

§ 42–1903.13. Lien for assessments against units; priority; recordation not required; enforcement by sale; notice to delinquent owner and public; distribution of proceeds; power of executive board to purchase unit at sale; limitation; costs and attorneys’ fees; statement of unpaid assessments; liability upon transfer of unit.

(a) Any assessment levied against a condominium unit in accordance with the provisions of this chapter and any lawful provision of the condominium instruments, along with any applicable interest, late fees, reasonable expenses and legal fees actually incurred, costs of collection and any other reasonable amounts payable by a unit owner under the condominium instruments, shall, from the time the assessment becomes due and payable, constitute a lien in favor of the unit owners’ association on the condominium unit to which the assessment pertains. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment becomes due and payable.

(1) The lien shall be prior to any other lien or encumbrance except:

(A) A lien or encumbrance recorded prior to the recordation of the declaration;

(B) A first mortgage for the benefit of an institutional lender or a 1st deed of trust for the benefit of an institutional lender on the unit recorded before the date on which the assessment sought to be enforced became delinquent; or

(C) A lien for real estate taxes or municipal assessments or charges against the unit.

(2) The lien shall also be prior to a mortgage or deed of trust described in paragraph (1)(B) of this subsection and recorded after March 7, 1991, to the extent of the common expense assessments based on the periodic budget adopted by the unit owners’ association which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien or recordation of a memorandum of lien against the title to the unit by the unit owners’ association. The provisions of this subsection shall not affect the priority of mechanics’ or materialmen’s lien.

(b) The recording of the condominium instruments pursuant to the provisions of this chapter shall constitute record notice of the existence of such lien and no further recordation of any claim of lien for assessment shall be required.

(c)(1) The unit owners’ association shall have the power of sale to enforce a lien for an assessment against a condominium unit if an assessment is past due. By accepting a deed to a condominium unit, the owner shall be irrevocably deemed to have appointed the chief executive officer of the unit owners’ association as trustee for the purpose of exercising the power of sale provided for herein. Any language contained in the condominium instruments that authorizes specific procedures by which a unit owners’ association may recover sums for which subsection (a) of this section creates a lien, shall not be construed to prohibit a unit owners’ association from

foreclosing on a unit by the power of sale procedures set forth in this section unless the power of sale procedures are specifically and expressly prohibited by the condominium instruments.

(2) A unit owner shall have the right to cure any default in payment of an assessment at any time prior to the foreclosure sale by tendering payment in full of past due assessments, plus any late charge or interest due and reasonable attorney's fees and costs incurred in connection with the enforcement of the lien for the assessment.

(3) The power of sale may be exercised by the chief executive officer of the unit owners' association, as trustee, upon the direction of the executive board, on behalf of the unit owners' association, and the chief executive officer of the unit owners' association shall have the authority as trustee to deed a unit sold at a foreclosure sale by the unit owners' association to the purchaser at the sale. The recitals in the deed shall be prima facie evidence of the truth of the statement made in the deed and conclusive evidence in favor of bona fide purchasers for value.

(4)(A) A foreclosure sale shall not be held until at least 31 days after a Notice of Foreclosure Sale of Condominium Unit for Assessments Due is recorded in the land records and sent by a delivery service providing delivery tracking confirmation and by first-class mail to a unit owner at the mailing address of the unit, any last known mailing address, and at any other address designated by the unit owner to the executive board for purposes of notice.

(B) The Notice of Foreclosure Sale of Condominium Unit for Assessments Due shall:

(i) State the past due amount being foreclosed upon and that must be paid in order to stop the foreclosure;

(ii) ~~Expressly state that the foreclosure sale is for either:~~ Repealed.

~~——— (I) The 6-month priority lien as set forth in subsection (a)(2) of this section and not subject to the first deed of trust; or~~

~~——— (II) More than the 6-month priority lien set forth in subsection (a)(2) of this section and subject to the first deed of trust; and~~

(iii) Notify the unit owner that if the past due amount being foreclosed upon is not paid within 31 days after the date the NFSCUAD is mailed, the executive board shall sell the unit at a public sale at the time, place, and date stated in the NFSCUAD.

