

## California State Balcony Inspection Law

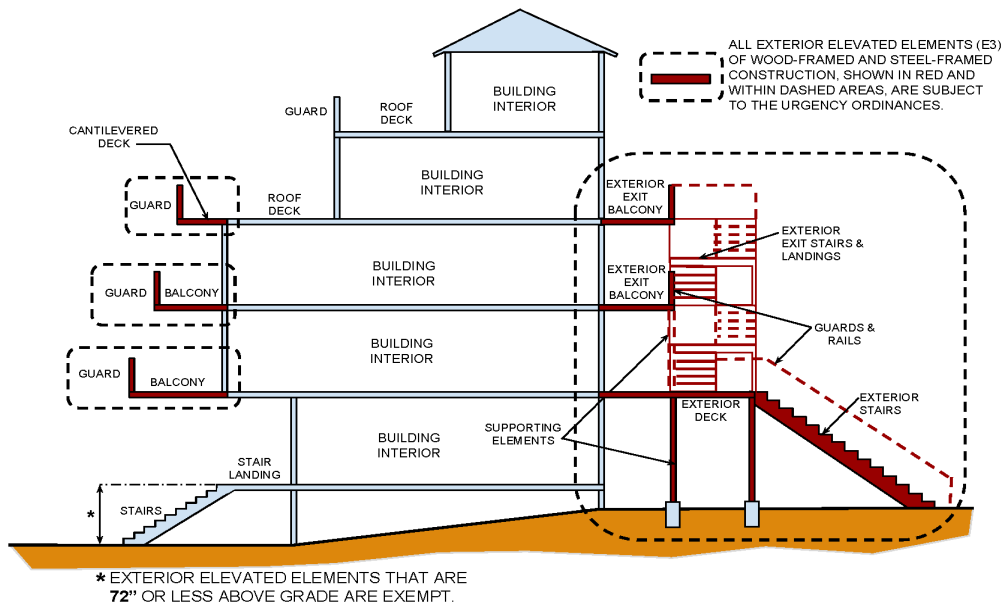
[SB 721 \(2018\)](#) and [SB 326 \(2019\)](#) require inspections of Exterior Elevated Elements (EEE) by 2025. Buildings that are proposed for conversion to condominiums to be sold to the public after January 1, 2019, must be inspected prior to the first close of escrow. EEE inspections, as well as any required maintenance or repair which is identified as a result of the inspection, are the responsibility of the private property owner. While some local governments already impose a local inspection program, this California law requires inspection of specific balconies throughout California.

### What Buildings Must be Inspected?

Buildings with 3 or more units that have:

- Balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and that rely in whole or in substantial part on wood or wood-based products for structural support or stability; and
- A walking surface that is elevated more than 6 feet above the ground level; and
- Balconies designed for human occupancy or use.

Please see the illustration below for more information.



Source: City of Berkeley



### **When Must the Buildings be Inspected?**

Buildings that are proposed for conversion to condominiums to be sold to the public after January 1, 2019, must be inspected prior to the first close of escrow. Otherwise, inspections of the balconies, decks, porches, stairways, walkways, and entries as described above must be inspected by January 1, 2025, with certain exceptions, and requires subsequent inspections every 6 years.

The inspection of buildings for which a building permit application has been submitted on or after January 1, 2019, shall occur no later than 6 years following issuance of a certificate of occupancy from the local jurisdiction and shall otherwise comply with the provisions of this law.

If the property was inspected within 3 years prior to January 1, 2019, by an inspector as described in the law and a report of that inspector was issued stating that the exterior elevated elements and associated waterproofing elements are in proper working condition and do not pose a threat to the health and safety of the public, no new inspection shall be required until January 1, 2025.

### **Who Can Perform the Inspections?**

- A licensed architect,
- Licensed civil or structural engineer,
- General Contractor holding any or all A, B, or C-5 Licenses issued by the Contractors State License Board, with a minimum of 5 years' experience in constructing multistory wood frame buildings,
- Individuals certified as a building inspector or building official, as specified; (these individuals cannot be employed by the local jurisdiction while performing these inspections).

### **What Must the Inspection Cover?**

The inspection required by this law must, at a minimum, include:

- Identification of each exterior elevated element or associated waterproofing elements that, if found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants.
- "Associated waterproofing elements" are defined to mean flashings, membranes, coatings, and sealants that protect the load-bearing components of exterior elevated elements from exposure to water and the elements.



- Assessments of elevated elements using methods allowing for evaluation of their performance by direct visual examination or comparable means of evaluating their performance. For purposes of this section, a sample of at least 15 percent of each type of exterior elevated element shall be inspected.
- The evaluation and assessment shall address each of the following as of the date of the evaluation:
  - The current condition of the exterior elevated elements.
  - Expectations of future performance and projected service life.
  - Recommendations of any further inspection necessary.
  - Recommendations of any necessary repair or replacement.

### **The Report**

The inspector conducting the inspection shall produce an initial report and a final report indicating that any required repairs have been completed.

A written report of the evaluation stamped or signed by the inspector presented to the owner of the building or the owner's designated agent within 45 days of completion of the inspection.

The report shall include photographs, any test results, and narrative sufficient to establish a baseline of the condition of the components inspected that can be compared to the results of subsequent inspections. In addition to the evaluation required by this section, the report shall advise which, if any, exterior elevated element poses an immediate threat to the safety of the occupants, and whether preventing occupant access or conducting emergency repairs, including shoring, are necessary.

A copy of the inspection report must be presented to the owner of the building within 45 days of the completion of the inspection. The law requires that if the inspection reveals conditions that pose an immediate hazard to the safety of the occupants, the inspection report be delivered to the owner of the building within 15 days and emergency repairs be undertaken, as specified, with notice given to the local enforcement agency.

### **Who Keeps the Report?**

Copies of all inspection reports shall be maintained in the building owner's permanent records for not less than two inspection cycles and shall be disclosed and delivered to the buyer at the time of any subsequent sale of the building.



### **What if Repairs are Required?**

**Immediate Threat** - An exterior elevated element that the inspector advises poses an immediate threat to the safety of the occupants, or finds preventing occupant access or emergency repairs, including

shoring, or both, are necessary, shall be considered an emergency condition and the owner of the building shall perform required preventive measures immediately.

Immediately preventing occupant access to the exterior elevated element until emergency repairs can be completed constitutes compliance with this paragraph. Repairs of emergency conditions shall comply

with the requirements of the law, be inspected by the inspector, and reported to the local enforcement agency.

**No Immediate Threat** - The owner of the building that requires corrective work to an exterior elevated element that, in the opinion of the inspector, does not pose an immediate threat to the safety of the occupants, shall apply for a permit within 120 days of receipt of the inspection report. Once the permit is approved, the owner of the building shall have 120 days to make the repairs unless an extension of time is granted by the local enforcement agency.

If the owner of the building does not comply with the repair requirements within 180 days, the inspector shall notify the local enforcement agency and the owner of the building. If within 30 days of the date of the notice the repairs are not completed, the owner of the building shall be assessed a civil penalty based on a fee of not less than \$100 or more than \$500 per day until the repairs are completed, unless an extension of time is granted by the local enforcement agency. If a civil penalty is assessed, a building safety lien may be recorded against the property.

### **Can a Local Government Pass a More Stringent Law?**

Yes. The State law provides that the governing body of any city, county, or city and county, may enact ordinances or laws imposing requirements greater than those imposed by this law.

### **References:**

- SB 721 (Hill), Ch. 445, Stats. 2018
- SB 326 (Hill), Ch. 207, Stats. 2019
- Health and Safety Code Section 17973, et seq.