

A “Covered Building” is defined at N.J.S.A. 52:27D-132.3 as:

“N.J.S.A. 52:27D-132.3 “Covered building” means a residential condominium or cooperative building that has a primary load bearing system that is comprised of a concrete, masonry, steel, or hybrid structure including, without limitation, heavy timber and a building with podium decks, but not including an excluded structure.”

Under the current legislation, the height of your association building has no bearing on whether your association is a “covered building” and subject to the structural integrity inspection requirements. The height/number of floors of the building does not factor into the definition of a “Covered Building” which must have the structural integrity inspection performed.

Additional information can be found within the Summer 2024 *Construction Code Communicator* article, “Residential Structural Integrity Law, P.L. 2023, c.214” (attachment 2).

2. **If my association is not a “Covered building” and exempt from the structural integrity inspection requirements of N.J.S.A. 52:27D-132.4, is my association also exempt from the capital reserve study contained in N.J.S.A. 45:22A-44.2 and 45:22A-44.3?**

No, the association is not exempt from the capital reserve study. Senate Bill 2760 also amended the Planned Real Estate Development Full Disclosure Act (PREDFDA) relative to capital reserve studies for Planned Real Estate Developments (PREDS). Although PREDFDA was amended as part of a structural integrity bill, which was based on the language contained in N.J.S.A. 45:22A-44.2 and 45:22A-44.3 (attachments 3 and 4), the capital reserve study requirements apply to all PRED associations and not just those associations that are covered



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buildings which need to undertake the structural integrity inspections pursuant to N.J.S.A. 52:27D-132 et al..

The cost of the reserve study and funding of the reserve account are common expenses shared by all unit owners. **Even if an association building is not a "covered building" subject to the structural integrity inspection report, the association is still required to perform a capital reserve study and funding plan.**

The applicable statute relative to the capital reserve study requirements is N.J.S.A. 45:22A-44.2 which provides:

a. Any association of a planned real estate development shall undertake and fund a capital reserve study which shall determine or assess the adequacy of the association's capital reserve funds to meet the anticipated costs of replacement or repair of the capital assets of a common interest community that the association is obligated to maintain. All capital reserve studies shall be prepared in conformity with the latest edition of the National Reserve Study Standards of the Community Associations Institute or similar standards by another recognized national organization. A capital reserve study conducted pursuant to this section shall be performed or overseen by a reserve specialist who is credentialed through the Community Associations Institute or an engineer or architect who is licensed by the State and shall include, but be not limited to, the following:

- (1) the association's capital reserve fund balances;*
- (2) the association's anticipated income and expenses;*
- (3) an analysis of the physical status and of the common area components of the buildings and other common areas that the association is obligated to maintain;*
- (4) the anticipated costs associated with the building maintenance, as well as the anticipated costs of repair or replacement of common area building components, which are necessary to maintain the structural integrity of the buildings and other common area components that the association is obligated to maintain;*
- (5) a reasonable estimate of the cost of:*
 - (a) future reserve studies;*
 - (b) reserve study updates; and*
 - (c) periodic structural inspections required pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);*
- (6) a reasonable estimate of the costs associated with implementing any corrective maintenance deemed necessary pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);*



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(7) a proposed 30-year funding plan, as described in section 7 of P.L.2023, c.214 (C.45:22A-44.3) that establishes the adequate proposed capital reserve funding over a 30-year time period; and

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

b. Associations which have not undertaken a reserve study within five years of the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study within one year of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.). Associations formed after the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study as soon as practicable after the election of a majority of an executive board pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in no event shall such study be undertaken more than two years following the election of a majority of the executive board under section 5 of P.L.1983, c.30 (C.45:22A-47).

c. A covered building owner, as defined in section 2 of P.L.2023, c.214 (C.52:27D-132.3), shall ensure that a capital reserve study conducted pursuant to this section shall be reviewed by a licensed architect, engineer, or credentialed reserve specialist and that a capital reserve study be conducted and reviewed at least once every five years.

d. This section shall not apply to an association of a planned real estate development with less than \$25,000 in total common area capital assets.

3. What are "common area capital assets" that would exempt our association under the legislation?

N.J.S.A. 45:22A-44.2(d) indicates associations with "...less than \$25,000 in total common area capital assets" are exempt from the capital reserve study requirements.

"Common area capital assets" are not defined in the law but are a reference to significant, long-lasting property items that are shared by residents within a community, like a condominium or homeowners association, and are considered part of the common areas, such as the building's exterior, hallways, swimming pool, parking areas, or landscaping, which require maintenance and funding. In condominium associations, a **common area asset** refers to all parts of the property that are not part of an individual unit. These areas are shared by all residents and typically maintained by the condominium association. Common areas can include: Hallways, Lobbies, Elevators, Stairwells, Recreational facilities (like pools and gyms), Exterior walls, Parking lots, Roofs, Gardens, and landscaping. They also include **exclusive use common areas**, which are technically part of the common area but are designated for the use of a specific unit, including balconies, storage spaces, patios, and parking spaces.



