

JAN 20 2023

A BILL FOR AN ACT

RELATING TO BUILDING INSPECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the state building
2 code council is charged with safeguarding life, property, and
3 the general welfare by establishing and overseeing the state
4 building codes. However, the codes do not specifically require
5 that the structural integrity of buildings be regularly
6 inspected. As evidenced by the shocking building collapse of
7 the Surfside, Florida condominium building in June 2021,
8 structural concerns may not always be apparent or addressed by
9 general maintenance.

10 The legislature further finds that Hawai'i's salty ocean
11 environment can cause building structures to weaken and corrode.
12 The anticipated increase in hurricanes caused by global warming
13 makes ensuring building safety even more essential. The
14 legislature recognizes that some buildings may be planning to
15 undergo renovation and consequently has included the option for
16 a building owner to apply to the state building code council for
17 a waiver where the exterior walls of the building have been



1 substantially restored during the seven years immediately
2 preceding the date of the required inspection.

3 The purpose of this Act is to require that buildings five
4 or more stories in height be periodically inspected to identify
5 issues with their structural integrity.

6 SECTION 2. Chapter 107, Hawaii Revised Statutes, is
7 amended by adding a new section to part II to be appropriately
8 designated and to read as follows:

9 "§107- Periodic inspection of buildings; requirements.

10 (a) Building inspections shall be required as follows:

11 (1) The owner of each affected building shall be
12 responsible for retaining a professional to conduct
13 periodic inspections of exterior walls and any
14 appurtenances thereto and to prepare and file a report
15 on the inspection as required by subsection (c);

16 (2) For affected buildings, the first periodic inspection
17 required by this section shall be conducted by
18 December 31, 2027;

19 (3) Following the initial periodic inspection, an affected
20 building shall be periodically inspected and a



1 corresponding report shall be filed on a seven-year
2 cycle; and

3 (4) If all exterior walls of an affected building have
4 been substantially restored during the seven years
5 immediately preceding the date of any required
6 inspection, the owner may apply to the council for a
7 waiver of the required inspection. The owner shall
8 submit with the waiver application any information
9 that the council determines is necessary to enable it
10 to evaluate the request. The council may grant the
11 waiver if it determines that the recent exterior wall
12 restoration obviates the need for an inspection until
13 the next inspection cycle.

14 (b) Procedures for inspections shall be as follows:

15 (1) Before inspecting an affected building, the retained
16 professional shall review previous reports,
17 inspections, and evidence of repairs made during the
18 period being reported on, including confirmation that
19 all areas previously determined to require remediation
20 to be completed during the period being reported on
21 have been addressed;



- 1 (2) The inspection shall be conducted by or under the
2 supervision of the professional and performed in
3 accordance with procedures based on ASTM E2270,
4 Standard Practice for Periodic Inspection of Building
5 Facades for Unsafe Conditions. The professional shall
6 determine the scope of the required inspection based
7 on the known history of the affected building, nature
8 of the materials used, and conditions observed;
- 9 (3) The professional shall determine methods employed in
10 the inspection; provided that the methods shall
11 include a physical, hands-on inspection of the
12 affected building. The professional may use
13 additional methods of inspection as deemed
14 appropriate; provided that a physical inspection from
15 a scaffold or other observation platform shall be
16 required for a representative sample of the exterior
17 wall. The professional shall determine what
18 constitutes a representative sample;
- 19 (4) The professional shall employ the appropriate
20 professional standard of care to detect distressed
21 conditions including delaminating, separating,



1 spalling, corrosion, splitting or fracturing of
2 material or components, and movement or displacement
3 indicative of unsound facade materials or loss of
4 structural support. If a distressed condition is
5 identified, the professional shall order any other
6 inspections and tests that may be required to
7 determine the significance and probable cause of the
8 observed distress;

9 (5) During the course of the inspection, the professional
10 shall take photographs or make drawings to properly
11 document the location of all conditions observed that
12 are either unsafe or safe with a repair and
13 maintenance program; and

14 (6) Upon discovery of any unsafe condition, the
15 professional shall immediately notify the owner of the
16 affected building by electronic mail and shall, within
17 twelve hours of discovery, notify the department in
18 writing and in an electronic format determined by the
19 council.