(C) Substantial compliance with the requirements of subparagraph (B) of this paragraph shall be sufficient until new forms are made available by the Recorder of Deeds.

(D) The Notice of Foreclosure Sale of Condominium Unit for Assessments Due shall be accompanied by an enclosure providing the following information:

(i) A statement of the past due amount being foreclosed upon and that must be paid in order to stop the foreclosure sale;

(ii) A breakdown of the amount being foreclosed on, including amounts past due for assessments, accrued interest, late charges, all other categories of amounts past due, and the dates those amounts accrued;

(iii) A statement that the amount being foreclosed upon may not be the total amount owed to the unit owners' association and instructions on how the unit owner can request a full account statement;

(iv) Information on the availability of resources that a unit owner may utilize, which shall be in substantively the following form in at least 18-point font:

"FAILURE TO PAY AMOUNTS INDICATED IN THE ENCLOSED NOTICE OF FORECLOSURE SALE OF CONDOMINIUM UNIT FOR ASSESSMENTS DUE MAY RESULT IN SALE OF YOUR UNIT.

"YOU MAY BE ELIGIBLE FOR FREE OR REDUCED-COST ASSISTANCE.

"The D.C. Department of Housing and Community Development maintains a list of Community-Based Non-Profit Organizations that provide housing counseling services. Information on providers can be found on [Department of Housing and Community Development website for community-based non-profit organizations] or by calling [Department of Housing and Community Development's designated phone number].

"The U.S. Department of Housing and Urban Development ("HUD") sponsors housing counseling agencies that can provide advice on buying a home, renting, defaults, foreclosures, and credit issues. You can get a list of HUD-approved housing counselors at [Department of Housing and Urban Development's website] or by calling [Department of Housing and Urban Development's phone number]."; and

(v) Any other information the Mayor may prescribe by rule.

(E)(i) At least 31 days in advance of the sale, a copy of the Notice of Foreclosure Sale of Condominium Unit for Assessments Due shall be sent by a delivery service providing delivery tracking confirmation and by first class mail to:

(I) The Mayor or the Mayor's designated agent;

(II) Any and all junior lien holders of record; and

(III) Any holder of a first deed of trust or first mortgage of record, their successors and assigns, including assignees, trustees, substitute trustees, and MERS.

(ii) The unit owners' association shall be in compliance with this requirement if it sends notice as provided herein to the lienholders as their names and addresses appear in land records.

(5) The date of sale shall not be sooner than 31 days from the date the notice is mailed. The executive board shall give public notice of the foreclosure sale by advertisement in at least 1 newspaper of general circulation in the District of Columbia and by any other means the executive board deems necessary and appropriate to give notice of sale. The newspaper advertisement shall appear on at least 3 separate days during the 15-day period prior to the date of the sale.

(6) The proceeds of a sale shall be applied:

(A) To any unpaid assessment with interest or late charges;

(B) To the cost of foreclosure, including but not limited to, reasonable attorney's fees; and

(C) The balance to any person legally entitled to the proceeds.

(d) Unless the condominium instruments provide otherwise, the executive board shall have the power to purchase on behalf of the unit owners' association any unit at any foreclosure sale held on such unit. The executive board may take title to such unit in the name of the unit owners' association and may hold, lease, encumber or convey the same on behalf of the unit owners' association.

(e) The lien for assessments provided herein shall lapse and be of no further effect as to unpaid assessments (or installments thereof) together with interest accrued thereon and late charges, if any, if such lien is not discharged or if foreclosure or other proceedings to enforce the lien have not been instituted within 3 years from the date such assessment (or any installment thereof) become due and payable.

(f) The judgment or decree in an action brought pursuant to this section shall include, without limitation, reimbursement for reasonable costs and attorneys' fees actually incurred by the unit owners' association.

(g) Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection (a) of this section creates a lien, maintainable pursuant to § 42-1902.09.