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4. Can our association board members prepare the capital reserve study?

No. As per N.J.S.A. 45:22A-44.2(a), "...all capital reserve studies shall be prepared in conformity with the latest edition of the National Reserve Study Standards of the Community Associations Institute or similar standards by another recognized national organization. **A capital reserve study conducted pursuant to this section shall be performed or overseen by a reserve specialist who is credentialed through the Community Associations Institute or an engineer or architect who is licensed by the State.**

5. How much money does our association need to keep in reserves?

The association board, in consultation with the capital reserve specialist or licensed engineer or architect, will need to make a business judgment decision as to the capital reserve funding plan that is most appropriate for the association.

The applicable statute relative to the capital reserve study funding requirements is N.J.S.A. 45:22A-44.3 which provides:

a. An association of a planned real estate development shall obtain a reserve study including a 30-year funding plan in order to ensure that the association has adequate reserve funds available to repair or replace the capital assets located on the common elements and facilities that the association is obligated to maintain without need to create a special assessment or loan obligation, except that in those cases in which a capital asset reaches the end of its established useful life earlier than predicted by the reserve study, nothing herein is intended to prevent the imposition of a special assessment or obtaining a loan. These reserve funds shall be used for the repair or replacement of components that have reached the end of their established useful life as set forth in the most recent reserve study undertaken pursuant to section 6 of P.L.2023, c.214 (C.45:22A-44.2).

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

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

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



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c. If an association existing as of the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it adequate as set forth in the reserve study would, without reference to any other budget line item adjustments, require an increase of more than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the earlier of the following 10 fiscal years, or the projected date predicted by the reserve study by which absent increased funding, the balance in the association's reserve account would fall below zero. In either case, the annual increase in reserve funding during the required period of time shall be an equal annual line item increase in the reserve fund until the reserve fund is made adequate, notwithstanding causing an increase of more than 10 percent in the annual common expense assessment.

d. If an association existing as of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it in conformity with the reserve study would, without reference to any other item adjustments, require an increase of less than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the following two fiscal years.

6. Does the New Jersey Department of Community Affairs oversee and review our association's capital reserve accounts and balances?

The New Jersey Department of Community Affairs (DCA) does not oversee owner-controlled associations relative to the association board's compliance with N.J.S.A. 45:2A-44.2 and N.J.S.A. 45:2A-44.3. Owner-controlled associations are managed and operated by duly elected owners, who have a fiduciary obligation to all unit owners within the association to be guided by and comply with N.J.S.A. 45:2A-44.2 and N.J.S.A. 45:2A-44.3. An association board's decision not to comply with N.J.S.A. 45:2A-44.2 and N.J.S.A. 45:2A-44.3 could expose the association as well as the individual association board members to civil liability to all unit owners within the association. The association board should be guided by the association's legal counsel, retained financial professionals as well as the capital reserve specialist who is credentialed through the Community Associations Institute or an engineer or architect who is licensed by the State that is retained by the association to prepare the reserve study and determine any funding recommendations to achieve compliance with the legislation. Owners within associations that feel the board's actions as well as the recommendations of any retained professionals are contrary to the legislation will need to institute civil litigation to resolve any disputes. The DCA has no statutory jurisdiction over the business judgment decisions of association boards relative to the spending of association funds or the issuance of assessments to unit owners. Owners who disagree with the actions of the Board should review the association's governing documents to determine whether the special assessment was properly authorized by the association, as well as jointly petition the association board to reconsider its decision. If the matter cannot be amicably resolved between the parties then the resolution of the matter will need to be decided through civil litigation.


Attachment 1

N.J. Stat. § 52:27D-132

Current through New Jersey 220th Second Annual Session, L. 2023, c. 349 and J.R. 18

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Notice

 This section has more than one version with varying effective dates.

§ 52:27D-132. Inspection of construction by enforcing agency; right of entry; stop construction orders; violations, reinspection [Effective until date stated in L. 2022, c. 139, § 5]

