

# CONDOMINIUM SAFETY PUBLIC POLICY REPORT

RESERVE STUDIES AND FUNDING, MAINTENANCE,  
AND STRUCTURAL INTEGRITY

OCTOBER 2021



  
**community**  
ASSOCIATIONS INSTITUTE

[www.caionline.org](http://www.caionline.org)

*Dedicated to*

*the memory of those who lost their lives,*

*those who lost loved ones,*

*and those who lost their homes*

*in the tragic collapse of Champlain Tower South*

*in Surfside, Fla., on June 24, 2021.*

*We also devote this report to the first responders who risked their lives and worked tirelessly to rescue, support, protect, and provide closure in the face of an unimaginable disaster.*

*In addition, we are beyond grateful for the countless volunteer organizations and individuals offering resources, aid, support, and comfort to the survivors and community in Surfside.*

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## EXECUTIVE SUMMARY

Following the tragic partial collapse of Champlain Tower South in Surfside, Fla., on June 24, 2021, CAI convened task forces to explore changes to laws and best practices for the community association housing model that may help other communities avoid this type of devastation and to provide solutions for legislators seeking to address building safety in their districts.

Over a three-month period, more than 600 people participated in CAI's process through conversations, surveys, research, interviews, and identifying clear recommendations. Reserve specialists, attorneys, insurance and risk management professionals, developers, engineers, architects, community association managers, and homeowner leaders contributed. The teams also engaged stakeholders across the globe and across a wide range of disciplines, expertise, interests, and organizations.

The task forces met weekly to analyze and discuss findings of the surveys and interviews and began developing the public policy positions. They vetted ideas with experts in their field and local practitioners, including board members, managers, and business partners, to ensure practical, reasonable, and meaningful recommendations. The teams were guided by data, inclusivity, and transparency.

An important consideration in this process was meeting the demands of multiple stakeholders—state legislators seeking to introduce legislation in 2022 sessions, congressional representatives looking for immediate solutions for their constituents, federal housing finance agencies hoping to mitigate their risks, the private insurance market trying to mitigate their risks, and homeowners and residents of condominiums and housing cooperatives expecting to feel safe in their homes.

The task forces submitted their final public policy positions for consideration by the CAI Government & Public Affairs Committee with final approval by the CAI Board of Trustees.

This report provides very specific public policy recommendations on the following major topics: **reserve studies and funding; building maintenance; and structural integrity.**

While the task forces believe it is important to educate legislators and other stakeholders about the purpose and importance of reserve studies and funding plans, it is unknown if updated standards in this arena would've prevented the collapse of Champlain Tower South. Reserve studies are a planning tool to assist with budgeting for replacement or substantial repairs based on life cycle and not intended to evaluate existing building conditions or to specify corrective repairs. Local building inspectors play a key role in the execution of structural integrity public policy. Those with the authority to provide a certificate of occupancy and otherwise condemn a building have the authority and obligation to inspect.

The recommendations in this report include specific public policies CAI believes should be considered for adoption into state law to support the existing statutory framework for the development, governance, and management of community associations, also referred to as common-interest developments, common-interest communities, planned communities, condominiums, townhomes, housing cooperatives, and homeowners associations.

In addition to the data collected from CAI membership through the development process of these public policies, we turned to the [2020 Homeowner Satisfaction Survey](#) (Foundation for Community Association Research, 2020) conducted by Zogby International. Survey respondents were asked about their understanding of reserve studies and whether they support reserve funding in their communities. Here are their responses:

If you live in a condominium or homeowners association, does your community have a reserve study to help plan for repair and replacement of major components owned by the community?

60% Yes

22% Not Sure

18% No

Does your community have a plan to fund the repair and replacement of major components owned by the community?

75% Yes

16% Not Sure

9% No

Do you support annually investing in your community to build a fund for future repair and replacement of major components owned by the community?

71% Yes

13% Not Sure

16% No

## **Building Maintenance and Structural Integrity**

CAI recommends additional requirements by developers during the development process and prior to transition to the homeowners. CAI worked closely with developers on these recommendations. We believe these recommendations are balanced, equitable, and approved by the participating developers and their agents. Structural integrity is addressed through statutory mandated building inspections with a baseline inspection when the building is 10 years old, another inspection at 20 years, and every five years thereafter. Inspections are based on the American Society of Civil Engineers (ASCE) published protocol for building inspections (ANSI).

According to a recent Stanford University report titled "[Guidelines for Life Cycle Cost Analysis](#)," as a building ages, the cumulative cost of operating and maintaining facilities significantly impacts the overall budget, not just the maintenance budget. The greater issue with deferred maintenance is that it only grows in scope—and cost—the longer it is deferred, resulting in 30 times the cost to repair versus keeping up with routine maintenance.

According to [Breaking Point: Examining aging infrastructure in community associations](#), (Research, 2019) more than three-quarters (80%) of community managers, board members, and contractors in community associations surveyed across the U.S. felt it was critical that their association have adequate reserves in the event of a major infrastructure failure or construction need.

Nearly half (40%) of those surveyed considered deteriorating infrastructure as a top-ranked concern. More than two-thirds (70%) of survey respondents indicated that maintaining property values was of primary importance.

Finally, the approved policies provide support to community association elected boards and urge them to follow the advice of professionals, especially in circumstances that are related to life, health, and safety.

*Note: Model statutory language supported by the policy recommendations outlined in the report will be released in November 2021.*

## **Federal Resources and Policy Priorities**

CAI's Federal Legislative Action Committee identified resources to support localities: building up the expertise needed to conduct inspections with qualified engineers or architects; and supporting the increase in resources needed to conduct regular structural inspections. These resources can be found under the federal priorities portion of the report.

CAI's federal team conducted a deep analysis on federal law and regulation that may be used as vehicles to incentivize timely compliance with these recommended positions with an emphasis on building inspection and structural integrity. The federal priorities provide solutions to address financial burdens on municipalities and households resulting from periodic structural analysis inspections of covered community association housing, including:

**Solutions to mitigate** financial burdens on local governments of increased structural analysis inspections by clarifying—or authorizing, if necessary—that inspection of aging covered community association housing is an eligible use of Community Development Block Grant (CDBG) funds.

**Engaging federal housing agencies** to develop corrective maintenance loan products that may include government insured or guaranteed blanket condominium rehabilitation loans secured by assessment income.

**Securing amendments to the Internal Revenue Code** to provide pre-loss access to disaster recovery tax deductions and authorizing a federal income tax deduction for interest paid on community association loans funding corrective maintenance.

Securing pre-disaster access to **federal uninsured loss disaster personal income tax deduction** for community association households following determination of major risk of structural failure for a 10-year period.

These policy recommendations must be supported by strong best practices for community association leaders, particularly condominium and cooperative board members.

The Foundation for Community Association Research's *Best Practices Report: Reserve Studies and Reserve Management* is included in the index and provides excellent procedures for homeowner leaders and professional managers to put into practice immediately. CAI continues to develop additional guidance and best practices for condominium and housing cooperative boards, their managers, building inspectors, developers, accountants, and reserve specialists.

As the September/October 2021 cover of *Common Ground*<sup>™</sup> magazine, CAI's flagship publication, promises:

**We mourn. We pray. We vow to help.**

## OVERVIEW & INTRODUCTION

Days after the June 24 tragic and shocking partial collapse of Champlain Tower South, Community Associations Institute (CAI) leadership met to discuss what we could do to make sure a tragedy like this never happens again.

CAI began outreach to other organizations to help inform the policy recommendations. Our contacts included the National League of Cities, National Society of Professional Engineers, National Association of Counties, Building Owners & Managers Association, International Code Council, Building Inspectors Association, American Property & Casualty Association, American Society of Civil Engineers, and National Association of Housing Cooperatives. These conversations are ongoing as we continue our work together to make buildings safer.

Condominium buildings are home to millions of people in the U.S., and government officials at the local, state, and federal levels immediately began exploring changes to prevent a similar building collapse.

As the leading international organization for condominiums, housing cooperatives, and homeowners associations, CAI found itself uniquely positioned to bring together the expertise, experience, knowledge, and perspective of a wide range of stakeholders—condominium and cooperative board members, homeowners, condominium and community association managers, attorneys, bankers, developers, insurance professionals, engineers, reserve study providers, and others—to discuss a response to the Champlain Tower South tragedy.

CAI's member volunteers immediately began analyzing current best practices, standards, and public policies related to condominium structural requirements. Three working groups were appointed with the purpose of identifying recommendations, changes, and updates CAI could consider providing to local, state, and federal legislators as they discuss legislative solutions to prevent this type of disaster in their districts.

**Building maintenance and structural integrity.** Led by Robert M. Diamond, a fellow in CAI's College of Community Association Lawyers (CCAL) in Virginia; Mitch Frumkin, RS, a professional engineer (PE) licensed by the National Society of Professional Engineers in New Jersey; and Stephen Marcus, a CCAL fellow in Massachusetts.

**Reserve study and funding plans.** Led by Robert Browning, PCAM, RS, in California; Mitch Frumkin, PE, RS; and Lisa Magill, a CCAL fellow in Florida.

**Insurance and risk management.** Led by Jennifer Eilert, CIRMS, in Illinois; Phil Masi, CIRMS, in Florida; A.J. Scott, CIRMS, in California; and Cliff Treese, CIRMS, in California. *Currently, there are no specific policy recommendations from this task force.*

Each task force had a similar objective: immediately and quickly engage stakeholders to identify necessary changes to best practices, standards of practice, and public policy positions.

**Federal solutions and policy priorities.** As the task forces worked diligently, CAI's Federal Legislative Action Committee began talking with members of Congress (especially Florida representatives), Fannie Mae, Freddie Mac, Federal Housing Finance Agency, and the Department of Housing and Urban Development about potential policy changes. CAI identified several federal policy solutions to support financial stability, maintenance, building inspection, and structural integrity.

## Process

Once the task force leadership was appointed, an open call to join the groups was released. The teams met weekly with members from across the U.S., and included attorneys, community association managers, reserve specialists, engineers, insurance experts, homeowner leaders, and others. Nearly 400 people served on the task forces. All meetings were open, and all perspectives were invited and welcomed.

The task forces conducted research, held interviews with experts from around the world, studied statutes, met with legislators, surveyed CAI members, and participated in town hall meetings. The groups evaluated building inspection requirements in Australia, Canada, Spain, Singapore, and localities throughout the U.S.

In addition to the weekly group meetings, the task force leaders connected weekly to debrief, ensure their work was not overlapping, and to share progress. Since so many people were involved in the activities, we used surveys to capture support of positions. The recommendations moved forward only if an overwhelming majority of survey participants supported the position.

The task forces continually revisited survey data and feedback to adjust the recommendations. The final policy positions were vetted through two more surveys that collected responses from:

1. CAI legislative action committees, Member Representation Groups, and CCAL Board of Governors—161 respondents
2. Community Conversation Surfside, Fla. (webinar), attendees—68 respondents

The survey results indicated overwhelming support (at least 75%) for most policy positions. None of the positions garnered less than 60% support. For additional details, find the full survey results in the appendix.

In the end, there was a tremendous amount of conversation and different perspectives, which we believe contribute to the quality of these recommendations.