(h) Any unit owner or purchaser of a condominium unit shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 days from the receipt of such request shall extinguish the lien created by subsection (a) of this section as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a reasonable fee may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

(i) Upon any voluntary transfer of a legal or equitable interest in a condominium unit, except as security for a debt, all unpaid common expense assessments or installments thereof then due and payable from the grantor shall be paid or else the grantee shall become jointly and severally liable with the grantor subject to the provisions of subsection (h) of this section. Upon any involuntary transfer of a legal or equitable interest in a condominium unit, however, the transferee shall not be liable for such assessments or installments thereof as became due and payable prior to his acquisition of such interest. To the extent not collected from the predecessor in title of such transferee, such arrears shall be deemed common expenses, collectible from all unit owners (including such transferee) in proportion to their liabilities for common expenses pursuant to § 42-1903.12(c).

(j) In addition to any other right or power conferred by this section, the executive board shall have the power to suspend the voting rights in the unit owners' association of any unit owner who is in arrears in his payment of a common expense assessment by more than 30 days, and the suspension may remain in effect until the assessment has been paid in full.

(Mar. 29, 1977, D.C. Law 1-89, title III, § 313, 23 DCR 9532b; Mar. 8, 1991, D.C. Law 8-233, § 2(gg), 38 DCR 261; Mar. 20, 1992, D.C. Law 9-82, § 2(k), 39 DCR 683; June 21, 2014, D.C. Law 20-109, § 2(l), 61 DCR 4304; Apr. 7, 2017, D.C. Law 21-241, § 2(d), 64 DCR 1602.)

Prior Codifications

1981 Ed., § 45-1853.

1973 Ed., § 5-1253.

Section References

This section is referenced in § 42-1901.01, § 42-1902.02, and § 42-1904.11.

Effect of Amendments

The 2014 amendment by D.C. Law 20-109 added “along with any applicable interest, late fees, reasonable expenses and legal fees actually incurred, costs of collection and any other reasonable amounts payable by a unit owner under the condominium instruments” in the introductory language of (a); added “or recordation of a memorandum of lien against the title to the unit by the unit owners’ association” in (a)(2); in (c)(1), deleted “unless the condominium instruments provide otherwise” from the end of the first sentence, and added the second sentence; rewrote (c)(3); and substituted “for reasonable costs and attorneys’ fees actually incurred by the unit owners’ association” for “for costs and attorneys’ fees” in (f).

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(k) of Condominium Act of 1976 Technical and Clarifying Temporary Amendment Act of 1991 (D.C. Law 9-38, August 17, 1991, law notification 38 DCR 5805).

Editor's Notes

Section 3 of D.C. Law 21-241 stated that within 180 days after April 7, 2017, the Mayor, pursuant subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of Law 21-241.

§ 42–1903.16. Warranty against structural defects; limitation for conversion condominiums; exclusion or modification of warranty.

(a)(1) As used in this section, the term “structural defect” means a defect in a component that constitutes ~~any unit or~~ a portion or all of either a unit or of the common elements that ~~reduces:~~

(A) Reduces the stability or safety of the ~~structure~~unit or common elements below standards commonly accepted in the real estate market,

(B) Fails to comply with applicable building code requirements; or ~~restricts~~

(C) Restricts the normally intended use of all or part of the ~~structure~~common elements or of a unit, and which requires repair, renovation, restoration, or replacement to serve the purpose for which it was intended.

(2) To the extent that a structural defect results in damage to a unit or to a portion of the common elements, repair of the structural defect shall also require repair of the damage to a unit or a portion of the common elements resulting from the structural defect.

(3) Nothing in this section shall be construed to make the declarant responsible for any items of maintenance relating to the units or common elements.

(b) A declarant shall warrant against structural defects in each of the units for 2 years from the date each unit is first conveyed to a bona fide purchaser, and all of the common elements for 2 years. The 2 years shall begin as to any portion of the common elements whenever the portion has been completed or, if later:

(1) If within any additional land or portion thereof that does not contain a unit, at the time the additional land is added to the condominium;

(2) If within any convertible land or portion thereof that does not contain a unit, at the time the convertible land may no longer be converted;

(3) If within any additional land or convertible land or portion of either that does contain a unit, at the time the first unit therein is first conveyed to a bona fide purchaser; or

(4) If within any other portion of the condominium, at the time the first unit is conveyed to a bona fide purchaser.

