

FACTS RELATED TO CALIFORNIA SB721

If you're an apartment building owner or property manager in Los Angeles or Southern California, you need to be aware of the new California state law – SB 721, which has requirements you need to meet before the end of 2025. Due to some very unfortunate accidents in the past involving multifamily decks, balconies & porches, the state of California now wants to ensure that these 'exterior elevated elements' pose no danger to residents.

So, in general, the law now requires multifamily owners to hire specific qualified inspectors to validate the safety of elements including balconies, decks, porches, stairways, walkways, and entries that are 1) elevated more than 6 feet above the ground, 2) are designed for human use, 3) are made of wood structure supports and 4) extend beyond the exterior walls of the building. This also includes the railings and supports of these various elevated elements.

Per the new law, an apartment building owner must have these elevated elements inspected before the end of 2024 and every six years thereafter. An owner or property manager would hire a qualified balcony inspector – this person would be a licensed architect, civil or structural engineer, building contractor, or building inspector.

The inspector would then provide their report to the apartment owners and property managers. The report would specifically call out those elements that are in good shape, those that will need maintenance and have a limited service life, and those areas that currently pose a danger to tenants and must be repaired immediately.

The law also requires that any report that finds significant damage that poses an urgent risk to occupants will have to be submitted to the local enforcement agency.

The cost of an SB 721 balcony inspection is approx.. \$300-500 per balcony, deck, or other elevated feature (visual inspection). Keep in mind every inspector will have their prices based on their general billing rates. Structural engineers could cost more than architects, etc. Depending on the size of your complex and the number of elevated elements, it's likely that an SB 721 inspection might cost you between \$5,000-\$20,000.

If the inspector sees signs of damage or water intrusion and they need to do more invasive inspections and analysis, you can expect each balcony in-depth testing might cost upwards of \$3,000. An engineer may even need to bring a contractor or specialist to expose (remove stucco) sections of the balcony to truly assess the damage and repair requirements.

Any elements that are found to be an immediate threat or hazard must be repaired immediately by the owner. The property management must also prevent access to the dangerous area by occupants. These urgent conditions must be repaired immediately, re-inspected, and reported to the enforcement agency.

Other inspection findings that are not an urgent threat must be handled in the following timeline: The owner must pull a permit for the work within 120 days of inspection and start the work within 120 days of receiving the permit. If the work is not completed within 180 days, the enforcement agency will have the right to levy fines against the property and even file a "building safety" lien.

An SB 721 contractor in Los Angeles should be someone who is experienced working on Multifamily properties, with the ability and staff to work on projects with structural wood, waterproofing, stucco, and siding elements. Not every contractor is equipped with the scaffolding or lift equipment to perform work on projects more than two floors above the ground.

SB 721 repair costs will vary greatly based on the amount of repair and maintenance required for any specific apartment building or multifamily community. It might cost over \$5000 for just one balcony to be rebuilt if it's in dire condition. Alternatively, if an entire complex of decks needs some maintenance, the entire cost could be \$20,000 or less. Keep in mind that balconies that have deteriorating structural elements like the wood support beams will likely require a full reconstruction. This process is rather intrusive as the balcony will need to be rebuilt starting from within the building's exterior walls.

Yes, under California Senate Bill 721, a general contractor can perform both the SB-721 inspections and repairs on the same building, but they must have the proper qualifications and licenses. The key change was introduced by Senate Bill 607, which lifted the original prohibition against a single entity performing both the inspection and repairs. However, it's still important to ensure objectivity and avoid conflicts of interest, especially when the same entity is both inspecting and repairing.

Amendment by SB-607:

SB-607, passed in September 2021, amended SB-721 and lifted the prohibition against a contractor performing both inspections and repairs.

This change was made to streamline the process and address concerns about the availability of qualified inspectors and the potential for delays.



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Bill Text: CA AB2579 | 2023-2024 | Regular Session | Chaptered California Assembly Bill 2579 (**Prior Session Legislation**)

Bill Title: Inspections: exterior elevated elements.

Spectrum: Partisan Bill (Democrat 1-0)

Status: (Passed) 2024-09-28 - Chaptered by Secretary of State - Chapter 835, Statutes of 2024. [AB2579 Detail]

Download: California-2023-AB2579-Chaptered.html

Assembly Bill No. 2579

CHAPTER 835

An act to amend Section 17973 of the Health and Safety Code, relating to business and professions.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2579, Quirk-Silva. Inspections: exterior elevated elements.