## 2021 Timeline

July 1	Task force leaders appointed.
July 12	Task forces begin work.
Aug. 16	Task forces provide status report to CAI Board of Trustees.
Aug. 18	Task forces present policy recommendations to CAI Government & Public Affairs Committee and state legislative action committee members during open forum (in person and virtual).
Aug. 20	CAI hosts townhall to discuss policy recommendations (in person and virtual).
Aug. 23	The vetting process continues through conversations, meetings, surveys, emails, and blog posts with CAI state legislative action committees, College of Community Association Lawyers, Homeowner Leaders Council, Business Partners Council, and Community Association Managers Council.
Sept. 1	CAI holds a Community Conversation (virtual) with membership to discuss public policy recommendations.



Sept. 14	CAI Government & Public Affairs Committee approves task force public policy recommendations for reserve studies and funding and building inspections and structural integrity.
Oct. 12	Recommendations discussed with all state legislative action committee members.
Oct. 28	CAI Board of Trustees approves final public policy recommendations.
Oct. 29	CAI releases Condominium Safety Public Policy Report: Reserve Studies and Funding, Maintenance, and Structural Integrity.

## BACKGROUND

### About Community Associations Institute

CAI is an international membership organization dedicated to building better communities. With over 42,000 members, CAI has 63 chapters within the U.S., Canada, South Africa, and the United Arab Emirates as well as relationships with housing leaders in several other countries, including Australia, Spain, and the United Kingdom. CAI provides information, education, and resources to the homeowner volunteers who govern communities and the professionals who support them. CAI members include community association board members and other homeowner leaders, community association managers, association management firms, and other professionals who provide products and services to communities. CAI serves community associations and homeowners by:

- Advancing excellence through seminars, workshops, conferences, and education programs, most of which lead to professional designations for community association managers and other industry professionals.
- Publishing the largest collection of resources available on community association management and governance, including website content, books, guides, *Common Ground*™ magazine, and specialized newsletters.
- Advocating on behalf of common-interest communities and industry professionals before legislatures, regulatory bodies, and the courts.
- Conducting research and serving as an international clearinghouse for information, innovations, and best practices in community association development, governance, and management.

We believe homeowners associations and condominium associations should strive to exceed the expectations of their residents. We work toward this goal by identifying and meeting the evolving needs of the professionals and volunteers who serve associations, by being a trusted forum for the collaborative exchange of knowledge and information, and by helping our members learn, achieve, and excel. Our mission is to inspire professionalism, effective leadership, and responsible citizenship—ideals reflected in associations that are preferred places to call home.

### About the Community Association Housing Model in the U.S.

According to the Foundation for Community Association Research, there are 74.1 million Americans living in approximately 355,000 community associations in the U.S. A community association is commonly known as a condominium, homeowners associations, or housing cooperative. It is estimated between 25–27% of the U.S. population lives within a community association.

The Foundation for Community Association Research estimates there are between 131,450–156,000 condominium associations and cooperatives in the U.S. housing between 27–32 million Americans. While there are numerous high-rise buildings, especially in California, Florida, Hawaii, Illinois, New Jersey, New York, and Massachusetts, the Foundation estimates the average number of units in a condominium is 60.

**\$9.2 trillion** is the value of homes in community associations.

**\$103.2 billion** is the total amount of assessments paid each year by homeowners. Assessments fund many essential association obligations, including professional management services, utilities, security, insurance, common area maintenance, landscaping, capital improvement projects, and amenities like pools and clubhouses.

**\$25.8 billion** is the total assessment dollars contributed to community association reserve funds for the repair, replacement, and enhancement of common property, e.g., replacing roofs, resurfacing streets, repairing swimming pools and elevators, meeting new environmental standards, and implementing new energy-saving features.

**2.4 million volunteers** are elected by their neighbors to their community association boards of directors and committees. Community association boards guide provide governance and other critical services for the community usually funded by property taxes.

While community associations come in many forms and sizes, all associations share three basic characteristics: (1) membership in the association is mandatory and automatic for all property owners; (2) certain legal documents bind all owners to defined land-use requirements administered by the community association; and (3) all property owners pay mandatory lien-based assessments that fund association operations.

The community association housing model is actively supported by local government as it permits the transfer of many municipal costs to the association and homeowners. Today, many community associations deliver services that once were the exclusive province of local government.

### Financial Model of Community Associations

- Community associations are usually organized as nonprofit corporations in the state. (Note: They usually do **not** have a nonprofit tax determination by the IRS, i.e., 501c). However, they file taxes as a nonprofit corporation.
- The nonprofit corporation has shareholders (every owner in the community). The owners each pay their fair share of the nonprofit corporation expenses by paying assessments. Further, the owners select, by election, the board of directors to make decisions on their behalf.
- Assessments can be thought of like property taxes. The assessments pay for the services delivered by the community, including trash and snow removal, street maintenance, lighting, insurance, recreation facilities, stormwater management, landscaping, and more.
- Assessments are usually the only form of income for an association.
- Association expense are usually fixed expenses that are spent on contracts like trash removal, elevator maintenance, roof maintenance, landscaping, street maintenance, insurance, and payment for maintenance and repair of other amenities.
- Community association boards of directors have an obligation, by statute, to act in the best interests of the corporation, and one of these actions is to work to ensure the financial health of the

community. One way to do this is to continue to manage the financial affairs by collecting assessments from the owners.

- The collection of community association assessments is a very serious and important responsibility of the governing board. Failing to collect assessments may impair a community association's ability to pay its bills, provide essential services, obtain financing for continued operations, and may impact the ability of a potential purchaser to obtain a mortgage.



## RESERVE STUDY AND FUNDING POLICY POSITION

(Adopted and Approved October 2021)

### CAI SUPPORTS STATE LAW THAT:

1. Require reserve studies to be prepared in compliance with [National Reserve Study Standards](#).
2. Mandate reserve studies (Level IV Preliminary, Community Not Yet Constructed) pre/during construction and (Level I Full) at the time of transition/turnover from developer control to homeowner control. Reserve study with disclosures to be included with Purchase and Sale agreements.
3. Mandate reserve studies (Level I Full; Level II Update with Site Visit Review) that support community associations; including condominiums, housing cooperatives, and planned communities with major shared components for the member's unit or dwelling or significant infrastructure/site improvements (i.e., roads, street lighting, accessory buildings, etc.)
  - Significant infrastructure or major shared components are to be defined as associations whose aggregate replacement costs exceed \$10,000.
4. Mandate reserve studies (Level II Updates with Site Visit Review) on a periodic basis.
5. Mandate reserve funding for community associations; including condominiums, housing cooperatives, and planned communities with major shared components in buildings containing dwellings. Include practical legislative process for community associations to comply with funding requirements. Note: funding is based on the reserve study funding plan. Communities should be allowed an opportunity to slowly catch up to reserve funding upon passage of legislation.
  - Significant infrastructure or major shared components are to be defined as associations whose aggregate replacement costs exceed \$10,000.
6. Mandate disclosure; including summary of reserve fund financial condition, and funding plan, during annual budgeting (standardized disclosure).
7. Mandate disclosure to new buyers of reserve study, including reserve study funding plan (standardized disclosure).
8. Require reserve studies to be conducted by a reserve specialist, reserve professional, or other qualified professional, i.e., an engineer, an architect.

9. Address funding for emergent life safety issue repairs by authorizing the association governing board to special assess or borrow funds without a vote of the membership.

#### **CAI OPPOSES STATE LAW THAT:**

- Allows owners to waive/opt-out of reserve funding requirements.
- Prohibits including structural and/or engineering inspections by appropriate professionals and the financial impact of said inspections in the reserve study and funding plan.
- Restrict the borrowing from reserves for other purposes.

#### **BEST PRACTICE RECOMMENDATIONS**

These are not statutory recommendations, rather best practice recommendations.

1. Planning and funding for preventative maintenance schedule, repairs, and replacement for aging buildings and other structural components **that are not** currently addressed in standard reserve studies.
2. Level I Full or Level II Update with Site Visit Review should be completed no less than every five years (legislative) and three-years (best practices).
3. Reserve funding for communities without significant or major common improvements recommended in amounts based on anticipated cost to repair or replace as determined by governing board.

CAI resources that may be helpful for understanding reserves and reserve studies, include the following:

- [CAI National Reserve Study Standards](#)
- [Explanation of Reserve Study Standards](#)
- [Best Practices: Reserve Studies/Management](#)



## Summary of State Reserve Fund Laws (As of October 2021)

Many states have enacted legislation dealing with community association reserve and operating funds to protect owners from fiscal problems and financial hardship. More states may enact similar legislation as community associations continue to gain popularity. The following is a summary of each state reserve fund law.

Reserve studies for condominium associations are required in the following **9 states: California, Colorado, Delaware, Hawaii, Nevada, Oregon, Utah, Virginia, and Washington State**. Washington statutorily encourages associations to have a reserve study performed every three years unless doing so would impose an unreasonable hardship. Florida statute does not require a reserve study but requires a reserve schedule for repair and replacement of major components.

Reserve studies for developers are required in the following **5 states: California, Delaware, Florida, Nevada, and Oregon**. In Oregon, the declarant, on behalf of a homeowners association, shall conduct an initial reserve study, prepare an initial maintenance plan, and establish a reserve account.

Reserve funding for condominium associations is required in the following **11 states: Connecticut, Delaware, Florida, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, Nevada, Ohio, and Oregon**.

Reserve funding for developers is required in the following **6 states: Arizona, Delaware, Florida, Nevada, Oregon, and Wisconsin**. In Wisconsin, the developer of a condominium that is created on or after November 1, 2004, shall establish a statutory reserve account when the condominium is created and shall execute a statutory reserve account statement. The declarant shall determine the annual amount to be assessed unit owners for reserve funds.

Annual budget disclosure of reserve funding for condominium associations is required in 33 states and disclosure at the time of resale of reserve study and/or funding requirement for condominium associations is required in 30 states.

Please remember that community associations are governed by state law, which can vary widely from state to state. This information is intended for general educational and informational purposes only; it may not reflect the most recent developments, and it may contain errors or omissions. The publisher does not warrant or guarantee that the information contained here complies with applicable law of any given state. It is not intended to be a substitute for advice from a lawyer, community manager, accountant, insurance agent, reserve professional, lender, or any other professional.

### **ALABAMA**

The unit owners' associations may adopt and amend budgets for revenues, expenditures and reserves and impose and collect assessments for common expenses from unit owners. [Section 35-8A-302\(2\)](#). Sellers must present buyers with an offering statement of the amount, or a statement that there is no amount, included in

the budget as a reserve for repairs and replacement, and a statement of any other reserves. [Section 35-8A-403\(5\)](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **ALASKA**

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 34.08.320 \(2\)](#). A public offering statement must include assumptions concerning the calculation of the amount of reserves certified by a certified architect or engineer; the amount included in the budget as a reserve for repairs and replacement including the estimated cost of repair or replacement cost and the estimated useful life of the asset to be repaired or replaced; and a statement of any other reserves. [Section 34.08.530\(5\)](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **ARIZONA**

For condominiums, unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 33-1242\(2\)](#). The resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the association, if any. [Section 33-1260](#).

For planned communities, resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the community, if any. [Section 33-1806](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

[Section 10-3830](#) requires directors of nonprofit corporations to discharged duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation.

