

Joshua G. Gerstin, Esq.*†
Joshua@Gerstin.com
Seth M. Amkraut, Esq.
Seth@Gerstin.com



GERSTIN & ASSOCIATES
ATTORNEYS & COUNSELORS AT LAW

40 S.E. 5th Street, Suite 610

Boca Raton, FL 33432

Telephone: (561) 750-3456

Facsimile: (561) 750-8185

Web address: www.Gerstin.com

*also admitted in NY
† Board Certified, Condominium and
Planned Development Law

SB 154 Glitch Bill to the Rescue!



On June 9, 2023, Governor DeSantis signed the "glitch" bill to purportedly fix some issues with the recent "Surfside" related inspection law. The full text of the law is available [here](#), and a .pdf of this article is available [here](#). Unless otherwise indicated, this legislation takes effect immediately.

As with many legislative efforts, determining the effectiveness of the legislation and the discovery of unintended consequences takes time. At the very least, the changes to the Structural Integrity Reserve Study law (SB 154) listed below are a good start:

Reserve Funding:

- ✓ Multi-condominium associations operating at least 25 condominiums can use a line of credit as an alternate funding source for reserve funding.
- ✓ Reserve funding must be based on the association's most recent Structural Integrity Reserve Study.
- ✓ The requirements to waive reserves or use reserves for an alternate purpose (allowable only until 2025) has changed to a majority of the total membership from a majority of those present at a meeting in which quorum was attained.
- ✓ Inflation can be considered by an association when determining reserve funding.

- ✓ Depending on specific requirements, a 40 or 50-year certification may be used instead of the visual survey portion of a SIRS.
- ✓ The unduly harsh strict liability standard to find a director liable for a breach of fiduciary duty for not complying with the new reserve requirements has been changed. The new standard is now the more reasonable "willful and knowing."
- ✓ Reserves are only required for components an association is responsible for according to its Declaration. Reserves are not needed for items whose useful life exceeds 25 years. However, deferred maintenance reserves for these items are still required.
- ✓ Along with architects and engineers, a reserve specialist can now perform the visual inspection portion of a SIRS.
- ✓ Exterior doors are now reserve components, and the floor and foundation are not unless the floor and foundation are part of the building's "structure," which, of course, they are.

Inspections:

- ✓ Insurance premiums are excluded from the 115% calculation that allows members to challenge a budget.
- ✓ The Florida Building Code is designated as authoritative to determine the height of a building.
- ✓ An association has a year or less (depending on local ordinances) to repair damage identified in an inspection.
- ✓ Fourteen days' notice to members is required upon an association's receipt from a local governing authority a milestone inspection is required. The notice must also include the date the milestone inspection must be completed.
- ✓ An architect and an engineer acting as a licensed design professional may conduct a milestone inspection.
- ✓ The definition of "substantial structural deterioration" was broadened to include "substantial structural weakness."
- ✓ A local governing authority has the discretion to extend an inspection deadline for "good cause," which at the least requires the association to have entered into a contract for a milestone inspection that cannot be completed by the deadline.
- ✓ No more than 45 days after receiving the inspection report from the architect or engineer, the association must post a summary on its website, mail it to the members, and make the summary or report available to renters.

- ✓ Community association managers no longer have to comply with the structural inspection laws solely because they manage a property "that has a building" on it.
- ✓ Local authorities can set a 25-year inspection requirement based on environmental conditions, such as proximity to a shoreline.
- ✓ Condominium units in which personal property is covered under a flood master policy or located above specific floors may not be required to have flood insurance.
- ✓ As of July 1, 2027, mediation is available to members for certain structural and life-safety disputes.
- ✓ Developers must provide prospective buyers with statements regarding milestone inspections, SIRS, and reserve studies, if applicable. The law introduces additional presale notice requirements in contracts to ensure buyer awareness.

Act Now!

Stay one step ahead of new legislation, recent case law, and new developments that may impact your community association by subscribing to the Gerstin & Associates newsletter.

[Click Here to Subscribe to the Gerstin & Associates Newsletter](#)