- a. The enforcing agency shall periodically inspect all construction undertaken pursuant to a construction permit issued by it to insure that the construction or alteration is performed in accordance with the conditions of the construction permit and consistent with the requirements of the code and any ordinance implementing said code.
- b. The owner of any premises upon which a building or structure is being constructed shall be deemed to have consented to the inspection by the enforcing agency and the department, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all construction thereon, for purposes of ensuring compliance with the provisions of the applicable construction permit, the code, and other applicable laws and regulations. All inspection pursuant to this act [C.52:27D-119 et seq.] shall be between the hours of 9 a.m. and 5 p.m. on business days, or when construction is actually being undertaken, provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or his agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to this act, unless his presence is necessary for the enforcement of this act, or the code, or unless consent is given by an owner or his agent, architect, engineer or builder.
- c. If the construction of a structure or building is being undertaken contrary to the provisions of a construction permit, this act, the code, or other applicable laws or ordinances, the enforcing agency may issue a stop construction order in writing which shall state the conditions upon which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. No person shall continue, or cause or allow to be continued, the construction of a building or structure in violation of a stop construction order, except with the permission of the enforcing agency to abate a dangerous condition or remove a violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by law or ordinance.
- d. When an inspector or team of inspectors finds a violation of the provisions of a construction permit, the code, or other applicable laws and regulations at an owner-occupied single-family residence, and issues a notice of violation

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and an order to terminate the violation, the enforcing agency shall require the same inspector or team of inspectors who found the violation to undertake any subsequent reinspection thereof at the premises. When the same inspector or team of inspectors cannot be assigned to undertake the reinspection, the enforcing agency may assign an available inspector provided the scope of the reinspection shall be limited to the violation for which the reinspection is required. The requirements of this subsection shall not apply to violations of the plumbing or electrical subcodes, or to fire safety code violations, or to any violation of any other subcode that the Department of Community Affairs determines to be a health or safety violation. Nothing in this subsection shall be construed to infringe upon the right of a property owner to request a different inspector, team of inspectors, or supervisor, to perform any required reinspection.

History

L. 1975, c. 217, § 14; amended 2007, c. 149, § 1, eff. Aug. 21, 2007.

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- a. The enforcing agency shall periodically inspect all construction undertaken pursuant to a construction permit issued by it to ensure that the construction or alteration is performed in accordance with the conditions of the construction permit and consistent with the requirements of the code and any ordinance implementing said code.
- b. The owner of any premises upon which a building or structure is being constructed shall be deemed to have consented to the inspection by the enforcing agency and the department, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all construction thereon, for purposes of ensuring compliance with the provisions of the applicable construction permit, the code, and other applicable laws and regulations. All inspection pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) shall be between the hours of 9 a.m. and 5 p.m. on business days or at another time that has been agreed upon by the owner and the relevant inspecting entity, whether the enforcing agency, department, or private on-site inspection agency, or when construction is actually being undertaken, provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or the owner's agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.), unless the person's presence is necessary for the enforcement of P.L.1975, c.217 (C.52:27D-119 et seq.), or the code, or unless consent is given by an owner or the owner's agent, architect, engineer or builder.
- c. If the construction of a structure or building is being undertaken contrary to the provisions of a construction permit, P.L.1975, c.217 (C.52:27D-119 et seq.), the code, or other applicable laws or ordinances, the enforcing agency may issue a stop construction order in writing which shall state the conditions upon which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. No person shall continue, or cause or allow to be continued, the construction of a building or structure in violation of a stop construction order, except with the permission of the enforcing agency to abate a dangerous condition or remove a violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by law or ordinance.

d. When an inspector or team of inspectors finds a violation of the provisions of a construction permit, the code, or other applicable laws and regulations at an owner-occupied single-family residence, and issues a notice of violation and an order to terminate the violation, the enforcing agency shall require the same inspector or team of inspectors who found the violation to undertake any subsequent reinspection thereof at the premises. When the same inspector or team of inspectors cannot be assigned to undertake the reinspection, the enforcing agency may assign an available inspector provided the scope of the reinspection shall be limited to the violation for which the reinspection is required. The requirements of this subsection shall not apply to violations of the plumbing or electrical subcodes, or to fire safety code violations, or to any violation of any other subcode that the Department of Community Affairs determines to be a health or safety violation. Nothing in this subsection shall be construed to infringe upon the right of a property owner to request a different inspector, team of inspectors, or supervisor, to perform any required reinspection.

e. The owner, agent, or other responsible person in charge of work shall notify the enforcing agency when the work is ready for any required inspection under the code. This notice shall be given in writing at least 24 hours prior to the date and time requested for the inspection. The enforcing agency shall perform an inspection within three business days of the date for which the inspection is requested. The owner, agent, or other responsible person in charge of work may provide oral notice for inspections of minor work projects, as defined by the code.

(1) The owner, agent, or other responsible person in charge of work shall be present and prepared at the time of any inspection that has been scheduled upon the owner, agent, or other responsible person's request. A failure by the owner, agent, or other responsible person in charge of work to be present and prepared for inspection shall be considered a failed inspection.

(2) If the enforcing agency is unable to perform a requested inspection within three business days of the date for which the inspection is requested, the enforcing agency shall inform the owner, agent, or other responsible person in charge of work in writing within 24 hours of receiving the request, at which time the enforcing agency and the owner, agent, or other responsible person in charge of work may agree to a different date and time for inspection. The enforcing agency shall commit the agreed upon inspection date to writing and provide a copy to the owner, agent, or other responsible person in charge of work.

