

## What to know about the HOA Balcony Law SB-326

- This bill requires the association of a condominium project to conduct a reasonably competent and diligent visual inspection of exterior elevated elements more than 6 feet above ground level, defined as the load-bearing components and associated waterproofing systems, as specified, to determine whether the exterior elevated elements are in a generally safe condition and performing in compliance with applicable standards.
- The bill requires the inspector to submit a report to the board of the association providing specified information, including the current physical condition and remaining useful life of the load-bearing components and associated waterproofing systems.
- The bill requires the inspector to provide a copy of the inspection report to the association immediately upon completion of the report, and to the local code enforcement agency within 15 days of completion of the report, if, after inspection of any exterior elevated element, the inspector advises that the exterior elevated element poses an immediate threat to the safety of the occupants.
- The bill requires the association to take preventive measures immediately upon receiving the report, including preventing occupant access to the exterior elevated element until repairs have been inspected and approved by the local enforcement agency.

Inspections are required regularly; the bill outlines existing and newly built buildings. For existing HOAs, the first inspection of Exterior Elevated Elements (EEE) needs to be completed by January 1, 2025. Subsequent inspections need to be completed once every 9-years in coordination with the reserve study inspection. View the bill for more information at [SB No. 326](#).

For new HOAs, that had a building permit application submitted after January 1, 2020, the first inspection deadline for new construction is within 6-years of getting issued a Certificate of Occupancy (COO). Subsequent inspections have the same cycle as existing buildings (once every 9-years).

### Key Requirements for SB 326:

- The bill applies to buildings containing three or more multifamily dwelling units
- The bill defines the inspection process explicitly, including defining the term “visual inspection” and permits the inspector to use professional judgment to conduct further inspections
- The bill requires inspecting a “random and statistically significant sample” of EEEs (95% confidence, error margin  $\pm 5\%$ )
- The inspector must be either a licensed structural engineer or an architect
- The written report must be stamped by the inspector

### Inspection:

- The inspection shall determine whether the exterior elevated elements are in a generally safe condition and performing in accordance with applicable standards.

- Before conducting the first visual inspection, *the inspector shall generate a random list of the locations of each type of exterior elevated element.*
  - The list shall include all exterior elevated elements for which the association has maintenance or repair responsibility
  - The list shall be provided to the association for future use
  - Each subsequent scheduled visual inspection conducted shall commence with the next exterior elevated element identified on the random list and shall proceed in order through the list
  
- The inspector shall perform the visual inspections by the random list generated.
  - If the inspector observes conditions indicating that unintended water or water vapor has passed into the associated waterproofing system, creating the potential for damage to the load-bearing components, the inspector may conduct a further inspection
  - The inspector shall exercise their best professional judgment in determining the necessity of any further inspection
  
- Based upon the inspector's visual inspections, the inspector shall issue a written report containing the following information:
  - The identification of the building components comprising the load-bearing components and associated waterproofing system
  - The current physical condition of the load-bearing components and associated waterproofing system, including whether the condition presents an immediate threat to the health and safety of the residents
  - The expected future performance and remaining useful life of the load-bearing components and associated waterproofing system
  - Recommendations for any necessary repair or replacement of the load-bearing components and associated waterproofing system

The completed report shall be stamped or signed by the inspector and provided to the board.

#### Repairs and Maintenance:

The final report will recommend repairs or maintenance to ensure deck or walkway safety. Two types of repairs may be required: non-emergency repairs and emergency repairs. For either repair contact your local Building and Safety Division for plan review and permit requirements.

If in the report, the inspector advises that the EEs pose an immediate threat (emergency repairs needed) to the safety of the occupants, the inspector shall provide a copy of the inspection report to the association immediately upon completion of the report, and to the local code enforcement agency within 15 days of completion of the report. Upon receiving the report, the association shall take preventive measures immediately, including preventing occupant access to the exterior elevated element until repairs have been inspected and approved by the local Building and Safety Division.

The association shall be responsible for the continued and ongoing maintenance and repair of the load-bearing components and associated waterproofing systems in a safe, functional, and sanitary condition and shall be the responsibility of the association as required by the association's governing documents.