

JAN 19 2022

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# 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 make 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 to be periodically inspected to  
5 identify 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, 2026;

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       five-year period being reported on including  
19       confirmation that all areas previously determined to  
20       require remediation to be completed during the period  
21       being reported on 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 is required  
16       for a representative sample of the exterior wall. The  
17       professional shall determine what constitutes a  
18       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, as well as movement or  
3 displacement indicative of unsound facade materials or  
4 loss of structural support. If a distressed condition  
5 is 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, photographs shall  
10 be taken or drawings made to properly document the  
11 location of all conditions observed that are either  
12 unsafe or safe with a repair and maintenance program;  
13 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,  
17 within twelve hours of discovery, notify the  
18 department in writing and in an electronic format  
19 determined by the 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 must 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 or its agent  
17       shall retain all written reports submitted pursuant to  
18       this subsection and keep them readily available for  
19       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,



# S.B. NO. 2003

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;



# S.B. NO. 2003

- 1           (F) A report of all conditions including but not  
2                   limited to significant deterioration and movement  
3                   observed as well as a statement concerning the  
4                   apparent water-tightness of the exterior  
5                   surfaces, and the deleterious effects of exterior  
6                   appurtenances. The report shall classify each  
7                   condition as safe, unsafe, or safe with a repair  
8                   and maintenance 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 such 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;



# S.B. NO. 2003

- 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 such 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 such 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 such time;
- 8           (2) A further extension of time shall be considered only  
9                   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                   when a new wall is required to be built.



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 such proposed  
12 modifications to the professional's findings as the board deems  
13 consistent with the intent of this section. The building  
14 official thereafter shall make the final determination on the  
15 appeal.

16       (h) As used in this section:

17       "Affected building" means any building five or more stories  
18 in height.

19       "Appurtenance" means an accessory to a building that  
20 includes but is not limited to exterior fixtures, flagpoles,  
21 signs, parapets, copings, guard rails, window frames (including



1 hardware and lights), window guards, window air conditioners,  
2 flower boxes, and similar items.

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

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

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

17 "Unsafe" means a condition of the affected building's  
18 exterior wall or any appurtenance thereto or part thereof that  
19 is dangerous to persons or property and requires prompt remedial  
20 action.





# S.B. NO. 2003

**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.

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