(3) If the enforcing agency is unable to perform the requested inspection within three business days of the date for which the inspection is requested and the enforcing agency and the owner, agent, or responsible person in charge of work are unable to come to an agreement pursuant to paragraph (2) of this subsection, the owner, agent, or other responsible person in charge of work may choose to contract with a private on-site inspection agency authorized by the department to conduct on-site inspections pursuant to paragraph i. of section 6 of P.L.1975, c.217 (C.52:27D-124) to perform the requested inspection or inspections.

(a) The owner, agent, or other responsible person in charge of work shall notify the enforcing agency in writing of any choice to utilize an authorized private on-site inspection agency to conduct the requested inspection or inspections.

(b) The owner, agent, or other responsible person in charge of work may elect to utilize the private on-site inspection agency to conduct all subsequent associated inspections. In the event of a project with multiple units in one building, this provision shall apply to the specific unit or units affected by the inspection delay.

(c) The use of a private on-site inspection agency by an owner, agent, or other responsible person for on-site inspections shall be subject to the conflict-of-interest provisions in the code. In addition to those requirements, no private on-site inspection agency shall perform an inspection for any owner, agent, or other responsible person in charge of work, if an owner, agent, or other responsible person is currently employed by or affiliated with any individual affiliated with the private on-site inspection agency or has employed or was associated with an individual affiliated with the private on-site inspection agency within a timeframe established by the commissioner by regulation.

(d) The enforcing agency shall, if warranted, provide a fee reconciliation to the owner for an inspection completed by a private on-site inspection agency as a result of a missed inspection. The enforcing agency shall perform the reconciliation at the conclusion of the project. This reconciliation shall be based on the fees

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already paid less administrative costs for the enforcing agency and shall not exceed the amount already paid for the project, nor shall it exceed the amount that the enforcing agency is authorized to impose for inspections, and shall take into account the administrative costs of the enforcing agency.

(4) If the owner, agent, or other responsible person in charge of work believes an enforcing agency has demonstrated a repeated inability to conduct inspections for a construction project within the timelines required by this section, as established by the commissioner by regulation, the owner, agent, or other responsible person in charge of work may notify the department in writing to request authorization to utilize an authorized private on-site inspection agency. Within 15 business days of receiving a notification under this paragraph, the department shall determine whether the enforcing agency has demonstrated repeated inability, and, if the department determines, shall authorize the owner, agent, or other responsible person in charge of work to utilize an authorized private on-site inspection agency for all or a portion of the necessary inspections for the remainder of the project.

f. Each enforcing agency shall establish a process for ensuring inspections are performed within three business days of a requested inspection date, as required by subsection e. of this section. Authorized processes include, but are not limited to, the use of supplemental shared services agreements with other municipalities or enforcing agencies or the use of contracted private on-site inspection agencies, including supplemental private on-site inspection agencies.

g.

(1) At timeframes established by the commissioner by regulation, adopted in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the municipal construction official shall submit an annual report detailing compliance with the code. The report shall include, at a minimum information related to the staffing, staff titles, and expenses of the enforcing agency, in addition to any other information required by the commissioner. The annual report shall take into account projected work and agency resource needs for the next budget year.

(2) A municipality that enters into a contract for supplemental services pursuant to subsection f. of this section shall provide a copy of the contract to the department upon entering into the contract.

(3) The information required by paragraphs (1) and (2) of this subsection, in addition to the inspection log, the municipal monthly activity reports, and the fee schedule shall be maintained by the municipal construction official or enforcing agency, and the municipal construction official or enforcing agency shall make the information and documents described in this paragraph available to the department upon request.

(4) The department may utilize the information provided pursuant to this subsection to determine appropriate staffing levels for the enforcing agency. If the department determines that an enforcing agency has not maintained appropriate staffing levels, the department may require the municipality to take corrective actions to ensure that the enforcing agency’s staffing needs are met.

(5) The department may take corrective action, including the issuance of penalties, pursuant to subsection k. of section 6 of P.L.1975, c.217 (C.52:27D-124), if an enforcing agency fails to maintain or provide the information required by this subsection or maintain appropriate staffing levels, as determined by the department pursuant to paragraph (4) of this subsection.

h. If an enforcing agency is unable to meet its obligations under P.L.1975, c.217 (C.52:27D-119 et seq.), the enforcing agency shall promptly notify the department within 15 business days. The department may take corrective action, including the issuance of penalties, pursuant to subsection k. of section 6 of P.L.1975, c.217 (C.52:27D-124) if an enforcing agency fails to meet its obligations under P.L.1975, c.217 (C.52:27D-119 et seq.).