(c) A declarant of a conversion condominium may offer the units, common elements, or both in “as is” condition. If the conversion condominium is offered in “as is” condition, the declarant’s warranty against structural defects shall apply only to a defect in components installed by the declarant or work done by the declarant unless the declarant gives a more extensive warranty in writing.

(d) Except with respect to a purchaser of a unit that may be used for residential purposes, the warranty against structural defects:

(1) May be excluded or modified by agreement of the parties; and

(2) Is excluded by an expression of disclaimer such as “as is”, “with all faults,” or other language that in common understanding calls the purchaser’s attention to the exclusion of warranties.

~~(e)(1)(A) Prior to the declarant’s first conveyance of a residential unit to a purchaser, the declarant shall post a bond or letter of credit with the Mayor or any other form of security the Mayor may approve in the amount of 10% of the estimated construction ~~or~~ and conversion costs; ~~or shall provide any other form of security the Mayor shall approve~~ to satisfy ~~any~~ costs that arise from ~~the~~ a declarant’s failure to ~~satisfy~~ fulfill the requirements of this section. ~~The other security may include a lien in favor of the Mayor against the declarant’s equity in any unsold units, including any non-residential units, in which event the unsold units will be valued, for purposes of computing the declarant’s equity, at 90% of the current listed sales price of the units, or if not listed, then the current listed sales price of comparable units in the condominium. The~~~~

(B) The bond or letter of credit or other security shall be in a form that is automatically renewable unless revoked.

(2)(A) A declarant shall provide a sworn statement from a contractor licensed in the District of cost estimates for the work proposed in the permit, including the costs of materials and labor.

(B) The sworn statement of estimated costs and the bond or letter of credit shall be updated with any changes submitted for plan approval to the Department of Consumer and Regulatory Affairs (“DCRA”) or at any time actual costs exceed the cost estimate by more than 10%.

(3) Prior to the issuance of a certificate of occupancy, a declarant shall submit a final accounting of costs and update the bond or letter of credit to reflect 10% of the actual cost of construction or conversion, including the actual costs of materials and labor.

(4)(A) Provided that no claim has been filed pursuant to paragraph (8) of this subsection, the bond, letter of credit, or other security shall ~~may~~ be reduced at ~~the~~ a declarant’s request in pro rata segments ~~(based on the residential unit’s percentage interest in the residential portion of the condominium) 2 years after the conveyance of each unit; provided, however, that in no event shall the security be reduced below 50% of the original amount of the security until one year after~~ beginning 2 years after the transfer of control of the residential executive board of the condominium association to purchasing residential unit owners other than the declarant.

(B) If a claim has been filed pursuant to paragraph (8) of this subsection, then the bond, letter of credit, or other security may not be reduced until the full amount of the claim has been established, and then only in an amount that leaves sufficient funds available to satisfy the full amount of the claim

(C) Pro rata segments shall be based on the residential unit’s percentage interest in the residential portion of the condominium.

(D) For purposes of this subsection, “transfer of control” shall have

occurred when 51% or more of the residential executive board is composed of residential unit owners other than the declarant, ~~or~~ successor declarant, or the declarant's² selections or nominees.

(5) At the end of 5 years from the conveyance of the first residential unit to a purchaser, ~~and provided one year has passed following transfer of control by the declarant~~, the declarant may sell unsold residential units as resale units, in which event no warranty against structural defects in the units under this section shall be required and the bond shall be reduced pro rata as to those unsold units; provided, that one year has passed following transfer of control by the declarant.

