


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 17, 2019

SUBJECT: Fiscal Impact Statement – Condominium Warranty Claims Clarification
Amendment Act of 2019 (and emergency and temporary versions of
the bill)

REFERENCE: Draft legislation sent to the Office of Revenue Analysis on October 11,
2019

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

Condominium developers are required by law¹ to provide buyers with a two-year warranty against structural defects in the unit and common areas. To fund the warranty, the developer must post a bond, letter of credit, or cash with the Department of Housing and Community Development (DHCD) in the amount of 10 percent of the estimated construction or conversion costs. The bill clarifies² how warranty claims are processed and paid out.

If a buyer and developer cannot independently come to an agreement, the buyer can submit to DHCD a letter making a formal claim along with information proving the claim.³ The bill clarifies that DHCD⁴ will evaluate the information to determine if a claim is “perfected”, meaning all the information necessary to prove the claim has been submitted. DHCD will then issue a final determination letter.

¹ § 42-1901.01 *et. seq.*

² By amending Section 316 of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1903.16).

³ For a list of information that needs to be submitted with a claim see “How to File a Condominium Structural Deficit Warranty Claim,” available at <https://bit.ly/2MYUavs> (last visited October 17, 2019).

⁴ Or the Mayor or another agency designated by the Mayor.

The Honorable Phil Mendelson

FIS: "Condominium Warranty Claims Clarification Amendment Act of 2019" and emergency and temporary versions of the bill; Draft legislation sent to the Office of Revenue Analysis on October 11, 2019

If the buyer or developer does not dispute DHCD's determination, DHCD will pay out the claim if it determined one was due. If the buyer or developer disputes DHCD's determination, the Office of Administrative Hearings (OAH) will have jurisdiction over the claim⁵, and OAH will decide the appeal. At any time, the buyer or developer may also take their case to District court. The bill clarifies that claims decided by OAH or District court, as well as agreements between buyers and developers that require no intervention, will be paid by DHCD.⁶

The bill also requires the Mayor to be notified if a claim is pending when the two-year warranty period expires. In these cases, DHCD will continue to hold the deposit made by the developer until the claim is settled.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. DHCD has sufficient staff and resources to determine if condominium warranty claims are perfected, refer cases to OAH if necessary, and payout justified claims. Approximately \$20,000 was transferred from DHCD to OAH in the fiscal year 2020 so OAH can decide appeals of DHCD's warranty claim determinations.

⁵ See the Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2019, effective June 9, 2019 (D.C. Law 22-112; 65 DCR 4600) and § 7147 of the Fiscal Year 2020 Budget Support Act of 2019, effective September 11, 2019 (D.C. Law 23-16; 66 DCR 12631).

⁶ Or by the Mayor or another designated agency.