History

L. 1975, c. 217, § 14; amended 2007, c. 149, § 1, eff. Aug. 21, 2007; 2022, c. 139, § 2.

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N.J. Stat. § 52:27D-132.3

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§ 52:27D-132.3. Definitions

As used in P.L.2023, c.214 (C.52:27D-132.2 et al.):

“Balcony” means an extension of the interior living space of the building that extends outwards from the facade of a covered building and is exposed to the elements.

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

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

“Covered building” means a residential condominium or cooperative building that has a primary load bearing system that is comprised of a concrete, masonry, steel, or hybrid structure including, without limitation, heavy timber and a building with podium decks, but not including an excluded structure.

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

“Excluded structure” means:

- (1) International Standardization Organization ISO Type 1 construction or frame-built construction with combustible walls or roofs, but not including a podium deck on which the frame-built construction is situated;
- (2) a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator shafts or concrete, masonry, steel, or heavy timber that the primary load bearing system does not deliver a building’s load to the foundation;
- (3) a building that is not a condominium or cooperative, and consists primarily of rental dwellings; or
- (4) a single-family dwelling.

“Podium deck” means a structural slab or deck that transfers applied loads from the structure above to the structure below.

“Primary load bearing system” means the assemblage of structural components within a building comprised of columns, beams, or bracing that by contiguous interconnection form a path by which external and internal forces applied to the building are delivered to the foundation. The foundation as well as any connected or attached balconies shall be included as part of the primary load bearing system evaluation.

“Structural inspector” means:

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

§ 52:27D-132.3. Definitions

(3) an engineer licensed by the State who has the same qualifications required of an engineer under contract with the enforcing agency with whom the covered building owner contracts to perform inspections of covered buildings under section 3 of P.L.2023, c.214 (C.52:27D-132.4).

History

L. 2023, c. 214, § 2, effective January 8, 2024.

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N.J. Stat. § 52:27D-132.4

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§ 52:27D-132.4. Initial structural inspection, building components, primary load bearing system, covered building, timelines; reports

- a.** Following the issuance of a certificate of occupancy, an initial structural inspection of the building components forming the primary load bearing system of a covered building shall be undertaken by a post-occupancy structural inspector retained by the covered building owner within the earlier of:
- (1) 15 years of the date on which the covered building receives a certificate of occupancy pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133); or
 - (2) 60 days after observable damage to the primary load bearing system.
- b.** If a covered building has received a certificate of occupancy pursuant to section 15 of P.L.1975, c.217 (C.52:27D-133) prior to the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.), then an initial structural inspection shall be undertaken by a structural inspector based on the number of years the certificate of occupancy preceded the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), as provided in this subsection. If the certificate of occupancy was provided:
- (1) one day to 14 years and 364 days prior to the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), then the structural inspection shall occur within one year of the date 15 years following the date of the issuance of the certificate of occupancy; or
 - (2) 15 or more years prior to the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.), then the structural inspection shall occur within two years following the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.).
- c.** A building that has been converted to a condominium or cooperative form of ownership after the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall, as part of the process of registering the project pursuant to the “Planned Real Estate Development Full Disclosure Act,” P.L.1977, c.419 (C.45:22A-21 et seq.) and the regulations promulgated thereunder, be required to follow the schedule of inspections provided in paragraphs (1) and (2) of subsection b. of this section.
- d.** After the post-occupancy structural inspector has performed an inspection pursuant to subsection a. of this section, the post-occupancy structural inspector shall issue a written report describing the condition of the primary load bearing system. The post-occupancy structural inspection report shall:
- (1) set forth with specificity any required maintenance or repairs needed by the primary load bearing system;
 - (2) determine when the next inspection of the primary load bearing system shall be performed, but in no event shall a secondary inspection occur more than the earlier of: (a) 10 years after the initial inspection has taken place; or (b) not more than 60 days after there is observable damage to the primary load bearing system;
 - (3) be provided to the municipal appointing authority, the construction official and the enforcing agency;
 - (4) be prepared in accordance with the protocol established by the American Society of Civil Engineers, for the structural condition assessment of a covered building or a similar protocol by another nationally recognized structural engineering organization; and