(6) The bonding requirements pursuant to this subsection and the warranties required under this section are applicable only to residential condominiums or the residential condominium portion of mixed use condominiums or mixed use projects. If a residential condominium ~~units are~~ is part of ~~a~~:

(A) A mixed use condominium, the cost of the residential portion of the condominium shall include the residential condominium units² pro rata share of common elements, based on the residential condominium units² percentage interest in the common elements. ~~If a residential condominium is part of a; or~~

(B) A mixed use project, the cost of the residential condominium includes its pro rata share of those portions of the project directly supporting, enclosing, or servicing the residential condominium.

(7) DCRA shall maintain an online record of the warranty security amounts and the form of security being held for each condominium project for which such security is required, which shall be available to the public on a searchable website.

(28) Notice of a defect to a unit or a portion of the common elements shall be filed by a condominium association or a unit owner with DCRA in order to perfect a claim against the warranty security being held.

(A) A declarant shall respond to the notice within 30 days of the date of receipt of the notice.

(B) Failure to timely respond to the notice shall be a presumption that the defects identified in the notice are valid.

(C)(i) If there is a dispute as to any defect identified in the notice, DCRA shall retain an independent engineer, licensed and approved by DCRA, to inspect the condominium and issue a report as to whether a defect complies with this section and therefore constitutes a valid claim against the bond or letter of credit or other warranty security.

(ii) The engineer's inspection and report shall be completed within 60 days after the declarant's response.

(iii) DCRA shall issue a final determination based on the engineer's report within 15 days after the issuance of such engineer's report.

(iv) The declarant, condominium association, or a unit owner may file an appeal of DCRA's final determination within 15 days after the date of the final determination.

(v) The appeal shall be submitted and heard by the District of Columbia Office of Administrative Hearing ("OAH")

(D)(i) Upon a finding by DCRA or by OAH that a defect exists and shall be paid from the bond, letter of credit, or other security, the condominium association or unit owner shall complete all forms required by DCRA to release the necessary funds.

(ii) Upon completion of the necessary form, the funds shall be released to the condominium association or unit owner within 60 days.

(E) Upon a finding by DCRA that a defect exists and shall be paid from the bond, letter of credit or other security, or upon issuance of an order from OAH or any court of competent jurisdiction hearing a matter pursuant to subsection (h) of this section confirming that a defect exists, the amount awarded to the association shall include an award of the reasonable legal fees and costs incurred by the association in perfecting its claim with DCRA or pursuing its claim in any court of competent jurisdiction.

(9) If claims for structural defects under this section are pending at the time the bond, letter of credit, or other security posted would otherwise no longer be required, then the bond, letter of credit or other security shall be required to be maintained in the amount of the claim, until the claims have been finally resolved and the bond, letter of credit, or other security has been made available to satisfy the declarant's responsibilities to the unit owners and association under this section.

(10) The bylaws and/or other condominium documents to be prepared by the declarant shall not restrict or hinder the residential an executive board's right to assert claims under this section.

(f) As used in For the purposes of this section, the term terms "convey", "conveying", or "conveyance" shall mean the transfer of title by written instrument.

(g)(1) The Mayor shall issue proposed rules to implement the provisions of this section within 180 days of October 22, 1999. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(2) The Mayor shall report to the Council on an annual basis on the use and effect of this section and the number of condominium units traded each year.

(h)(1) Any judicial, non-judicial, regulatory, or administrative proceeding for breach of a warranty that arises under this section shall be commenced within 5 years after the date the warranty period began.

(2) Prior to the conveyance of a residential unit, the declarant shall provide a

copy of the bond, letter of credit, or other security required under subsection(e)(1) of this section to the purchaser of such residential unit.

(3) Within 30 days after the date that the declarant's control of the condominium expires, the declarant shall provide a copy of the bond, letter of credit, or other security required under subsection (e)(1) of this section to the executive board of the unit owners' association.

(i)(1) All positions, property, records, and unexpended balances of appropriations, allocations, assessments, and other funds available or to be made available to the Department of Housing and Community Development ("DHCD") relating to the duties and functions assigned to the DHCD pursuant to this section are transferred to DCRA.