Existing law provides authority for an enforcement agency to enter and inspect any buildings or premises whenever necessary to secure compliance with or prevent a violation of the building standards published in the California Building Standards Code and other rules and regulations that the enforcement agency has the power to enforce. Existing law requires an inspection, by January 1, 2025, and by January 1 every 6 years thereafter, of exterior elevated elements and associated waterproofing elements, as defined, including decks and balconies, for buildings with 3 or more multifamily dwelling units, as specified. Existing law that provides that, if the property was inspected within 3 years prior to January 1, 2019, as specified, no new inspection is required until January 1, 2025.

This bill would extend the deadline for initial inspection until January 1, 2026. The bill would also provide that no new inspection is required until January 1, 2026, if the property was inspected within 3 years prior to January 1, 2019, as specified.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17973 of the Health and Safety Code is amended to read:

17973. (a) Exterior elevated elements that include load-bearing components in all buildings containing three or more multifamily dwelling units shall be inspected. The inspection shall be performed by a licensed architect; licensed civil or structural engineer; a building contractor holding any or all of the "A," "B," or "C-5" license classifications issued by the Contractors State License Board, with a minimum of five years' experience, as a holder of the aforementioned classifications or licenses, in constructing multistory wood frame buildings; or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by the local jurisdiction. These individuals shall not be employed by the local jurisdiction while performing these inspections. The purpose of the inspection is to determine that exterior elevated elements and their associated waterproofing elements are in a generally safe condition, adequate working order, and free from any hazardous condition caused by fungus, deterioration, decay, or improper alteration to the extent that the life, limb, health, property, safety, or welfare of the public or the occupants is not endangered. The person or business performing the inspection shall be hired by the owner of the building.

(b) For purposes of this section, the following terms have the following definitions:

(1) "Associated waterproofing elements" include flashings, membranes, coatings, and sealants that protect the load-bearing components of exterior elevated elements from exposure to water and the elements.

(2) "Exterior elevated element" means the following types of structures, including their supports and railings: balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.

(3) "Load-bearing components" are those components that extend beyond the exterior walls of the building to deliver structural loads from the exterior elevated element to the building.

(c) The inspection required by this section shall at a minimum include:

(1) Identification of each type of exterior elevated element that, if found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants.

(2) Assessment of the load-bearing components and associated waterproofing elements of the exterior elevated elements identified in paragraph (1) using methods allowing for evaluation of their performance by direct visual examination or comparable means of evaluating their performance. For purposes of this section, a sample of at least 15 percent of each type of exterior elevated element shall be inspected.

(3) The evaluation and assessment shall address each of the following as of the date of the evaluation:

(A) The current condition of the exterior elevated elements.

(B) Expectations of future performance and projected service life.

(C) Recommendations of any further inspection necessary.

(4) A written report of the evaluation stamped or signed by the inspector presented to the owner of the building or the owner's designated agent within 45 days of completion of the inspection. The report shall include photographs, any test results, and narrative sufficient to establish a baseline of the condition of the components inspected that can be compared to the results of subsequent inspections. In addition to the evaluation required by this section, the report shall advise which, if any, exterior elevated element poses an immediate threat to the safety of the occupants, and whether preventing occupant access or conducting emergency repairs, including shoring, are necessary.

(d) The inspection shall be completed by January 1, 2026, and by January 1 every six years thereafter. The inspector conducting the inspection shall produce an initial report pursuant to paragraph (4) of subdivision (c) and, if requested by the owner, a final report indicating that any required repairs have been completed. A copy of any report that recommends immediate repairs, advises that any building assembly poses an immediate threat to the safety of the occupants, or that preventing occupant access or emergency repairs, including shoring, are necessary, shall be provided by the inspector to the owner of the building and to the local enforcement agency within 15 days of completion of the report. Subsequent inspection reports shall incorporate copies of prior inspection reports, including the locations of the exterior elevated elements inspected. Local enforcement agencies may determine whether any additional information is to be provided in the report and may require a copy of the initial or final reports, or both, be submitted to the local jurisdiction. Copies of all inspection reports shall be maintained in the building owner's permanent records for not less than two inspection cycles, and shall be disclosed and delivered to the buyer at the time of any subsequent sale of the building.