## **ARKANSAS**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **CALIFORNIA**

On a quarterly basis common interest development board of directors must review reserve accounts and compare reserves to the previous year. At least once every three years, boards must conduct a competent and diligent visual inspection of the property that the association is obligated to repair, replace restore or maintain as part of a study of the reserve account requirements. The board is to annually review this study to consider and implement necessary adjustments to the board's analysis of the reserve account requirements. The required reserve study shall at minimum include identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years, identification of the probable remaining useful life of the components identified in the study as of the date of the study, an estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in the study, an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in the study during and at the end of

their useful life, after subtracting total reserve funds as of the date of the study, and a reserve funding plan that indicates how the association plans to fund the contribution identified in the study. See more detailed information in [California Civil Code Section 5550-5520](#).

There is no statutory requirement to fund reserves.

## **COLORADO**

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 38-33.3-302](#).

When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced, and improved by the association; whether there is a funding plan for any work recommended by the reserve study and, if so, the projected sources of funding for the work; and whether the reserve study is based on a physical analysis and financial analysis. An internally conducted reserve study shall be sufficient. [Section 38-33.3-209.5](#)

There is no statutory requirement to fund reserves.

## **CONNECTICUT**

Condominium associations shall provide in the proposed budget for the condominium adequate reserves for capital expenditures. [Section 47-88e](#). Common interest community executive boards, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all unit owners a summary of the budget, including a statement of the amount of any reserves, and a statement of the basis on which such reserves are calculated and funded. [Section 47-261e](#). Resale disclosure statement must include the total amount of money held by the association as reserves. [Section 47-264\(5\)](#).

There is no statutory requirement to conduct a reserve study.

## **DELAWARE**

Condominiums must contain within their declaration provisions that mandate that the association create and maintain, in addition to any reserve for contingencies, a fully funded repair and replacement reserve based upon a current reserve study. [Section 81-205\(14\)](#). Minimum contributions to reserves vary based on the Reserve Study or a statutory formula based on number of common area components. [Section 81-315](#). Condominium disclosure statement must include the current balance in reserves and the most recent reserve study. [Section 81-409](#).

## **DISTRICT OF COLUMBIA**

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 42-1903.08](#). Disclosure statement shall include the amount, or a statement that there is no amount, included in the projected budget as a reserve for repairs and replacement. [Section 42-1904.04](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.



## FLORIDA

Condominium financial reporting rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. [Section 718-111\(13\)](#). Annual budgets shall include reserve accounts for items such as, but not limited to, roof replacement, pavement, painting and other items with a replacement cost exceeding \$10,000. Funding for the accounts can be waived by a majority vote at a duly called meeting. [Section 718.112\(f\)\(2\)](#).

Homeowner associations may adopt a budget that includes reserve accounts for capital expenditures and deferred maintenance for which the association is responsible. If reserve accounts are not established, funding of such reserves is limited to the extent that the governing documents limit increases in assessments, including reserves. Associations may waive reserves with proper notification in their financial statement. [Section 720.303\(6\)](#).

Florida statute does not require a reserve study but requires a reserve schedule for repair and replacement of major components.

## GEORGIA

Condominium resale disclosure statement must include the estimated or actual operating budget for the condominium for the current year's reserves. [Section 44-3-111](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## HAWAII

Condominium budgets shall include the amount of money in reserve, future reserve estimates based on a reserve study performed by the association, an explanation of how reserves are computed and the amount to be collected for reserves in the year ahead. The association shall compute the estimated replacement reserves by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve. [Section 514B-148](#).

## IDAHO

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## ILLINOIS

The Common Interest Community Act requires the board to give each owner a copy of the proposed annual budget which shall provide for reasonable reserves for capital expenditures and deferred maintenance for repair or replacement of the common elements. [765 ILCS 160/1-45](#).

The Condominium Act requires the board of managers to adopt a budget that provides for reasonable reserves for capital expenditures and differed maintenance for repair or replacement of the common elements. To determine the amount of reserves appropriate, the board shall take into consideration the any independent professional reserve study which the association may obtain. Any association without a reserve requirement in its condominium instruments may elect to waive in whole or in part the reserve requirements by a vote of 2/3 of the total votes of the association. [760 ILCS 605/9.](#)

Disclosure statement shall include a statement of the status and amount of any reserve or replacement fund and any other fund specifically designated for association projects.

There is no statutory requirement to conduct a reserve study.

## **INDIANA**

All sums assessed by the association of co-owners shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund. The replacement reserve fund may be used for capital expenditures and replacement and repair of the common areas and facilities and may not be used for usual and ordinary repair expenses of the common areas and facilities. [Section 32-25-4-4.](#)

There is no statutory requirement to conduct a reserve study.

## **IOWA**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **KANSAS**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **KENTUCKY**

The Horizontal Property Law requires all co-owners to contribute toward the expense of maintaining a replacement reserve fund for repairs and maintenance of the general common elements. [Section 381.870.](#)

Condominium unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 381.9167.](#) The resale disclosure statement must include the total amount of any reserves for capital expenditures, if any, and of any portions of those reserves designated by the association for any specified projects. [Section 381.9203.](#)

There is no statutory requirement to conduct a reserve study.

## **LOUISIANA**

Associations may adopt and amend budgets for revenues, expenditures, and reserves and make and collect assessments for common expenses from unit owners. [Section 9:1123.102.](#) Public offering statements shall include an indication of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement. [Section 9:1124.102.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **MAINE**

Unit owners associations may adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. [Section 1603-102](#). Public offering statements must contain a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of the amount and purpose of any other reserves. [Section 1604-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **MARYLAND**

Councils of unit owners have the power to adopt and amend budgets for revenue, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 11-109](#). The level of reserves is required to be included in the annual budget; however, there is not a required level of reserve funding. [Section 11-109.2](#). Resale certificate must contain the current operating budget of the condominium including details concerning the reserve fund for repair and replacement and its intended use, or a statement that there is no reserve fund. [Section 11-135](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **MASSACHUSETTS**

All condominiums shall be required to maintain an adequate replacement reserve fund, collected as part of the common expenses, and deposited in an account or accounts separate and segregated from operating funds. [Section 183A-10\(i\)](#). Managing agents shall be responsible for rendering, in no case less frequently than quarterly, a written report to the trustees or the managing board of the organization of unit owners detailing all receipts and expenditures on behalf of the organization, including beginning and ending balances and copies of all relevant bank statements and reconciliations for the replacement reserve fund, and maintain a separate and distinct account for the replacement reserve fund. [Section 183A-10\(f\)](#).

There is no statutory requirement to conduct a reserve study.

## **MICHIGAN**

Condominiums must have a reserve fund for major repairs and replacement of common elements shall be maintained by the associations of co-owners. The administrator may by rule establish minimum standards for reserve funds. [Section 559.205](#).

The state administrative code requires the co-owners' association to maintain a reserve fund which, at a minimum, shall be equal to 10% of the association's current annual budget on a noncumulative basis. The funds shall only be used for major repairs and replacement of common elements. Additionally, the following statement shall be contained in the bylaws: "The minimum standard required by this section may prove to be inadequate for a particular project. The association of co-owners should carefully analyze their condominium project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes." [Rule 559.511](#).

There is no statutory requirement to conduct a reserve study.

## **MINNESOTA**

The common interest ownership act requires an association to include in its annual budget's replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of common elements. The act also requires the association to reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community. [Section 515B.3-1441](#). Unit owners associations have the power to adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. [Section 515B.3-101](#). Communities must distribute an annual report with a statement of the association's total replacement reserves, the components of the common interest community for which the reserves are set aside, and the amounts of the reserves, if any, that the board has allocated for the replacement of each of those components. [Section 515B.3-106](#). Disclosure statements must include the amount in the budget as replacement reserves and a statement of any other reserves.

There is no statutory requirement to conduct a formal reserve study.

## **MISSISSIPPI**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **MISSOURI**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 448.3-102.1](#). Resale certificates must provide the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects. [Section 448.4-109.1](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **MONTANA**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NEBRASKA**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 76-860](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NEVADA**

The common interest ownership act requires an association to establish adequate reserves, funded on a reasonable basis, for the repair, replacement, and restoration of the major components of the common elements. [Section 116.3115](#). Additionally, the executive board of an association is required to conduct a study of reserves at least every five years, review the study to determine if reserves are sufficient, and adjust reserves, if necessary. The statute specifies how the study is to be conducted. [Section 116.31152](#). A public offering statement must include a budget which has a statement of the amount included in the budget as reserves. [Section 116.4103](#).

## **NEW HAMPSHIRE**

Public offering statement must include the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors. [Section 356-B:58.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NEW JERSEY**

The association may levy and collect assessments duly made by the association for a share of common expenses or otherwise, including any other moneys duly owed the association, upon proper notice to the appropriate unit owner, together with interest thereon, late fees and reasonable attorneys' fees, if authorized by the master deed or bylaws. All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds. [Section 46:8B-15.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NEW MEXICO**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 47-7C-2.](#) Disclosure statements must state the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Section 47-7D-3.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NEW YORK**

Condominium bylaws may contain provisions governing the payment, collection, and disbursement of funds, including reserves, to provide for major and minor maintenance, repairs, additions, improvements, replacements, working capital, bad debts and unpaid common expenses, depreciation, obsolescence, and similar purposes. [RRP Section 339-V.](#) Co-operative corporation directors must periodically set aside reasonable sums for reserves. [CCO Section 72.](#)

There is no statutory requirement to conduct a reserve study.

## **NORTH CAROLINA**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 47C-3-102](#) and [47F-3-102.](#) Public offering statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Section 47C-4-103.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **NORTH DAKOTA**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## OHIO

Unless otherwise provided in the declaration or bylaws, the condominium unit owners association, through the board of directors, shall adopt and amend budgets for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than 10% of the budget for that year unless the reserve requirement is waived annually by the unit owners exercising not less than a majority of the voting power of the unit owners association. [Section 5311.081](#).

Planned community owners associations, unless otherwise provided in the declaration or bylaws, through its board of directors, shall annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the owners association, waive the reserve requirement annually. [Section 5312.06](#).

There is no statutory requirement to conduct a reserve study.

## OKLAHOMA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## OREGON

The declarant, on behalf of a homeowners association, shall conduct an initial reserve study, prepare an initial maintenance plan, and establish a reserve account. A reserve account shall be established to fund major maintenance, repair, or replacement of all items of common property which will normally require major maintenance, repair, or replacement, in whole or in part, in more than one and less than 30 years. The board of directors of the association annually shall conduct a reserve study or review and update an existing study to determine the reserve account requirements. After review of the reserve study or reserve study update, the board of directors may, without any action by owners adjust the amount of payments as indicated by the study or update and provide for other reserve items that the board of directors, in its discretion, may deem appropriate. [Section 94.595](#) and [100.175](#). Following a turnover of power from the declarant to the association, the board of directors at least annually shall adopt a budget for the planned community and include moneys to be allocated to the reserve account. [Section 94.645](#) and [100.483](#). However, the board of directors, with the approval of all owners, may elect not to fund the reserve account for the following year. [Section 94.595](#) and [100.175](#).