(2) In the event the duties and functions of DCRA are significantly reorganized, the administration of the warranty against structural defects shall be transferred to the successor entity primarily responsible for issuing permits to ensure competent construction, inspecting the built environment, and enforcing the regulations and codes governing building construction, building maintenance and building safety.

(Mar. 29, 1977, D.C. Law 1-89, title III, § 316; as added Mar. 8, 1991, D.C. Law 8-233, § 2(jj), 38 DCR 261; Mar. 20, 1992, D.C. Law 9-82, § 2(l), 39 DCR 683; Oct. 22, 1999, D.C. Law 13-46, § 2, 46 DCR 6598.)

Prior Codifications

1981 Ed., § 45-1856.

Section References

This section is referenced in § 42-1903.17.

Effect of Amendments

D.C. Law 13-46 added subsecs. (f) and (g) and rewrote subsec. (e) which formerly provided:

“(e)(1) Prior to the declarant’s first conveyance of a residential unit to a purchaser, the declarant shall post a bond or letter of credit with the Mayor in the amount of 10% of the estimated construction or conversion costs, or shall provide any other form of security the Mayor shall approve to satisfy any costs that arise from the declarant’s failure to satisfy the requirements of this section. The other security may include a lien in favor of the Mayor against the declarant’s equity in any unsold units, including any non-residential units, in which event the unsold units will be valued, for purposes of computing the declarant’s equity, at 90% of the current listed sales price of the units, or if not listed, then the current listed sales price of comparable units in the condominium. The bond, letter of credit, or other security shall be reduced at the declarant’s request in pro rata segments (based on the residential unit’s percentage interest in the residential portion of the condominium) 2 years after the conveyance of each unit; provided, however, that in no event shall the security be reduced below 50% of the original amount of the security until one year after transfer of control of the residential executive board of the condominium association to purchasing residential unit owners other than the declarant. For purposes of this

subsection, 'transfer of control' shall have occurred when 51% or more of the residential executive board is composed of residential unit owners other than the declarant, or successor declarant, or the declarant's selections or nominees. At the end of 5 years from the conveyance of the first residential unit to a purchaser, and provided one year has passed following transfer of control by the declarant, the declarant may sell unsold residential units as resale units, in which event no warranty against structural defects in the units under this section shall be required and the bond shall be reduced pro rata as to those unsold units. The bonding requirements pursuant to this subsection and the warranties required under this section are applicable only to residential condominiums or the residential condominium portion of mixed use condominiums or mixed use projects. If residential condominium units are part of a mixed use condominium, the cost of the residential portion of the condominium shall include the residential condominium units' pro rata share of common elements, based on the residential condominium units' percentage interest in the common elements. If a residential condominium is part of a mixed use project, the cost of the residential condominium includes its pro rata share of those portions of the project directly supporting, enclosing or servicing the residential condominium.

“(2) If claims for structural defects under this section are pending at the time the bond or other security posted would otherwise no longer be required, then the bond or other security shall be required to be maintained in the amount of the claim, until the claims have been finally resolved and the bond or other security has been made available to satisfy the declarant's responsibilities to the unit owners and association under this section. The bylaws and other condominium documents to be prepared by the declarant shall not restrict or hinder the residential executive board's right to assert claims under this section.”

Emergency Legislation

For temporary (90 day) amendment of section, see § 2 of Condominium Warranty Bond Release Discretion Clarification Emergency Amendment Act of 2006 (D.C. Act 16-420, July 18, 2006, 53 DCR 6163).

Editor's Notes

Section 4 of D.C. Law 13-46 provided: “This act shall be applicable to all condominiums registered after January 1, 1999.”

Delegation of Authority

Delegation of Authority Pursuant to D.C. Law 13-46, the “Condominium Amendment Act of 1999”, see Mayor's Order 2002-166, September 27, 2002 (49 DCR 8926).

§ 42–1904.17. Penalties; prosecution by Attorney General.