- (5) provide any other information or guidance necessary to maintain the structural integrity of a covered building.
- e. If the structural inspector's report created pursuant to subsection d. of this section finds that corrective maintenance of the primary load bearing system is required, the report shall specify with reasonable detail the required corrective maintenance.
- f. Notwithstanding the structural inspector's initial inspection and report undertaken pursuant to subsections a. through e. of this section, subsequent structural inspections and reports shall be provided for as set forth by the structural inspector's preceding report as follows:
- (1) The structural inspector shall determine a reasonable period of time within which the next inspection shall take place provided, however, that any subsequent inspection under this paragraph shall not take place more than five years after a preceding inspection.
 - (2) The structural inspector shall review the preceding inspection report prior to undertaking subsequent inspection of the covered building. After the structural inspector completes this review and inspection, the structural inspector will then issue a subsequent inspection report which shall:
 - (a) make note of any new or progressive deterioration;
 - (b) set forth the covered maintenance required to address any new or progressive deterioration; and
 - (c) be provided to the covered building owner, who shall undertake measures necessary to effectuate the covered maintenance, including, but not limited to, engaging the services of an architect or engineer licensed by the State and qualified in structural repairs or maintenance to create plans or specifications to implement the covered maintenance. The covered building owner shall cause any plans or specifications created pursuant to this subparagraph to be filed with the municipal appointing authority or enforcing agency.
 - (3) If the post-occupancy structural inspector's inspection finds that there is no need for corrective maintenance, the written report shall be filed with the enforcing agency or municipal appointing authority.
 - (4) Any written reports issued by the post-occupancy structural inspector pursuant to this section shall be provided to the covered building's owner and shall be made available to any resident of a covered building upon request.
- g. Inspections conducted pursuant to this section may be conducted in conjunction with other required inspections, including, but not limited to, inspections required pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

History

L. 2023, c. 214, § 3, effective January 8, 2024.

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N.J. Stat. § 52:27D-132.1

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§ 52:27D-132.1. Rules, regulations

In accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall propose within six months and adopt within nine months rules and regulations to effectuate the provisions of P.L.2022, c.139 (C.52:27D-132.1 et al.), including rules that provide for: the use of supplemental shared services agreements; the authorization of private on-site inspection agencies by the department to conduct on-site inspections; and the use of private on-site inspection agencies by municipalities and enforcing agencies. In addition to the activity described in subparagraph (b) of paragraph (3) of subsection e. of section 14 of P.L.1975, c.217 (C.52:27D-132), the rules and regulations shall allow an enforcing agency to:

- a. enter into a supplemental shared service agreement or contract with a supplemental private on-site inspection agency to conduct an on-site inspection for the purpose of meeting all required inspection timeframes;
- b. enter into an agreement with a private on-site inspection agency to conduct an on-site inspection on a project-specific basis; and
- c. authorize the owner, agent, or other authorized person in charge of work to directly contract with an authorized private on-site inspection agency to perform all inspections on a project-specific basis.

History

L. 2022, c. 139, § 4, effective January 5, 2023.

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N.J. Stat. § 52:27D-132.2

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§ 52:27D-132.2. Findings, declarations

The Legislature finds and declares that:

- a.** The importance of the structural integrity of residential buildings in New Jersey has become a growing concern for many, especially in the wake of the tragic collapse of a high-rise, multifamily housing structure in Florida.
- b.** In light of these growing concerns, it is appropriate for the Legislature to put in place appropriate procedures for inspecting, evaluating, and maintaining the structural integrity of certain residential housing structures within this State.

History

L. 2023, c. 214, § 1, effective January 8, 2024.

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N.J. Stat. § 52:27D-132.5

Current through New Jersey 220th Second Annual Session, L. 2023, c. 349 and J.R. 18

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§ 52:27D-132.5. Post-occupancy structural inspector, American Society of Civil Engineers protocols, similar, good faith performance of duties, civil liability, injury, prohibited

A post-occupancy structural inspector who performs the duties set forth in section 3 of P.L.2023, c.214 (C.52:27D-132.4) in good faith and pursuant to the protocols adopted by the American Society of Civil Engineers, or similar protocols by another nationally recognized structural engineering association, shall not incur any civil liability for injury associated with any inspection undertaken by the structural inspector.

History

L. 2023, c. 214, § 4, effective January 8, 2024.

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Attachment 2

Volume 36 Number 2 Summer 2024

(Written Requests for Inspection and Minor Work Projects)

<https://www.nj.gov/dca/codes/publications/ccc.shtml>

RESPONSE: These sections are intentionally worded differently. Due to the nature of minor work projects, which entail only a final inspection, N.J.A.C. 5:23-2.17A(d)1 states the required timeline in which the final inspection must be done. As the notice for minor work, addressed at N.J.A.C. 5:23-2.17A(b), allows for the initial notice to be either oral or in writing, that same standard applies for the related inspections. Further, a request through email does constitute a written request.

Sorry for the déjà vu if you read the note in the *UCC Summary of Rule Changes – Spring 2024 Update* article above, but this is only because we want to make this clarification crystal clear.

Source: Ian Rayfield
Code Development
Unit (609) 984-7609

Residential Structural Integrity Law, P.L. 2023, c.214

Senate Bill S2760, concerning structural integrity requirements for certain residential buildings, was first introduced in 2022 and was ultimately signed into law on January 8, 2024, as P.L. 2023, c.214. This law is available online at <https://pub.njleg.state.nj.us/Bills/2022/PL23/214 .PDF>.