## PENNSYLVANIA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Chapter 33 Section 3302](#) and [Chapter 53 Section 5302](#). Disclosure statements must statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Chapter 33 Section 3402](#) and [Chapter 53 Section 5402](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **RHODE ISLAND**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 34-36.1-3.02](#). Public offering statements for condominiums must disclose a budget detailing the amount of reserves sufficient for painting exterior surfaces, replacing roofing, resurfacing roadways or other items subject to declaration. Must also disclose itemized life spans for common elements and expected impact on assessments. [Section 34-36.1-4.03](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **SOUTH CAROLINA**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **SOUTH DAKOTA**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **TENNESSEE**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 66-27-402](#). Disclosure statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements, and whether any study has been done to determine their adequacy, if a study has been done, where the study will be made available for review and inspection, and a statement of any other reserves. [Section 66-27-503](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **TEXAS**

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 82.102](#). Resale statements must include the amount of reserves, if any, for capital expenditures and of portions of those reserves designated by the association for a specified project. [Section 82.157](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **UTAH**

Condominium management committees must cause a reserve analysis to be conducted no less frequently than every six years and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. [Section 57-8-7.5](#). The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis. An association of unit owners shall annually provide unit owners a summary of the most recent reserve analysis or update. [Section 57-8a-211](#). In formulating the association's budget each year, an association shall include a reserve fund line item in: (a) an amount the board determines, based on the reserve analysis, to be prudent; or (b) an amount required by the governing documents, if the governing documents require an amount higher than the amount determined under Subsection (6)(a).

There is no statutory requirement to fund reserves.

## VERMONT

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 27A-3-102](#). Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. [Section 27A-4-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## VIRGINIA

Associations must conduct a reserve study at least once every five years to determine the necessity and amount of reserves required to repair, replace, and restore the common elements or capital components. The board of directors must review the study at least annually and adjust as the board determines to keep the funding of reserves sufficient. The statutory provisions on reserves also include requirements for the contents of the association budget if reserves are determined to be a necessity. [Section 55.1-1965](#). Resale certificates must include the current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the association. [Section 55.1-1991](#).

## WASHINGTON

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners and establish and administer a reserve account and prepare a reserve study. [Section 64.34.304](#) and [64.38.020](#). The decisions relating to the preparation and updating of a reserve study must be made by the board of directors of the association in the exercise of the reasonable discretion of the board. Such decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized. [Section 64.34.388](#). Associations are encouraged to establish a reserve account to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within 30 years. Unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional. Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional. [Section 64.34.380](#) and [64.38.065](#). The public offering statement shall include copies of the association's current reserve study, if any. If the association does not have a reserve study, the public offering statement shall contain the following disclosure: "This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element." [Section 64.34.410](#). Any association created after 2018, must prepare and update a reserve study in accordance with this chapter. An initial reserve study must be prepared by a reserve study professional and based upon either a reserve study professional's visual site inspection of completed improvements or a review of plans and specifications of or for unbuilt improvements, or both when construction of some but not all the improvements is complete. An updated reserve study must be prepared annually. An updated reserve study must be prepared at least every third year by a reserve study professional and based upon a visual site inspection conducted by the reserve study



professional. [Section 64.90.545](#). An association required to obtain a reserve study pursuant to RCW 64.90.545 must establish one or more accounts for the deposit of funds, if any, for the replacement costs of reserve components. Any reserve account must be an income-earning account maintained under the direct control of the board, and the board is responsible for administering the reserve account. [Section 64.90.535](#).

There is no statutory requirement to fund reserves.

## **WEST VIRGINIA**

Unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 36B-3-102](#). Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. [Section 36B-4-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

## **WISCONSIN**

The declarant of a condominium that is created on or after November 1, 2004, shall establish a statutory reserve account when the condominium is created and shall execute a statutory reserve account statement. The declarant shall determine the annual amount to be assessed unit owners for reserve funds. The declarant may elect not to establish a statutory reserve account at the time the condominium is created or, at any time, thereafter, may elect to terminate a statutory reserve account during the period of declarant control. If a declarant has elected not to establish a statutory reserve account or to terminate an account, establishment of a statutory reserve account shall be addressed at the first annual meeting of the association held after, or at a special meeting of the association held within one year after, the expiration of any period of declarant control under. An association may, with the written consent of most of the unit votes, create or terminate a statutory reserve account. [Section 703.163](#).

There is no statutory requirement to conduct a reserve study.

## **WYOMING**

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

*Note: This information is for informational purposes and is not intended to provide legal advice.*



## BUILDING MAINTENANCE & STRUCTURAL INTEGRITY POLICY POSITION

**(Adopted and Approved October 2021)**

### **CAI SUPPORTS LAWS THAT:**

Provide for ongoing review of the major structural elements, owned, or maintained by the community association, of a multi-family residential building(s) of concrete, load bearing masonry, steel, or hybrid structural systems such as heavy timber including podium decks.

### **Developer Requirements at Turnover or Before**

1. Provide a complete set of the final approved architectural and engineering design drawings used for construction and to obtain building permits as well as certificates of occupancy. In the event of changes in the structural components of the building, provide as-built drawings prepared by the initial design engineer, or where the initial design engineer is no longer available to provide the as-built drawings, then the drawings will be provided by a different design engineer, confirming structural adequacy. The drawings must reflect any subsequent changes to the structural components of the building.

Perform ongoing inspections during construction to confirm general conformance to the plans and specifications. Inspections shall be conducted by a building official with sufficient expertise or a licensed third-party architect or engineer. A certificate of occupancy shall not be issued until the building inspector or third-party inspector confirms that the building was constructed in general conformance with the structural portions of the drawings, plans, and specifications.

2. Provide a preventative maintenance manual to the association to be undertaken by the association over the life of the common area components including structural components. The developer shall deliver the maintenance manual to the association. The maintenance manual shall provide the maintenance schedule and timing for such maintenance, including periodic inspections of the structural components of the building. The developer shall include in the association budget or reserve study, as appropriate, the funds necessary to perform the scheduled maintenance.
3. Provide to prospective purchasers a summary of the future Building Inspection Requirements outlined below, together with the projected cost of same over time.

## Building Inspection Requirements for New Construction & Existing Buildings

Mandatory building inspections of the major structural elements owned or maintained by the community association for all multi-family buildings of concrete, load bearing masonry, steel, or hybrid structural systems such as heavy timber including podium decks.

4. For new construction, the first inspection shall be conducted no later than five years after occupancy of the building.
5. For existing buildings more than 10 years old, the first inspection shall take place within 2 years of passage of new statutory requirements.

The purpose of the first inspection is to act as a baseline for future inspections as well as to identify issues of immediate concern. Each periodic inspector's report shall recommend when the next inspection shall be conducted, which, shall not exceed every 10 years during the first 20 years after construction and every 5 years thereafter.

6. Periodic inspections after the first inspection shall take place every 10-years for the first 20 years since construction and 5 years thereafter unless the prior inspection recommends sooner.

The purpose of the reinspection(s) will be to monitor progressive deterioration based on a comparison to the prior inspections and to identify issues of immediate concern as well as to establish a recommendation for the next inspection which, in any case shall not exceed 10 years for the first 20 years after construction and 5 years thereafter.

7. At any time, there is concern about the safety or stability of the building structure, an inspection should be conducted immediately.
8. Scope: The protocol for inspection can be found in the ASCE Standard SEI/ASCE 11-99 (latest edition) [Guideline for Structural Condition Assessment of Existing Buildings or other industry standards](#). The initial Baseline inspection is identified as the Preliminary Assessment within this guide. If necessary, a Detailed Assessment as defined within this guide may be required.

The requirement for these inspections is:

- Primary (required)
    - Structure
    - Inspection report protocols to follow.
  - Secondary (optional based on individual requirements)
    - Affiliated structures and mechanical systems.
9. The inspections must be conducted by the following assuming they meet the minimum requirement of being a licensed engineer with appropriate qualifications.
    - Local municipal building inspector if a licensed professional engineer, in good standing; or a
    - Licensed engineer hired by the building inspector, the community association, or the building owner

10. Communication Requirements to Governmental Authorities

If a safety concern is identified in the inspection reports the inspector must notify the local governmental authorities in writing and record the date and receipt of notice.

11. Funding of emergent life safety issue repairs

- a. The governing board of a community association must have the power to impose a special assessment or borrow funds necessary to make immediate repairs without a vote of the membership. Notwithstanding the provisions of the community association governing documents, empower the association governing board to impose a special assessment or borrow funds without a vote of the membership to fund emergent life safety repairs.

**Best Practice Recommendations**

Best practice recommendations are not statutory recommendations, but best practices. These Policies are not intended to be a part of the Transition Process from the developer and are intended solely to establish a basis for monitoring ongoing deterioration of the building structure due to aging. If the developer is still in control of the building at the time of a recommended periodic inspection, this inspection should be performed by a qualified third-party consultant with the cost of this inspection included within the operating budget or within the Preliminary Reserve Study.

Include in the Initial Budget

- a. Preliminary Reserve Study.
- b. Cost for periodic inspections as defined below with initial inspection taking place within 2 years of turnover. (This is not intended to be a Transition Study).
- c. Cost to update the Reserve Study to reflect as built construction.
- d. Cost to update of Reserve Study and Preventive Maintenance Schedule on a three-year cycle.
- e. Copies of all manufacturer/contractor warranties on all components.

**Communication Requirements to Residents**

- All reports to be saved for reference and to be used to monitor progressive conditions.
- Provide to resident’s a summary report of the condition of the building(s) and a plan to address pending corrective maintenance issues and funding within 120 days after the building inspection.
- Provide notice that the full building inspection report is available for review.
- Resale disclosure statements should include anticipated special assessments and the summary building condition report.

**Other Factors**

- Planning for preventive and corrective maintenance as well as replacement/repair of aging buildings and other structural components that are not currently addressed in the community’s current reserve study.
- Addressing natural disaster risks.
- Funding mechanism for preventive and corrective maintenance and replacement/repair of aging buildings and other structural components that are not currently addressed in communities current Reserve Study.

- Anticipating procedures for disposition of the project when the buildings and systems are economically obsolete (i.e., when the cost of repair or renovation exceeds the value of the project).