20 (c) Reports shall be prepared as follows:



1 (1) The professional shall submit to the owner of the
2 affected building a written report as to the result of
3 each inspection, certifying that the inspection was
4 performed and completed in accordance with this
5 section, and detailing all conditions not classified
6 as safe. The professional shall also submit a summary
7 of the written report to the council in a form
8 determined by the council. The council may by rule
9 impose a processing fee to cover the cost of report
10 review and evaluation that shall be paid upon
11 submission of the summary of the written report. If
12 the report identifies an unsafe condition, the
13 professional shall file the full report with the
14 council in writing and in an electronic format
15 determined by the council within twenty-four hours of
16 completion of the report. The owner of the affected
17 building or its agent shall retain all written reports
18 submitted pursuant to this subsection and keep them
19 readily available for inspection by the council;
20 (2) The report shall include, on its front page, the name
21 and license number of the professional and be signed,



1 sealed, and dated by the professional in accordance
2 with the professional licensing and registration laws
3 of the State, and shall include the following:

4 (A) The affected building's address and the location
5 from the nearest intersection;

6 (B) The name, mailing address, and telephone number
7 of the owner of the affected building and of the
8 owner's agent or person in charge, possession, or
9 control of the affected building, if any;

10 (C) A description of the affected building, including
11 number of stories, height, plan dimensions,
12 usage, age and type of exterior wall
13 construction, and system of water management;

14 (D) A brief history of any settlements, repairs, and
15 revisions to exterior enclosures, if available;

16 (E) The date of the start and completion of the
17 inspection, a detailed description of the
18 procedures used in making the inspection, and the
19 extent and location of all physical inspections
20 performed;



- 1 (F) A report of all conditions, including but not
2 limited to significant deterioration and movement
3 observed, a statement concerning the apparent
4 water-tightness of the exterior surfaces, and the
5 deleterious effects on exterior appurtenances.
6 The report shall classify each condition as safe,
7 unsafe, or safe with a repair and maintenance
8 program;
- 9 (G) The probable causes of the reported conditions,
10 to the extent they can be determined;
- 11 (H) The status of the exterior maintenance;
- 12 (I) For any conditions listed in the previously filed
13 report as unsafe or as safe with a maintenance
14 and repair program, if applicable, a statement as
15 to whether the conditions have been repaired or
16 maintained as recommended in that report;
- 17 (J) Recommendations for repairs or maintenance, if
18 appropriate, including the recommended time frame
19 for the repairs or maintenance to be performed;



- 1 (K) The classification of the affected building as
2 "unsafe", "safe with a repair and maintenance
3 program", or "safe";
- 4 (L) Photographs or drawings documenting the locations
5 of any conditions that are either unsafe or safe
6 with a repair and maintenance program;
- 7 (M) A statement by the professional indicating which
8 repairs or maintenance require the obtaining of
9 work permits prior to their commencement;
- 10 (N) A statement signed by the owner or agent of the
11 affected building, acknowledging receipt of a
12 copy of the report and acknowledging all required
13 repairs or maintenance, if any, and the
14 recommended time frame for performing those
15 repairs or maintenance;
- 16 (O) The professional's certification that the
17 physical inspection was performed in accordance
18 with procedures based on ASTM E2270, with
19 applicable rules and regulations, and within the
20 appropriate professional standard of care;
- 21 (P) The professional's seal and signature; and



1 (Q) Other matters as the council may require; and
2 (3) The professional may submit an amended report within
3 thirty days of the initial submission. The amended
4 report shall clearly indicate any changes from the
5 initial report and all reasons for the changes.

6 (d) Within twenty-four hours of being notified of an
7 unsafe condition by a professional, the owner of the affected
8 building shall take any actions necessary to protect public
9 safety, including but not limited to erecting temporary secure
10 safety railings or barriers, protective sidewalk walk-throughs,
11 fences, and safety netting. These actions shall be considered
12 as an effort to remedy an emergency situation and appropriate
13 permit applications shall be submitted to the council within
14 three days of their commencement. Within ten days of the
15 receipt or filing of a report identifying an unsafe condition,
16 the owner of the affected building shall commence work to
17 correct the condition, and work shall continue without
18 interruption until the unsafe condition has been corrected,
19 unless there has been an unforeseen delay, including but not
20 limited to inclement weather or a labor strike. Within two
21 weeks after remediation of the unsafe condition, the



1 professional shall inspect the building again and file a
2 detailed amended report stating the updated condition of the
3 building with the council.