Under this law, “covered buildings” must have a structural inspection performed at intervals established by the law.

The law refers to a “covered building” as any residential condominium or cooperative (condo/coop) building that has a primary load bearing system that is comprised of a concrete, masonry, steel, or hybrid structure including, without limitation, heavy timber and a building with podium decks, with some structures excluded.

Within the Covered Building definition set forth in the law, the term “Primary load bearing system” means the assemblage of structural components within a building comprised of columns, beams, or bracing that by contiguous interconnection form a path by which external and internal forces applied to the building are delivered to the foundation. The foundation as well as any connected or attached balconies shall be included as part of the primary load bearing system evaluation.

For reference, this essentially amounts to the definitions of Primary Structural Members and Secondary Structural members from the International Building Code (IBC).

The following structures are excluded from the law’s definition of a covered building:

- (1) International Standardization Organization ISO Type 1 construction or frame-built construction with combustible walls or roofs, but not including a podium deck on which the frame-built construction is situated;
- (2) a building with ancillary elements that are not part of the primary load bearing system such as, but not limited to, elevator shafts or concrete, masonry, steel, or heavy timber that the primary load bearing system does not deliver a building’s load to the foundation;
- (3) a building that is not a condominium or cooperative, and consists primarily of rental dwellings; and
- (4) a single-family dwelling.

Note that ISO Type 1 construction is essentially Type V construction from the IBC, so conventional lumber residential condos and coops are exempt.

(Continued on next page)

(Residential Structural Integrity Law, P.L. 2023, c.214)

Under the law, owners of covered buildings are responsible for ensuring their buildings receive structural inspections by deadlines that vary depending upon the date on which the Certificate of Occupancy was issued. This would be performed by a licensed New Jersey engineer. Following an inspection, the engineer must provide a report assessing the covered building’s condition using the protocol established by the American Society of Civil Engineers, or any similar protocol by another nationally recognized structural engineering organization. The report must identify any required maintenance needed to maintain the primary load bearing system and determined when the next structural inspection must occur. Pursuant to the law, these reports must also be shared with the local enforcing agency.

Local enforcing agencies do not enforce this law but may start to receive reports regarding covered buildings. These reports should be maintained in your files for the building. In some cases, you may see permit applications filed to undertake measures identified in the report as necessary to maintain the structural integrity of the covered building.

Source: Code Assistance Unit
(609) 984-7609

Plan Review Reserved to the Department



As you all know, the Bureau of Construction Project Review performs plan review and issues releases of plans for specific types of buildings throughout the State, such as those projects noted at N.J.A.C. 5:23-3.11. Once those plans have been released, either fully or through partial release, to the local enforcing agency, the enforcing agency can issue permits for the segment of work that has been released and undertake inspections.

It has recently come to the Bureau’s attention that there are a number of local enforcing agencies who are issuing permits and, in some cases, even certificates of approval or occupancy, before the Bureau has completed review and released the plans in whole or through partial release. The plan review process is vital to ensuring the building meets all necessary Uniform Construction Code requirements; without having those released plans, there is no way to ensure that the work inspected meets the plans, or the portions of the plans, as released.

This article just serves as a friendly reminder of the process. Permits are not to be issued, and construction cannot ensue, until the plans have been released, either in full or through partial release, by the Department.

If you have any questions regarding this process, please do not hesitate to contact the Bureau.

Source: Bureau of Construction Project Review
(609) 984-7850

Gazebos, Sheds, and Pergolas: Do You Need a Permit?



(Updated reprint from Summer 2018)

As we gear up for backyard fun this summer, let’s get real about those fancy backyard structures. You know, the gazebos where you sip lemonade, the sheds where you hide your lawnmower, and those airy pergolas that make your neighbors jealous. But before you start hammering away, let’s talk Uniform Construction Code (UCC), N.J.A.C. 5:23, permits!

Please note that the following descriptions pertain to “DETACHED” accessory structures for use in residential group R-2, R-3, R-4, or R-5:

(Continued on next page)

N.J. Stat. § 45:22A-44.2

Current through New Jersey 220th Second Annual Session, L. 2023, c. 349 and J.R. 18

LexisNexis® New Jersey Annotated Statutes > Title 45. Professions and Occupations (Subts. 1 — 2) > Subtitle 2. Other Regulated Occupations (Chs. 17 — 28) > Chapter 22A. Real Estate Developers (§§ 45:22A-1 — 45:22A-56)