Public Policy Development Survey Data Summary

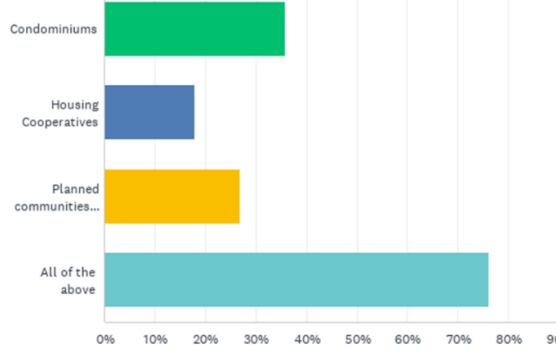
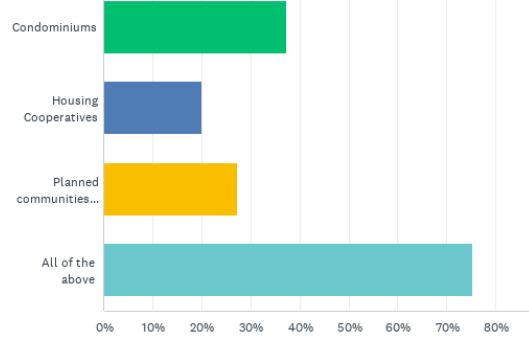
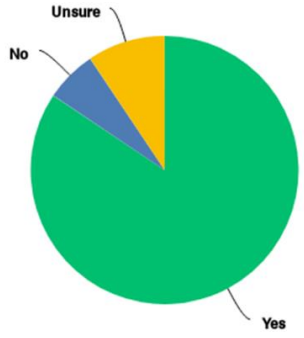
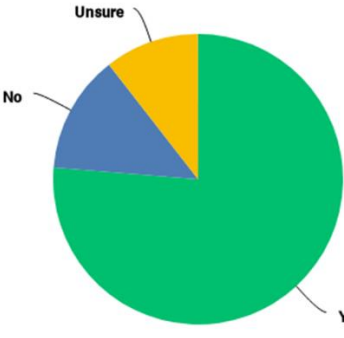
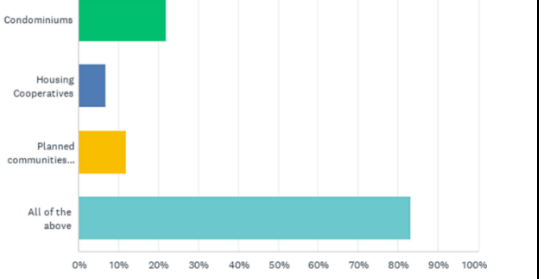
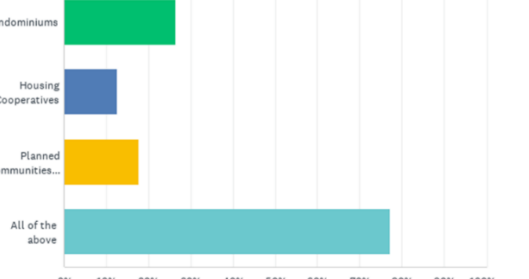
CAI fielded two surveys to capture the organization’s membership feedback on the policy recommendations.

1. CAI legislative action committees, Member Representation Groups (MRGS), and CAI’s College of Community Association Lawyers Board of Governors - (161 respondents)
2. Community Conversation Surfside, Fla. (webinar), attendees - (68 respondents)

Reserve Study & Funding Public Policy Recommendation Survey Results

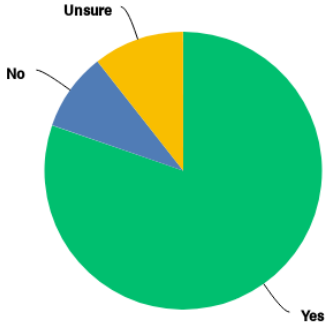
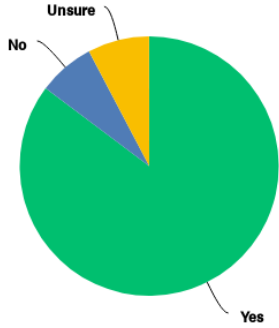
Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)																								
Do you support state law that requires reserve studies to be prepared in compliance with National Reserve Study Standards?	<table border="1"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>88.24%</td> </tr> <tr> <td>No</td> <td>2.94%</td> </tr> <tr> <td>Unsure</td> <td>4.41%</td> </tr> <tr> <td>Other (please specify)</td> <td>7.35%</td> </tr> <tr> <td colspan="2">Total Respondents: 68</td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	88.24%	No	2.94%	Unsure	4.41%	Other (please specify)	7.35%	Total Respondents: 68		<table border="1"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>84.47%</td> </tr> <tr> <td>No</td> <td>4.35%</td> </tr> <tr> <td>Unsure</td> <td>7.45%</td> </tr> <tr> <td>Other (please specify)</td> <td>8.70%</td> </tr> <tr> <td colspan="2">Total Respondents: 161</td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	84.47%	No	4.35%	Unsure	7.45%	Other (please specify)	8.70%	Total Respondents: 161	
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Do you support state law that mandates the developer provide a “Level IV Preliminary, Community Not Yet Constructed” reserve study to a prospective purchaser and members? Note: Level IV is defined as Preliminary, Community Not Yet Constructed. A reserve study prepared before construction that																										

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)
is generally used for budget estimates. It is based on design documents such as the architectural and engineering plans. The following three tasks are performed to prepare this type of study. Component inventory, Life and valuation estimates, and Funding plan	ANSWER CHOICES	RESPONSES
	Yes	83.58%
	No	4.48%
	Unsure	11.94%
	TOTAL	
Do you support state law that mandates the developer provide a "Level 1 Full Reserve Study" at transition/tur nover from declarant control to homeowner control?	ANSWER CHOICES	RESPONSES
	Yes	89.71%
	No	2.94%
	Unsure	7.35%
	TOTAL	
Do you support state law that mandates the developer fund the reserve study prior to transition/tur nover to homeowner control?	ANSWER CHOICES	RESPONSES
	Yes	85.07%
	No	7.46%
	Unsure	7.46%
	TOTAL	
is generally used for budget estimates. It is based on design documents such as the architectural and engineering plans. The following three tasks are performed to prepare this type of study. Component inventory, Life and valuation estimates, and Funding plan	ANSWER CHOICES	RESPONSES
	Yes	79.87%
	No	11.95%
	Unsure	8.18%
	TOTAL	
Do you support state law that mandates the developer provide a "Level 1 Full Reserve Study" at transition/tur nover from declarant control to homeowner control?	ANSWER CHOICES	RESPONSES
	Yes	91.14%
	No	5.70%
	Unsure	3.16%
	TOTAL	
Do you support state law that mandates the developer fund the reserve study prior to transition/tur nover to homeowner control?	ANSWER CHOICES	RESPONSES
	Yes	84.91%
	No	7.55%
	Unsure	7.55%
	TOTAL	

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)																								
<p>Do you support state law that provides for mandatory full reserve study; including site inspection and funding plan for: (Check all that apply)</p>	 <table border="1" data-bbox="341 661 906 911"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Condominiums</td> <td>35%</td> </tr> <tr> <td>Housing Cooperatives</td> <td>18%</td> </tr> <tr> <td>Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.</td> <td>25%</td> </tr> <tr> <td>All of the above</td> <td>75%</td> </tr> <tr> <td><b>TOTAL Respondents:</b></td> <td><b>67</b></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Condominiums	35%	Housing Cooperatives	18%	Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.	25%	All of the above	75%	<b>TOTAL Respondents:</b>	<b>67</b>	 <table border="1" data-bbox="928 661 1466 911"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Condominiums</td> <td>35%</td> </tr> <tr> <td>Housing Cooperatives</td> <td>20%</td> </tr> <tr> <td>Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.</td> <td>25%</td> </tr> <tr> <td>All of the above</td> <td>75%</td> </tr> <tr> <td><b>TOTAL Respondents:</b></td> <td><b>150</b></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Condominiums	35%	Housing Cooperatives	20%	Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.	25%	All of the above	75%	<b>TOTAL Respondents:</b>	<b>150</b>
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<b>TOTAL Respondents:</b>	<b>150</b>																									
<p>Do you support law that requires full reserve studies be conducted on a regular basis?</p>	 <table border="1" data-bbox="341 1291 906 1493"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>84.38%</td> </tr> <tr> <td>No</td> <td>6.25%</td> </tr> <tr> <td>Unsure</td> <td>9.38%</td> </tr> <tr> <td><b>TOTAL</b></td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	84.38%	No	6.25%	Unsure	9.38%	<b>TOTAL</b>		 <table border="1" data-bbox="906 1291 1466 1493"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>76.32%</td> </tr> <tr> <td>No</td> <td>13.16%</td> </tr> <tr> <td>Unsure</td> <td>10.53%</td> </tr> <tr> <td><b>TOTAL</b></td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	76.32%	No	13.16%	Unsure	10.53%	<b>TOTAL</b>					
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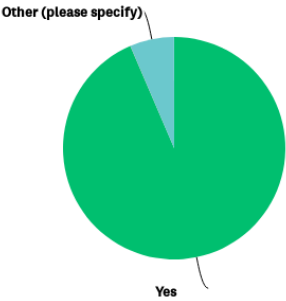
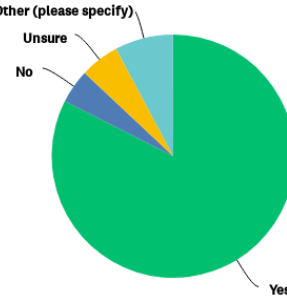
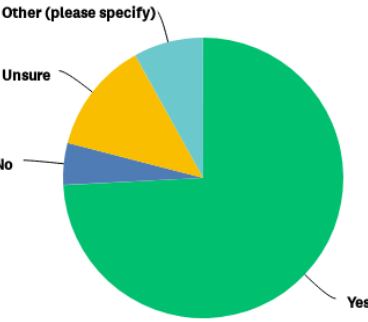
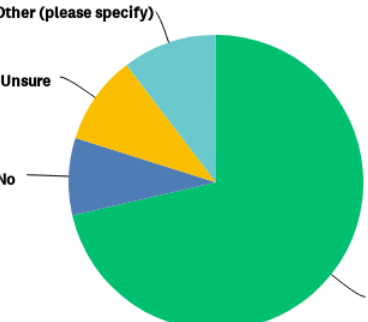
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Do you OPPOSE state law that allows community association owners to opt-out of funding mandatory reserves?	 <table border="1"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>74.24%</td> </tr> <tr> <td>No</td> <td>9.09%</td> </tr> <tr> <td>Unsure</td> <td>9.09%</td> </tr> <tr> <td>Other (please specify)</td> <td>7.58%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	74.24%	No	9.09%	Unsure	9.09%	Other (please specify)	7.58%	TOTAL		 <table border="1"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>64.60%</td> </tr> <tr> <td>No</td> <td>20.50%</td> </tr> <tr> <td>Unsure</td> <td>6.21%</td> </tr> <tr> <td>Other (please specify)</td> <td>8.70%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	64.60%	No	20.50%	Unsure	6.21%	Other (please specify)	8.70%	TOTAL	
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Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)																				
<p>Do you support state law that allows community association governing boards the authority to special assess without a vote of the membership to address life safety issue maintenance, repairs, or replacement?</p>	 <table border="1" data-bbox="332 630 868 798"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>80.30%</td> </tr> <tr> <td>No</td> <td>9.09%</td> </tr> <tr> <td>Unsure</td> <td>10.61%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	80.30%	No	9.09%	Unsure	10.61%	TOTAL		 <table border="1" data-bbox="901 630 1453 798"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>85.26%</td> </tr> <tr> <td>No</td> <td>7.05%</td> </tr> <tr> <td>Unsure</td> <td>7.69%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	85.26%	No	7.05%	Unsure	7.69%	TOTAL	
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## Building Maintenance & Structural Integrity Public Policy Recommendation Survey Results

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)																								
<p>Do you support state laws that require the developer to provide, at or before turnover, a complete set of final approved architectural and engineering design drawings used for construction and for obtaining certificates of occupancy and any field changes affecting the structure components?</p>	 <table border="1" data-bbox="292 756 876 997"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>96.77%</td> </tr> <tr> <td>No</td> <td>0.00%</td> </tr> <tr> <td>Unsure</td> <td>1.61%</td> </tr> <tr> <td>Other (please specify)</td> <td>1.61%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	96.77%	No	0.00%	Unsure	1.61%	Other (please specify)	1.61%	TOTAL		 <table border="1" data-bbox="909 756 1461 997"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>95.48%</td> </tr> <tr> <td>No</td> <td>0.65%</td> </tr> <tr> <td>Unsure</td> <td>1.29%</td> </tr> <tr> <td>Other (please specify)</td> <td>2.58%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	95.48%	No	0.65%	Unsure	1.29%	Other (please specify)	2.58%	TOTAL	
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TOTAL																										
<p>Do you support state law that requires the developer, at turnover or before, to provide a preventive maintenance schedule including</p>																										