4 (e) The owner of the affected building shall be
5 responsible for ensuring that the conditions described in the
6 report as "safe with a repair and maintenance program" are
7 repaired and the actions identified by the professional are
8 completed within the time frame designated by the professional
9 or by the time as is necessary to prevent a condition from
10 becoming an unsafe condition, whichever is earlier.

11 (f) The council may grant:

12 (1) An extension of time of up to ninety days to begin the
13 repairs required to remove an unsafe condition or to
14 repair a safe with a repair and maintenance program
15 condition after receipt and review of an initial
16 extension application submitted by the professional
17 that includes:

18 (A) Proof that the relevant premises of the affected
19 building have been made safe by means of a
20 temporary secure safety railing or barrier, walk-
21 through, fence, or other appropriate measures;



- 1 (B) A copy of the contract to perform the work
- 2 necessary to remedy the unsafe condition; and
- 3 (C) The professional's estimate of the length of time
- 4 required for repairs, and a notarized affidavit
- 5 by the owner of the affected building or its
- 6 agent that the required repairs will be completed
- 7 within the time estimated;
- 8 (2) A further extension of time which shall be considered
- 9 only upon receipt and review of a further extension
- 10 application that details that one of the following is
- 11 met:
- 12 (A) The work has been substantially completed, but
- 13 there has been an unforeseen delay in final
- 14 completion, including but not limited to
- 15 inclement weather or a labor strike;
- 16 (B) Unforeseen circumstances relating to the affected
- 17 building, including but not limited to fire or
- 18 collapse; or
- 19 (C) The nature of a hazard requires more than ninety
- 20 days to remediate, including but not limited to
- 21 the building of a new wall.



1 (g) The owner of the affected building may appeal the
2 findings set forth in the professional's initial report or
3 amended report to the council. The appeal shall be filed within
4 thirty days of the receipt or filing of the report and shall
5 include a second professional's report. The filing and pendency
6 of the appeal shall stay the requirement for making repairs as
7 set forth in subsection (d) but shall not stay the requirement
8 for taking actions necessary to protect public safety.

9 Upon consideration of any appeal, the council shall issue a
10 recommendation to the building official either to grant the
11 appeal, deny the appeal, or grant the appeal with proposed
12 modifications to the professional's findings as the council
13 deems consistent with the intent of this section. The building
14 official thereafter shall make the final determination on the
15 appeal.

16 (h) The council shall adopt rules in accordance with
17 chapter 91 to implement this section.

18 (i) As used in this section:

19 "Affected building" means any building five or more stories
20 in height.



1 "Appurtenance" means an accessory to a building that
2 includes but is not limited to exterior fixtures, flagpoles,
3 signs, parapets, copings, guard rails, window frames (including
4 hardware and lights), window guards, window air conditioners,
5 flower boxes, and similar items.

6 "Professional" means a State of Hawaii licensed
7 professional engineer experienced in the practice of structural
8 engineering or a State of Hawaii licensed architect
9 knowledgeable in the design, construction, and inspection of
10 building exteriors.

11 "Safe" means a condition of an exterior building wall or
12 any appurtenance thereto that is neither unsafe nor safe with a
13 repair and maintenance program.

14 "Safe with a repair and maintenance program" means the
15 professional does not consider the condition of the affected
16 building's exterior wall or any appurtenance thereto to be
17 unsafe at the time of inspection but requires repairs or
18 maintenance within a time period designated by the professional
19 to prevent its deterioration into an unsafe condition.

20 "Unsafe" means a condition of the affected building's
21 exterior wall or any appurtenance thereto, or part thereof, that



1 is dangerous to persons or property and requires prompt remedial
2 action."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY: Karl Rhoad



S.B. NO. 905

Report Title:

Buildings; Inspections; Structural Integrity; State Building Code

Description:

Requires periodic inspections of certain walls and appurtenances of buildings five or more stories in height. Establishes procedures for inspections, preparing inspection reports, and responding to report findings.

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