§ 45:22A-44.2. Planned real estate development, association, capital reserve study, anticipated costs, replacement, repair, common interest community; standards, credentials

a. Any association of a planned real estate development shall undertake and fund a capital reserve study which shall determine or assess the adequacy of the association's capital reserve funds to meet the anticipated costs of replacement or repair of the capital assets of a common interest community that the association is obligated to maintain. All capital reserve studies shall be prepared in conformity with the latest edition of the National Reserve Study Standards of the Community Associations Institute or similar standards by another recognized national organization. A capital reserve study conducted pursuant to this section shall be performed or overseen by a reserve specialist who is credentialed through the Community Associations Institute or an engineer or architect who is licensed by the State and shall include, but be not limited to, the following:

- (1) the association's capital reserve fund balances;
- (2) the association's anticipated income and expenses;
- (3) an analysis of the physical status and of the common area components of the buildings and other common areas that the association is obligated to maintain;
- (4) the anticipated costs associated with the building maintenance, as well as the anticipated costs of repair or replacement of common area building components, which are necessary to maintain the structural integrity of the buildings and other common area components that the association is obligated to maintain;
- (5) a reasonable estimate of the cost of:
 - (a) future reserve studies;
 - (b) reserve study updates; and
 - (c) periodic structural inspections required pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);
- (6) a reasonable estimate of the costs associated with implementing any corrective maintenance deemed necessary pursuant to section 3 of P.L.2023, c.214 (C.52:27D-132.4);
- (7) a proposed 30-year funding plan, as described in section 7 of P.L.2023, c.214 (C.45:22A-44.3) that establishes the adequate proposed capital reserve funding over a 30-year time period; and
- (8) any other information necessary to perform an analysis of the adequacy of the association's capital reserve funds relative to maintaining the structural integrity of buildings and common areas which the association is obligated to maintain.

b. Associations which have not undertaken a reserve study within five years of the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study within one year of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.). Associations formed after the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) shall undertake a reserve study as soon as practicable after the election of a majority of an executive board

pursuant to section 5 of P.L.1983, c.30 (C.45:22A-47), but in no event shall such study be undertaken more than two years following the election of a majority of the executive board under section 5 of P.L.1983, c.30 (C.45:22A-47).

c. A covered building owner, as defined in section 2 of P.L.2023, c.214 (C.52:27D-132.3), shall ensure that a capital reserve study conducted pursuant to this section shall be reviewed by a licensed architect, engineer, or credentialed reserve specialist and that a capital reserve study be conducted and reviewed at least once every five years.

d. This section shall not apply to an association of a planned real estate development with less than \$25,000 in total common area capital assets.

History

L. 2023, c. 214, § 6, effective January 8, 2024.

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N.J. Stat. § 45:22A-44.3

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§ 45:22A-44.3. Planned real estate development, association, reserve study, 30-year funding plan, repair, replace capital assets, common elements, facilities; special assessment, loans

- a. An association of a planned real estate development shall obtain a reserve study including a 30-year funding plan in order to ensure that the association has adequate reserve funds available to repair or replace the capital assets located on the common elements and facilities that the association is obligated to maintain without need to create a special assessment or loan obligation, except that in those cases in which a capital asset reaches the end of its established useful life earlier than predicted by the reserve study, nothing herein is intended to prevent the imposition of a special assessment or obtaining a loan. These reserve funds shall be used for the repair or replacement of components that have reached the end of their established useful life as set forth in the most recent reserve study undertaken pursuant to section 6 of P.L.2023, c.214 (C.45:22A-44.2).
- b. When an expenditure of the reserve funds is required to repair or replace a component pursuant to subsection a. of this section, the association shall use only the amount of reserve funds allocated by the reserve study to make such repair or replacement, unless:
- (1) the use of such additional funds from the reserve fund is not reasonably anticipated to prevent or interfere with the ability of the association to undertake additional repairs or replacements in the five years subsequent to the additional expenditure; and
 - (2) the association's executive board adopts a written resolution requiring that the expenditure of these additional funds shall be recovered within the following five fiscal years.
- c. If an association existing as of the effective date [Jan. 8, 2024] of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it adequate as set forth in the reserve study would, without reference to any other budget line item adjustments, require an increase of more than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the earlier of the following 10 fiscal years, or the projected date predicted by the reserve study by which absent increased funding, the balance in the association's reserve account would fall below zero. In either case, the annual increase in reserve funding during the required period of time shall be an equal annual line item increase in the reserve fund until the reserve fund is made adequate, notwithstanding causing an increase of more than 10 percent in the annual common expense assessment.
- d. If an association existing as of the effective date of P.L.2023, c.214 (C.52:27D-132.2 et al.) does not have an adequate reserve fund as described in subsection a. of this section, and the increase in the association's budget line item for reserve funding to render it in conformity with the reserve study would, without reference to any other item adjustments, require an increase of less than 10 percent of the previous year's common expense assessment, the deficiency shall be made adequate within the following two fiscal years.

History

L. 2023, c. 214, § 7, effective January 8, 2024.

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