Survey Question	CAI General Membership Response Rate		CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)	
	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
all components that are the responsibility of the association?	Yes	86.89%	Yes	83.23%
	No	8.20%	No	6.45%
	Unsure	3.28%	Unsure	5.16%
	Other (please specify)	1.64%	Other (please specify)	5.16%
	TOTAL		TOTAL	
Do you support state laws that require the developer to provide prospective purchasers a summary of the future building inspection requirements, together with the projected cost of time?				
	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
	Yes	73.77%	Yes	67.53%
	No	11.48%	No	12.34%
	Unsure	9.84%	Unsure	11.69%
Other (please specify)	4.92%	Other (please specify)	8.44%	
TOTAL		TOTAL		
Do you support laws that requires buildings to be inspected every 10 years until the building is 20 years old, then every 5 years thereafter unless otherwise recommended by the prior inspection?				
	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
	Yes	65.57%	Yes	65.16%
	No	3.28%	No	7.74%
	Unsure	9.84%	Unsure	12.90%
Other (please specify)	21.31%	Other (please specify)	14.19%	
TOTAL		TOTAL		

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)																								
<p>Do you support laws that require a building inspection be conducted by a licensed engineer or architect?</p>	 <table border="1" data-bbox="305 636 878 846"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>93.55%</td> </tr> <tr> <td>No</td> <td>0.00%</td> </tr> <tr> <td>Unsure</td> <td>0.00%</td> </tr> <tr> <td>Other (please specify)</td> <td>6.45%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	93.55%	No	0.00%	Unsure	0.00%	Other (please specify)	6.45%	TOTAL		 <table border="1" data-bbox="914 636 1461 846"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>82.47%</td> </tr> <tr> <td>No</td> <td>4.55%</td> </tr> <tr> <td>Unsure</td> <td>5.19%</td> </tr> <tr> <td>Other (please specify)</td> <td>7.79%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	82.47%	No	4.55%	Unsure	5.19%	Other (please specify)	7.79%	TOTAL	
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<p>Do you support laws that require, for buildings older than 10 years old, the first inspection shall take place within 2 years after the law is passed?</p>	 <table border="1" data-bbox="305 1224 878 1434"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>74.19%</td> </tr> <tr> <td>No</td> <td>4.84%</td> </tr> <tr> <td>Unsure</td> <td>12.90%</td> </tr> <tr> <td>Other (please specify)</td> <td>8.06%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	74.19%	No	4.84%	Unsure	12.90%	Other (please specify)	8.06%	TOTAL		 <table border="1" data-bbox="914 1224 1461 1434"> <thead> <tr> <th>ANSWER CHOICES</th> <th>RESPONSES</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>71.43%</td> </tr> <tr> <td>No</td> <td>8.44%</td> </tr> <tr> <td>Unsure</td> <td>9.74%</td> </tr> <tr> <td>Other (please specify)</td> <td>10.39%</td> </tr> <tr> <td>TOTAL</td> <td></td> </tr> </tbody> </table>	ANSWER CHOICES	RESPONSES	Yes	71.43%	No	8.44%	Unsure	9.74%	Other (please specify)	10.39%	TOTAL	
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## FEDERAL SOLUTIONS AND POLICY PRIORITIES

### Federal Policy Priorities to Mitigate Financial Burdens of Structural Analysis & Corrective Maintenance at the Municipal and Household Levels

#### Executive Summary

Following the tragic Champlain Towers South condominium collapse on June 24, 2021, Community Associations Institute (CAI) has been engaging in conversations, researching, surveying, thinking, and strategizing about what meaningful changes can be made to support structural integrity and safety of condominium buildings.

This segment of the report recommends changes in Federal law and regulation to incentivize timely compliance with CAI adopted public policies with an emphasis on disaster mitigation through building inspection and structural integrity. The recommendations address financial burdens on municipalities and households resulting from periodic structural analysis inspections of covered community association housing.

**Priority 1** eases financial burdens on local governments of increased structural analysis inspections by clarifying—or authorizing, if necessary—that inspection of aging covered community association housing is an eligible use of Community Development Block Grant (CDBG) funds. CAI seeks clarification/waiver from U.S. Department of Housing & Urban Development (HUD) that municipalities may use CDBG funds for covered community association structural inspections

**Priority 2** engages federal housing agencies to develop government insured or guaranteed corrective maintenance loan products. CAI seeks federal housing agency insurance and/or guarantee of blanket condominium rehabilitation loans secured by assessment income.

**Priority 3 and 4** ease financial impacts of corrective maintenance on households through amendments to the Internal Revenue Code to provide pre-loss access to disaster recovery tax deductions and authorizing a federal income tax deduction for interest paid on community association loans funding corrective maintenance.

- **Priority 3**—CAI seeks pre-disaster access to federal uninsured loss disaster personal income tax deduction for community association households following determination of major risk of structural failure for a 10-year period
- **Priority 4**—CAI seeks federal income tax deduction for owner pro rata interest paid on loans funding community association corrective maintenance secured by assessment income

## FEDERAL POLICY PRIORITIES

### In Depth Description of Federal Policy Priorities

#### **Priority 1. Waiver of CDBG Rules to Facilitate Municipal Government Funded Structural Analyses of Covered Community Association Structures**

##### National Purpose Objectives of CDBG Program

Grantees must use CDBG funds in a manner consistent with at least one of the program's three national objectives: (1) low-and moderate-income area benefit; (2) prevention or elimination of slum/blight; and (3) meeting urgent community needs arising from a serious and immediate threat to public health and welfare.<sup>1</sup> Structural inspections of aging covered community association housing may be eligible CDBG funded costs pursuant to national objective 3, which is often the basis for CDBG funding of code enforcement following a major declared disaster.

##### Overview of CDBG Code Enforcement Program

Section 105(a)(3) of the Housing and Community Development Act of 1974 (88 Stat. 641) authorizes CDBG grantees to use program funds for “code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.” HUD regulations at 24 CFR 570.202(c) provide that CDBG grantees may use funds to supplement costs associated with code enforcement, including “salaries and related expenses of code enforcement inspectors and legal proceedings...” HUD guidance further interprets CDBG code enforcement activities through Notice CPD-14-016.<sup>2</sup>

HUD Notice CPD-14-016 links code enforcement to protecting public health and safety.<sup>3</sup> The notice acknowledges general categories of local government approaches to code enforcement. Code enforcement activities prevent, detect, and investigate violations of local statutes to protect public health, safety, and welfare. Code enforcement supports property values through enforcement of minimum aesthetic standards. Additionally, code enforcement may be directed at structures or non-structural elements (e.g., community cleanliness, etc.).<sup>4</sup> CDBG recipients may use CDBG funds to offset costs of providing code enforcement inspections by staff or by contractors.<sup>5</sup>

##### Recommendation for CDBG Code Enforcement Funding for Structural Analysis of Aging Covered Community Association Housing

1. CAI seek clarification from HUD that municipalities may use CDBG grants to fund municipal staff and/or contractors to conduct structural inspections of aging covered community association housing structures pursuant to the program's national objective of responding to imminent threats to public health and safety.
2. CAI seek a waiver from HUD determining the imminent threat national objective applies to aging covered community association housing structures irrespective of household income.

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<sup>1</sup> U.S. Department of Housing and Urban Development, “Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities,” February 2001, p. 3-1. Available at <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-3.pdf>.

<sup>2</sup> [HUD Notice CPD-14-016, Use of CDBG Funds for Code Enforcement Activities.](#)

<sup>3</sup> *Ibid.*, p. 3.

<sup>4</sup> *Ibid.*, p. 2.

<sup>5</sup> *Ibid.*, p. 4.

## Priority 2. Federal Housing Agency Support for Corrective Maintenance Financing

The intent of modifying federal agency loan programs to permit support for covered community association corrective maintenance loans is to reduce the cost of credit and extend loan terms. It is hypothesized that lower lending costs combined with longer terms will reduce annual financial outlays by households, increasing the likelihood association households will support collective management actions. The following recommendation discusses loan programs of the Federal Housing Administration (FHA), Fannie Mae, and Freddie Mac.

### Overview of Federal Housing Administration (FHA) Rehabilitation Loan Programs

Section 234(d) of the National Housing Act authorizes FHA to insure blanket mortgages for the construction or rehabilitation of multifamily structures where housing units will be sold as individual condominium units upon project completion.<sup>6</sup> While the 234(d) program remains statutorily authorized, the program is inactive due to lack of market demand and availability of market rate construction and rehabilitation financing.<sup>7</sup>

Other FHA multifamily rehabilitation mortgage insurance programs are directed to multifamily rental properties. The Section 223(e) FHA program<sup>8</sup> supports rehabilitation of rental housing in declining and distressed areas but is inactive due to low participation.<sup>9</sup> The FHA Section 223(f) and Section 220 programs insure mortgages used for substantial rehabilitation of multifamily rental properties and are active.

The Section 223(f) program has maximum loan-to-value (LTV) rates based on the income characteristics of residents. Pertinent to CAI is an 85% LTV for projects that meet the definition of affordable housing and 83.3% LTV for market rate properties. The 223(f) program requires that the remaining life of the project permit at least a 10-year loan term. The maximum loan term is 35 years or 75% of the estimated life of the project.<sup>10</sup>

The Section 220 program<sup>11</sup> focuses on rehabilitation of single family and multifamily rental properties in areas where local governments have *concentrated code enforcement activity* (e.g., urban renewal area, natural disaster area). Rehabilitation loans may not exceed 90 percent of the estimated cost of repair and rehabilitation work and the estimated value of the property prior to the repair/rehabilitation project. The maximum loan amortization is 40 years or 75 percent of the remaining economic life of the project, whichever is less.<sup>12</sup>

### Overview of Fannie Mae and Freddie Mac Multifamily Loan Programs

Fannie Mae and Freddie Mac each have multifamily loan purchase programs that support the rehabilitation of multifamily properties. Due to the similarities in loan purchase programs only Fannie Mae programs will be discussed.

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<sup>6</sup> [12 U.S.C. § 1715y\(d\)](#)

<sup>7</sup> [U.S. Department of Housing and Urban Development, Mortgage Insurance for Construction or Substantial Rehabilitation of Condominium Projects: Section 234\(d\)](#).

<sup>8</sup> [12 U.S.C. § 1715n\(e\)](#)

<sup>9</sup> [U.S. Department of Housing and Urban Development, Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223\(f\)](#).

<sup>10</sup> [U.S. Department of Housing and Urban Development, Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223\(f\)](#).

<sup>11</sup> [12 U.S.C. § 1715k](#)

<sup>12</sup> [U.S. Department of Housing and Urban Development, Programs HUD, p. 51; \(emphasis added\)](#).