(e) The inspection of buildings for which a building permit application has been submitted on or after January 1, 2019, shall occur no later than six years following issuance of a certificate of occupancy from the local jurisdiction and shall otherwise comply with the provisions of this section.

(f) If the property was inspected within three years prior to January 1, 2019, by an inspector as described in subdivision (a) and a report of that inspector was issued stating that the exterior elevated elements and associated waterproofing elements are in proper working condition and do not pose a threat to the health and safety of the public, no new inspection pursuant to this section shall be required until January 1, 2026.

(g) An exterior elevated element found by the inspector that is in need of repair or replacement shall be corrected by the owner of the building. All necessary permits for repair or replacement shall be obtained from the local jurisdiction. All repair and replacement work shall be performed by a qualified and licensed contractor in compliance with all of the following:

(1) The recommendations of a licensed professional described in subdivision (a).

(2) Any applicable manufacturer's specifications.

(3) The California Building Standards Code, consistent with subdivision (d) of Section 17922 of the Health and Safety Code.

(4) All local jurisdictional requirements.

(h) (1) An exterior elevated element that the inspector advises poses an immediate threat to the safety of the occupants, or finds preventing occupant access or emergency repairs, including shoring, or both, are necessary, shall be considered an emergency condition and the owner of the building shall perform required preventive measures immediately. Immediately preventing occupant access to the exterior elevated element until emergency repairs can be completed constitutes compliance with this paragraph. Repairs

of emergency conditions shall comply with the requirements of subdivision (g), be inspected by the inspector, and reported to the local enforcement agency.

(2) The owner of the building requiring corrective work to an exterior elevated element that, in the opinion of the inspector, does not pose an immediate threat to the safety of the occupants, shall apply for a permit within 120 days of receipt of the inspection report. Once the permit is approved, the owner of the building shall have 120 days to make the repairs unless an extension of time is granted by the local enforcement agency.

(i) (1) The owner of the building shall be responsible for complying with the requirements of this section.

(2) If the owner of the building does not comply with the repair requirements within 180 days, the inspector shall notify the local enforcement agency and the owner of the building. If within 30 days of the date of the notice the repairs are not completed, the owner of the building shall be assessed a civil penalty based on the fee schedule set by the local authority of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) per day until the repairs are completed, unless an extension of time is granted by the local enforcement agency.

(3) In the event that a civil penalty is assessed pursuant to this section, a building safety lien may be recorded in the county recorder's office by the local jurisdiction in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

(j) (1) A building safety lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the street address, the legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the building.

(2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in paragraph (1) shall be recorded by the governmental agency. A safety lien and the release of the lien shall be indexed in the grantor-grantee index.

(3) A building safety lien may be foreclosed by an action brought by the appropriate local jurisdiction for a money judgment.

(4) Notwithstanding any other law, the county recorder may impose a fee on the city to reimburse the costs of processing and recording the lien and providing notice to the owner of the building. A city may recover from the owner of the building any costs incurred regarding the processing and recording of the lien and providing notice to the owner of the building as part of its foreclosure action to enforce the lien.

(k) The continued and ongoing maintenance of exterior elevated elements in a safe and functional condition in compliance with these provisions shall be the responsibility of the owner of the building.

(l) Local enforcement agencies shall have the ability to recover enforcement costs associated with the requirements of this section.

(m) For any building subject to the provisions of this section that is proposed for conversion to condominiums to be sold to the public after January 1, 2019, the inspection required by this section shall be conducted prior to the first close of escrow of a separate interest in the project and shall include the inspector's recommendations for repair or replacement of any exterior elevated element found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, and would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants. The inspection report and written confirmation by the inspector that any repairs or replacements recommended by the inspector have been completed shall be submitted to the Department of Real Estate by the proponent of the conversion and shall be a condition to the issuance of the final public report. A complete copy of the inspection report and written confirmation by the inspector that any repairs or replacements recommended by the inspector have been completed shall be included with the written statement of defects required by Section 1134 of the Civil Code, and provided to the local jurisdiction in which the project is located. The inspection, report, and confirmation of completed repairs shall be a condition of the issuance of a final inspection or certificate of occupancy by the local jurisdiction.

(n) This section shall not apply to a common interest development, as defined in Section 4100 of the Civil Code.

(o) The governing body of any city, county, or city and county, may enact ordinances or laws imposing requirements greater than those imposed by this section.