



BREAKING NEWS!

GOVERNOR SIGNS SB-326: REQUIRES CONDO BALCONY INSPECTIONS, ABOLISHES MEMBER VOTE TO COMMENCE CD LITIGATION

On Friday, August 30, 2019, Governor Newsom signed Senate Bill 326. It has two parts—periodic inspection of condo balconies and similar structures; and eliminates the member vote required to commence construction defect litigation. The key parts of each are:

Balcony Inspections Required—Adds Civil Code Section 5551

- ▶ What's inspected? “Exterior Elevated Elements”—Load-bearing components that extend beyond the exterior walls of the building—e.g. decks, balconies, stairways, walkways, and their railings. Constructed primarily of wood and elevated over six feet above the ground. Includes flashings and membranes. Create an annual and sensible maintenance schedule.
- ▶ Only applies to condominium projects with three or more units.
- ▶ Inspection must be by a licensed architect or structural engineer according to a randomized list of components.
- ▶ Must inspect enough components to achieve 95% confidence that the results reflect the entire project.
- ▶ Inspection must determine if the exterior elements are safe and meet acceptable standards.
- ▶ Visual and intrusive inspections of load-bearing components at the discretion of the inspector.
- ▶ Determine whether an immediate threat to safety exists and if so, provide a report to the local building department.
- ▶ Inspections to be performed no later than 2025 and every nine years after that in conjunction with the association's reserve study. Buildings permitted after 1/1/2020 to be inspected within six years after certificate of occupancy.

Abolition of Member Vote Requirement—Adds Civil Code 5986

- ▶ Abolishes pre-conditions and limitations (such as the requirement to obtain a member vote) to the authority of the Board of Directors to commence a legal proceeding against a developer, declarant or builder.
- ▶ Retroactive. Applies to governing documents recorded either before or after January 1, 2020.

This legislation is effective January 1, 2020

The outline above is a summary. Anyone who will implement or rely on the legislation is advised to read the new code sections in their entirety and seek the advice of counsel.