Under the Housing Cooperative Mortgage Purchase Program, Fannie Mae will purchase a mortgage secured by an eligible housing cooperative project. Mortgage terms range between 5 to 30 years with fixed rates, provided the project meets Fannie Mae eligibility requirements.<sup>13</sup>

The Fannie Mae Moderate Rehab Loan Program (MRLP) targets multifamily project owners that seek to improve the property at a minimum cost of \$8,000 per unit.<sup>14</sup> The program is not currently designed to serve condominium associations. An example of this (other than property eligibility) is a requirement that 60% of budgeted improvements must be used for unit interior upgrades.<sup>15</sup>

#### Modifying FHA, Fannie Mae, and Freddie Mac Multifamily Rental Programs

No active programs at the federal housing agencies are suitable to support access to long-term, low-cost credit to fund corrective maintenance of common elements of covered community associations. The FHA Section 234(d) program is inactive, and more information should be sought to understand its prior operations and applicability to current needs.

Aspects of other FHA multifamily rental property rehabilitation loans may serve as pathways to amending and restarting the Section 234(d) program. Discussions with a broad number of stakeholders, including FHA, lenders, and community associations would be required to determine if the Section 234(d) program is a viable program in the current market and what statutory and administrative changes would be required to for the program to be repurposed.

Fannie Mae and Freddie Mac have greater flexibility in designing loan programs but are constrained by the Federal Housing Finance Agency (FHFA), which is conservator for both companies. FHFA has authority over Fannie Mae and Freddie Mac programs and activities and would be a mandatory stakeholder in any discussions.

While Fannie Mae and Freddie Mac have more flexibility, there is a concern over layers of risk. If the companies own or guarantee unit mortgages in the association, guaranteeing a blanket mortgage or other rehabilitation loan significantly increases risk.

#### Recommendation to Engage Lenders, Federal Agencies in Discussions on Corrective Maintenance Loan Programs

1. Engage with stakeholders in FHA, FHFA, Fannie Mae, Freddie Mac, and private lending community to determine how existing federal agency rehabilitation loan programs may be modified—statutorily or administratively—to permit the insurance or guarantee of loans used by covered community associations for corrective maintenance.

### **Priority 3. Extension of Federal Uninsured Disaster Loss Income Tax Deduction for Corrective Maintenance to Prevent Structural Failure**

#### Overview of Uninsured Disaster Loss Federal Income Tax Deduction

Individuals and households in areas covered by a presidential disaster declaration may deduct

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<sup>13</sup> [Fannie Mae Seller Guide, Part III, Chapter 8, Section 801](#)

<sup>14</sup> [Fannie Mae Seller Guide, Part III, Chapter 3, Section 301](#).

<sup>15</sup> Ibid.

uninsured casualty losses (subject to certain conditions and limitations) on federal income tax returns.<sup>16</sup> The uninsured casualty loss deduction has been made available to homeowners to defray costs of replacing corrosive drywall and defective concrete foundations for a filer’s primary residence, a use that is consistent with corrective maintenance.<sup>17</sup> In 2017, Congress amended the uninsured casualty loss income tax deduction to provide enhanced benefits to individuals and households in presidentially designated disaster areas in 2016 and financed the enhanced benefits by limiting non-disaster casualty loss deductions from 2018 to 2025 (131 Stat. 2079). Allowing covered community association owner access to the uninsured disaster loss deduction will provide resources for corrective maintenance and reduce potential Federal government disaster response outlays.

#### Applicability of Uninsured Disaster Loss Federal Income Tax Deduction

President Biden issued a federal emergency declaration following the collapse of Champlain Tower South on June 25, 2021. As of September 16, 2021, \$890,537 in Individuals and Households Assistance and \$35,550,495 in Public Assistance have been disbursed from the Disaster Relief Fund maintained by the Federal Emergency Management Agency (FEMA).<sup>18</sup>

In 2018, Congress amended disaster recovery statutes to make available additional resources for pre-disaster mitigation programs that seek to limit disaster damages through preventative measures (132 Stat. 3461).<sup>19</sup> These provisions marked a shift in disaster response, with Congress emphasizing cost savings of pre-disaster mitigation.

Amending 42 USC § 125 to authorize a pre-disaster income tax deduction for a portion of a homeowner’s pro rata share of corrective maintenance costs will decrease financial burdens. It is hypothesized that reducing per household corrective maintenance costs will increase household willingness to participate in collective risk management actions and limit future federal disaster expenditures.<sup>20</sup> Limiting the deduction to a 10-year period incentivizes covered community associations to promptly investigate structural integrity of common elements, take appropriate corrective action, and budget appropriately for future corrective maintenance costs.

#### Recommendation for Amendment to Internal Revenue Code to Allow for a Pre-Disaster Casualty Loss Deduction for Covered Community Association Homeowners to Expire 10-years after Enactment

1. Amend 42 USC § 125 to allow a 10-year time limited personal income tax deduction for pro rata share of association expenses to undertake corrective maintenance on association common elements based on a finding of substantial structural degradation that threatens health and safety of residents.

### **Priority 4. Pro Rata Interest Income Tax Deduction for Community Association Corrective Maintenance Loan**

#### IV.1. Overview of Cooperative Mortgage Interest Deduction

26 USC § 163(h)(3) allows homeowners to deduct interest paid on a mortgage secured by residential real property. This provision is the basis for a personal federal income tax deduction for housing cooperative

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<sup>16</sup> [26 U.S.C. § 165\(i\)](#) and [IRS Publication No. 547 \(2020\): Casualties, Disasters, and Thefts](#).

<sup>17</sup> [IRS Revenue Procedure 2018-09: Casualty Loss Deduction for Damage to Personal Residence Related to Corrosive Drywall](#).

<sup>18</sup> [Federal Emergency Management Agency, Florida Surfside Building Collapse, Emergency Declaration 3560-EM-FL](#).

<sup>19</sup> 42 U.S.C. § 5133

<sup>20</sup> Arkcoll, Kaylene, Chris Guilding, Dawne Lamminamki, Lisa McManus, and Jan Warnken, “Funding common property expenditure in multi-owned housing schemes,” *Property Management*, Vol. 31, No. 4 (2013), p. 282-296; Scheller, Daniel S., “The Effects of Neighborhood Democracy on Cooperation: A Laboratory Study,” *Journal of Urban Affairs*, Vol. 37, No. 5 (2015), p. 568-583; Yau, Young, “Willingness to Participate in Collective Action: The Case of Multiowned Housing Management,” *Journal of Urban Affairs*, Vol. 35, No. 2 (2013), p. 153-171.

shareholders for interest paid by a cooperative corporation on debt used to “buy, build, change, improve, or maintain the cooperative’s housing, or on a debt to buy land.”<sup>21</sup>

The permissible individual deduction is calculated by dividing the total shares of stock in the housing cooperative by the number of an owner’s shares of stock and then dividing the total amount of interest paid by the quotient of the prior calculation. This calculation is typically managed by a housing cooperative corporation and eligible mortgage interest deductions reported to shareholders via IRS Form 1098.<sup>22</sup>

#### Qualifying Association Loans Used for Corrective Maintenance for Interest Deduction

It is common for community associations to pledge assessments as collateral to secure a loan rather than real property. For mortgage interest to qualify as a deductible expense, the mortgage must (1) be secured by filer’s home (i.e., real property); (2) allow the real property to be used to satisfy the filer’s debt for non-payment; and (3) be recorded or perfected under applicable state law.<sup>23</sup>

As community association loans do not typically meet these qualifications, owners are not permitted to deduct pro rata shares of interest paid on association debts incurred to finance corrective maintenance. Modifying 26 USC § 163(h)(3) to permit community association homeowners to deduct a pro rata share of interest paid on debts secured by association assessments or other similar arrangements to finance corrective maintenance is hypothesized to reduce individual and household costs and increase willingness to engage in collective management activities.<sup>24</sup>

#### Recommendation to Amend 26 USC § 163(h)(3) to Allow Deduction of Interest Paid on Loans Financing Corrective Maintenance

1. Amend 26 USC § 163(h)(3) to allow community association homeowners to deduct the pro rata share of interest payments on loans financing corrective maintenance pursuant to a structural analysis of association common elements to achieve parity with standards applicable to housing cooperative shareholders.

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<sup>21</sup> [IRS Publication 936 \(2020\), Home Mortgage Interest Deduction.](#)

<sup>22</sup> Ibid., p. 9.

<sup>23</sup> Ibid., p. 3.

<sup>24</sup> See footnote 10.

**Appendix A: Summary of Federal Disaster Assistance Programs  
Applicable to Structural Analysis and Corrective Maintenance Funding Sources**

<b>Priority 1: Program Analysis</b>		
<b>Program Name</b>	<b>Program Details</b>	<b>Program Authorization, Regulation, &amp; Guidance</b>
<p><b><u>Community Development Block Grant Program</u></b></p>	<p><b>Summary</b> The Community Development Block Grant (CDBG) program has three national purposes: (1) low-and moderate-income area benefit; (2) prevention or elimination of slum/blight; and (3) meeting urgent community needs arising from a serious and immediate threat to public health and welfare. Within these national purposes, grantees may rehabilitate residential and non-residential properties and provide public services, among other permissible activities.</p> <p><b><u>CDBG Funds Authorized for Code Enforcement</u></b> Section 105(a)(3) of the Housing and Community Development Act of 1974 (88 Stat. 641) authorizes CDBG grantees to use program funds for code enforcement. <i>“code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.”</i></p> <p>HUD regulations at 24 CFR 570.202(c) provide that CDBG grantees may use funds to supplement costs associated with code enforcement. HUD provides guidance on code enforcement activities through Notice CPD-14-016, which provides that CDBG recipients may use grant funds to offset costs of providing code enforcement inspections by staff or by contractors.</p> <p><b><u>Applicability to Disaster Response</u></b> One of the authorized code enforcement purposes of CDBG grants is inspection of structures following a major disaster or where there are threats to public health. Determining structural integrity of aging covered community association structures is within the spirit, if not letter, of this purpose.</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">Housing and Community Development Act of 1974 (88 STAT 633)</a></li> <li>• HCDA Section 105 (<a href="#">88 STAT 641</a>; <a href="#">42 U.S.C. § 5305</a>)</li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">24 CFR 570.202</a></li> <li>• <a href="#">HUD Notice CPD-14-016</a></li> </ul>

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<p><b><u>FHA Section 234(d)—Insurance of Blanket Mortgage for Condominium Project</u></b></p>	<p><b><u>Summary</u></b>            Section 234(d) of the National Housing Act authorizes FHA to insure blanket mortgages for the construction or rehabilitation of multifamily structures where housing units will be sold as individual condominium units upon project completion. HUD publishes annual loan limits for projects based on a formula that varies by number of bedrooms in each unit and based on the presence of elevators in the project.</p> <p>While the Section 234(d) program remains authorized in federal statute, developers have not sought FHA insurance for construction or rehabilitation loans through the program for several years.</p> <p><b><u>Applicability to Disaster Response</u></b>            Exploration of the Section 234(d) program may be useful to lower financing costs of substantial rehabilitation projects at aging condominiums. Key considerations include the availability of conventional credit at competitive terms and the willingness of HUD to amend and reactivate a dormant program. A demonstration program may be an acceptable outcome.</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">Section 234(d) of the National Housing Act, 12 USC 1715y(d)</a></li> <li>• <a href="#">HUD Handbook 4580.1</a></li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>• U.S. Department of Housing and Urban Development, Office of Housing</li> </ul> <p><b><u>Additional Information</u></b>  <a href="#">Section 234(d) Program</a></p>