~~(a) Any person who wilfully violates~~ (a) A person shall be fined not less than \$1,000 or double the amount of gain from the 152 transaction, whichever is the larger, but not more than \$50,000; or such person may be 153 imprisoned for not more than 6 months; or both, for each offense, who willfully:

~~(1) Violates any provision of this chapter or any rule adopted under or order issued pursuant to § 42-1904.12 or any person who wilfully in an application for registration makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$1,000 or double the amount of gain from the transaction, whichever is the larger but not more than \$50,000; or such person may be imprisoned for not more than 6 months; or both, for each offense. Prosecution for violations of this chapter shall be brought in the name of the District of Columbia by the Corporation Counsel or his assistants.~~
issued pursuant to section 412;

(2) Makes any untrue statement of a material fact or omits to state a material fact in an application for registration; or

(3) Misrepresents the estimated construction or conversion costs in the posting of a bond or letter of credit pursuant to section 316.

(b) Prosecution for violations of this chapter shall be brought in the name of the District 161 of Columbia by the Attorney General.

(c)(1) Notwithstanding the provisions of subsection (a) of this section, the Mayor may suspend any declarant, officer, director, shareholder, partner, employee, or other individual associated with a declarant from participating in the recordation of any condominium instrument creating a condominium, selling conveying, or participating in the sale or conveyance of, condominium units upon receipt of facts that demonstrate to the satisfaction of the commission the following:

(A) Fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating criminal tax evasion, violating criminal tax laws;

(B) An unfair or deceptive trade practice pursuant to Chapter 39 of Title 28;

(C) The uttering of an untrue statement of material fact in connection with:

(i) The creation of a condominium;

(ii) Estimated construction or conversion costs of a condominium; or

(iii) Costs of the posting of a bond or letter of credit pursuant to § 42-1903.16.

(2) The Mayor shall advise by certified mail, return receipt requested, a person that suspended pursuant to this subsection, that:

(A) They have been suspended;

(B) The suspension shall remain pending the completion of an investigation; and

(C) The person may within 30 days after the mailing of the notice submit, in person, in writing, or through a representative, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over the material facts.

(3) If it is determined that the suspended person's submission in opposition raises a genuine dispute over facts material to the suspension, the suspended person shall be afforded an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any appearing witness.

(4) The Mayor:

(A) Shall render a decision based on all the information in the administrative record, including any submission made by the suspended person, after the conclusion of the proceedings; and

(B) May terminate, modify or leave in force the suspension for a period up to, but not to exceed, 36 months. Prompt written notice of the decision shall be sent to the suspended person by certified mail, return receipt requested.

(5) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a declarant may be imputed to:

(A) The declarant when the conduct occurred in connection with the individual's performance of duties for or on behalf of the declarant, or with the declarant's knowledge, approval, or acquiescence; or

(B) Any officer, director, shareholder, partner, employee, or other individual associated with the declarant who participated in, knew of, or had reason to know of the declarant's conduct.

(6) The acceptance of a benefit derived from fraudulent, criminal, or other seriously improper conduct shall be evidence of such knowledge, approval, or acquiescence.

~~b~~ (d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this ~~subchapter~~title, or any rules or regulations issued under the authority of this ~~subchapter~~title, pursuant to ~~Chapter 18 of Title 2, the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.)~~. Adjudication of any infraction of this ~~subchapter~~title shall be pursuant to ~~Chapter 18 of Title 2, the Department of Consumer and~~

~~Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.)~~.

(Mar. 29, 1977, D.C. Law 1-89, title IV, § 417, 23 DCR 9532b; Oct. 5, 1985, D.C. Law 6-42, § 420, 32 DCR 4450.)

Prior Codifications

1981 Ed., § 45-1877.

1973 Ed., § 5-1277.

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Input:	
Document 1 ID	interwovenSite://DMS-EAST/DMEAST/40064580/2
Description	#40064580v2<DMEAST> - Sections from DC Condo Act as of 1-29-20
Document 2 ID	interwovenSite://DMS-EAST/DMEAST/40071618/2
Description	#40071618v2<DMEAST> - Proposed changes to sections of DC Condo Act per Codm Warranty Amend Act of 2020
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	187
Deletions	56
Moved from	6
Moved to	6
Style change	0
Format changed	0
Total changes	255