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<p><b><u>FHA Section 223(e)—Multifamily Rental Mortgage Insurance Program for Older, Declining Areas</u></b></p>	<p><b><u>Summary</u></b> Section 223(e) of the National Housing Act authorizes FHA to insure mortgages used to purchase or rehabilitate multifamily rental projects in declining and distressed areas.</p> <p>Similar to the Section 234(d) program, the Section 223(e) program retains its statutory authorization, but the program is considered inactive by FHA due to low participation.</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">12 USC 1715n(e)</a></li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>• U.S. Department of Housing and Urban Development, Office of Housing</li> </ul>
<p><b><u>FHA Section 223(f)—Multifamily Mortgage Insurance Programs</u></b></p>	<p><b><u>Summary</u></b> The Section 223(f) program allows FHA to insure a mortgage for a multifamily rental project. Minor repairs may be financed through the 223(f) program provided the repairs are completed within 12 months of loan closing.</p> <p>The Section 223(f) program may provide a model for amendments to the Section 234(d) program or similar loan guarantee or mortgage insurance option to lower costs of structural restoration projects.</p> <p><b><u>Loan Terms &amp; Limitations</u></b> The 223(f) program has maximum loan-to-value (LTV) rates based on the income characteristics of residents. Pertinent to CAI is an 85% LTV for projects that meet the definition of affordable housing and 83.3% LTV for market rate properties.</p> <p>The 223(f) program requires that the remaining life of the project permit at least a 10-year loan term. The maximum loan term is 35 years or 75% of the estimated life of the project. FHA recently rescinded a requirement that projects have been completed or not undergone a rehabilitation in the 3 years immediately prior to applying for Section 223(f) mortgage insurance.</p> <p><b><u>Applicability to Disaster Response</u></b> Allowing aging condominiums access to the 223(f) program will require a statutory change. However, FHA insurance may allow a condominium to refinance debt incurred due to a rehabilitation project at more favorable terms. Importantly, FHA has expanded a pilot program that coordinated Section 223(f) mortgage insurance with projects qualifying for LIHTCs.</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">12 USC 1713</a></li> <li>• <a href="#">12 USC 1715n(f)</a></li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>• U.S. Department of Housing and Urban Development, Office of Housing</li> </ul> <p><b><u>Additional Information</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">HUD Notice H 20-03: Revision of the Section 223(f) Policy Requiring Three Years of Post-Construction Sustained Occupancy</a></li> <li>• <a href="#">Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223(f)</a></li> </ul>
<p><b><u>FHA Section 220—Mortgage Insurance for</u></b></p>	<p><b><u>Summary</u></b> The Section 220 focuses on rehabilitation of single family and multifamily rental properties in areas where</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">12 USC 1715k</a></li> <li>• <a href="#">24 CFR 200</a></li> </ul>

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<p><b><u>Rental Housing for Urban Renewal and Concentrated Development Areas</u></b></p>	<p>local governments have concentrated code enforcement activity (e.g., urban renewal area, natural disaster area).</p> <p><b><u>Loan Terms &amp; Limitations</u></b>  Rehabilitation loans may not exceed 90 percent of the estimated cost of repair and rehabilitation work and the estimated value of the property prior to the repair/rehabilitation project. The maximum loan amortization is 40 years or 75 percent of the remaining economic life of the project, whichever is less.</p> <p><b><u>Similar FHA Multifamily Rehabilitation Mortgage Insurance Programs</u></b>  FHA additionally maintains the agency’s <a href="#">Section 221(d)(3) and (4)</a> programs that insure mortgages for multifamily rental projects that are designated for the elderly or housing cooperatives serving moderate income families (see also <a href="#">24 CFR 221</a>). The 221 programs offer mortgage insurance for loans financing construction or substantial rehabilitation of the property with 221(d)(3) typically used by nonprofit housing providers and 221(d)(4) used by for profit housing providers.</p> <p><b><u>Applicability to Disaster Response</u></b>  Allowing aging condominiums access to the 220 and 221(d)(4) programs will require a statutory change. However, FHA insurance may allow a condominium to refinance debt incurred due to a rehabilitation project at more favorable terms.</p>	<p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>U.S. Department of Housing and Urban Development, Office of Housing</li> </ul>
<p><b><u>Fannie Mae and Freddie Mac Multifamily Rehabilitation Loan Programs</u></b></p> <p><b><u>Fannie Mae, Freddie Mac, cont.</u></b></p>	<p><b><u>Summary</u></b>  Fannie Mae and Freddie Mac each have multifamily loan purchase programs that support the rehabilitation of multifamily properties. Due to the similarities in loan purchase programs only Fannie Mae programs are discussed below.</p> <p><b><u>Fannie Mae Multifamily Loan Programs</u></b></p> <ul style="list-style-type: none"> <li><i>Housing Cooperative Mortgage Purchase Program</i>—Fannie Mae will purchase a mortgage secured by an eligible housing cooperative project. Mortgage terms range between 5 to 30 years with fixed rates. provided the project meets delivery requirements of <a href="#">Section 800 of the Multifamily Seller Guide</a>. Mortgage terms range between 5 to 30 years with fixed rates.</li> <li><i>Moderate Rehab Loan Program (MRLP)</i>—The <a href="#">Fannie Mae MRLP</a> is targeted at multifamily project</li> </ul>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li><a href="#">Federal National Mortgage Association Charter Act, 12 USC 1716 et seq.</a></li> <li><a href="#">Federal Home Loan Mortgage Corporation Act, 12 USE 1451 et seq.</a></li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>Fannie Mae and Freddie Mac, subject to supervision of the Federal Housing Finance Agency</li> </ul>

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
	<p>owners that seek to improve the property at a minimum cost of \$8,000 per unit. The program is not currently designed to serve condominium associations. An example of this (other than property eligibility) is a requirement that 60% of budgeted improvements must be used for unit interior upgrades.</p> <p><b>Applicability to Disaster Response</b>            Similar to FHA mortgage insurance, adjustments to Fannie Mae and Freddie Mac multifamily rehabilitation loan products to include distressed condominiums will increase the supply of credit for rehabilitation projects and provide more favorable terms.</p>	
<b><u>SBA Disaster Loan Program</u></b>	<p><b>Summary</b>            The Small Business Administration (SBA) makes available long-term, low interest loans to offset homeowner uninsured disaster losses. Under the SBA home and personal property loan program, homeowners may apply for loans up to \$200,000. Under the current program interest rates may not exceed 4% with amortizations of up to 30 years.</p> <p><b>Applicability to Disaster Response</b>            Access to SBA disaster loans may allow homeowners to access low-cost, long-term financing to fund special assessment costs.</p>	<p><b>Statutory Authorization</b></p> <ul style="list-style-type: none"> <li>• <a href="#">Small Business Act, 15 USC 636(b)</a></li> <li>• <a href="#">13 CFR 123—Disaster Loan Program</a></li> <li>• <a href="#">SBA Disaster Assistance Program: SOP 50 30 9</a></li> </ul> <p><b>Administration</b></p> <ul style="list-style-type: none"> <li>• Small Business Administration</li> </ul>



Priority 3 & 4: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<p><b><u>Uninsured Disaster Loss Deduction</u></b></p>	<p><b><u>Summary</u></b> Individuals and households located within areas covered by a presidential disaster declaration may deduct uninsured losses (subject to certain conditions and limitations) on federal income tax returns. The casualty loss deduction has been used to defray costs of replacing corrosive drywall and defective concrete foundations for a filer’s personal residence.</p> <p><b><u>Tax Cuts and Jobs Act Disaster Casualty Loss</u></b> The Tax Cuts and Jobs Act of 2017 (TCJA) eliminated casualty loss deductions other than those resulting from a presidentially declared disaster. The TCJA limitations on non-disaster casualty losses are effective from 2018 to 2025. During this period, households incurring uninsured “qualified damages” resulting from a declared disaster are eligible to deduct uninsured losses in the tax year in which the loss occurred.</p> <p><b><u>Deduction Formula</u></b></p> <ol style="list-style-type: none"> <li>1. Determine the adjusted loss basis of the property (fair market value – present value).</li> <li>2. Determine the amount of insurance and other reimbursements applied to the loss.</li> <li>3. Determine the uninsured loss (fair market value – (insurance + reimbursements)).</li> <li>4. Reduce the qualified uninsured loss by \$500 <i>NOTE: qualified disaster losses are not subject to the non-qualified disaster loss deduction of 10% of the filer’s adjusted gross income.</i></li> </ol> <p><b><u>Casualty Loss Deduction for Defective Drywall and Concrete</u></b> In 2010 (updated as recently as 2018), the Internal Revenue Service released guidance classifying amounts paid to repair damage to a filer’s personal residence caused by corrosive drywall and defective concrete as a permissible casualty loss. The IRS guidance excludes community association common elements from the definition of personal residence, notwithstanding a filer’s ownership of a defined percentage of common property.</p> <p><b><u>Applicability to Disaster Response</u></b> The federal tax code can be a powerful tool to direct monetary relief to households and has been used to</p>	<p><b><u>Statutory Authorization</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">P.L. 115-97, Tax Cuts and Jobs Act of 2017, Sec. 11028 Relief for 2016 Disaster Areas (131 STAT. 2078-2081)</a></li> </ul> <p><b><u>Administration</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">IRS Publication No. 547 (2020): Casualties, Disasters, and Thefts</a></li> <li>• <a href="#">IRS News Release 2010-102, IRS Provides Relief for Homeowners with Corrosive Drywall</a></li> <li>• <a href="#">IRS Revenue Procedure 2018-09 (Casualty Loss Deduction for Damage to Personal Residence Related to Corrosive Drywall)</a></li> </ul> <p><b><u>Additional Information</u></b></p> <ul style="list-style-type: none"> <li>• <a href="#">Congressional Research Service In Focus Issue Brief IF10730: Tax Policy and Disaster Recovery</a></li> <li>• <a href="#">Congressional Research Service Report R45864: Tax Policy and Disaster Recovery</a></li> </ul>
<p><b><u>Uninsured Disaster Loss Deduction, cont.</u></b></p>		



### **Other Federal Policy Alternatives**

- **Income Tax Deduction for Reserves Contribution**—CAI should consider policy supporting a federal income tax deduction for the portion of a community association homeowner’s annual assessments that fund association reserves, provided the association meets defined reserve requirement thresholds. The deduction should be subject to limitations and parameters that target relief for low to moderate income households.
- **Income Tax Deduction for Assessments**—CAI should consider seeking out new sponsors for [H.R. 4696, the “Helping Our Middle-Income Earners \(HOME\) Act.”](#) Introduced in the 114<sup>th</sup> Congress by U.S. Rep. Anna Eshoo (D-CA), the HOME Act allowed a federal income tax deduction of up to \$5,000 for community association assessments, subject to certain limitations.

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In addition to the above-mentioned individuals, hundreds of others contributed to the conversation and effort. Thank you to the hundreds of volunteers who contributed to the efforts of these public policy recommendations.

## ADDITIONAL RESOURCES

[September/October 2021 Common Ground™ magazine](#), CAI's flagship publication. (*Champlain Towers South specific content*).

[2020-2021 Statistical Review](#) published by the Foundation for Community Association Research.

[Reserve Studies and Management Best Practices Report](#) published by the Foundation for Community Association Research.

[Breaking Point: An assessment of aging infrastructure in community associations](#) published by the Foundation for Community Association Research



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