

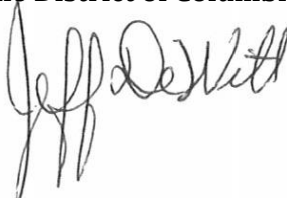
Government of the District of Columbia
Office of the Chief Financial Officer



Jeff DeWitt
Chief Financial Officer

MEMORANDUM

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

FROM: Jeff DeWitt
Chief Financial Officer 

DATE: January 17, 2014

SUBJECT: Fiscal Impact Statement – Condominium Amendment Act of 2013

REFERENCE: Bill 20-139, Draft Committee Print shared with the Office of Revenue Analysis on December 9, 2013

Conclusion

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill.

Background

The bill amends the Condominium Act of 1976¹ to update condominium regulations, the bulk of which address rules governing unit owners' associations and condominium instruments. The bill brings some of the condo regulations in line with those in other jurisdictions² and updates them to reflect changes in technology.

Specifically, the bill *requires*:

- Courts to use the "business judgment" standard when reviewing condo board decisions;
- Condominiums' executive boards to hold open meetings; and
- Unit owners' associations to maintain financial records available for inspection by unit owners.

The bill *allows*:

- For the relocation of unit boundaries and subdivision of units unless prohibited by the condominium instruments;

¹ Effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1901.01 *et seq.*)

² According to Judah Gluckman, Legislative Counsel for the Council's Committee on Economic Development, in a phone conversation on December 11, 2013.

- Executive board meetings to be held using telephone or video conferencing and allows voting to take place via email;
- Unit owners' associations to count a unit owner's non-response to a proposed condo instrument amendment as a vote for the amendment;
- Unit owners' associations to charge benefited members for maintaining common elements;
- Unit owners' associations to require unit owners to purchase insurance;
- Unit owners' associations to transfer responsibility for paying insurance deductibles due to property damage in certain circumstances;
- Liens to be placed against condo units that owe money to the unit owners' association; and
- Condo developers to file a corporate surety bond or irrevocable letters of credit with the Department of Housing and Community Development (DHCD) in order to borrow against deposits on condo units.

The provision allowing developers to post surety bonds or letters of credit is the only one that affects District government operations. Under this provision developers will be able to post one bond or letter of credit for all deposits they receive, as long as the deposits total to more than \$10,000. DHCD will need to approve or deny the bonds and review them annually to make sure bond amounts correspond to the deposits held by developers, which fluctuate over time. DHCD will need to maintain the bond or letter of credit for a particular condo unit until the deed for that unit is issued to the purchaser, the purchaser defaults on the contract, or the deposit is refunded to the purchaser.

Other jurisdictions allow developers to post surety bonds or letters of credits in order to borrow against deposits, but the number of developers that do so varies by jurisdiction. In Virginia the filing of such bonds is rare³, while in Florida about 25 new bonds or letters of credit are filed a year, representing about 18 percent of all new condo developments.⁴ Florida has a 0.6 FTE to handle new filings and maintain the approximately 300-400 bonds on file at any given time.⁵ DHCD expects the bond/letter of credit posting rate to be more similar to that of Florida than Virginia.⁶

Financial Plan Impact

Funds are sufficient in the FY 2014 through FY 2017 budget and financial plan to implement the bill. While the bill will produce additional work for DHCD it will be small enough that the agency can absorb it.

Condo project pipeline data⁷ indicate that the total number of bonds/letters of credit that DHCD will have to review and maintain each year will be a fraction of that in Florida. The table below shows year-by-year projections of the number of bonds DHCD will have to review and maintain.

³ According to Jill Hrynciw, administrator of the Common Interest Community Board in the Virginia Department of Professional and Occupational Regulation, in an email on January 10, 2014.

⁴ Based on Office of Revenue Analysis estimates using data provided by Diana Kampert, Real Estate Development Specialist with Florida's Department of Business and Professional Regulation, on January 10, 2014.

⁵ Presumably the number of bonds on file at any given time is so large because developers can maintain the same bond for multiple projects over many years. Maintaining the bonds can be time consuming for Florida since bond amounts need to be adjusted as deposit amounts change.

⁶ According to Lauren Pair, Rental Conversion and Sale Administrator for DHCD, in a telephone conversation on January 15, 2014.

⁷ From Delta Associates' Year-End 2013 Washington/Baltimore Condominium Market Report.

Projections for the Filing of Surety Bonds/Letters of Credit				
	FY 2014	FY 2015	FY 2016	FY 2017
Condo projects eligible to file bonds ¹	55	12	12	12
Condo projects projected to file bonds ²	10	2	2	2
Total bonds/letters of credit on file³	10	12	14	16

Table Notes:

¹ Data is from the Delta Associates' Year-End 2013 Condominium Market Report for Washington/Baltimore. FY 14 number includes unsold units in projects currently marketing or under construction. All years' estimates include planned developments. Calculations assume that half of projects planned as either condos or rentals will eventually be sold as condos

² Assumes 18 percent of eligible projects will file bonds, which ORA estimates is the bond-filing rate in Florida.

³ Assumes developers will keep bonds on file as they develop new projects. Only new developers will file new bonds.

The projected number of new filings in FY 2014 is much larger than that of subsequent years since initially any project with unsold units will be able to file a bond. In the following years the assumption is that only new projects will file bonds or letters of credit.

In Florida it takes about half a work day to process new bonds and it takes slightly less time to maintain bonds already on file.⁸ If those processing times hold true for the District, DHCD could expect a couple additional weeks of work for processing and maintaining the bonds.

It is possible that in the out years more and more bonds or letters of credit will remain on file and need to be maintained. Therefore, if the program is implemented, the number of bonds/letters of credit on file should be monitored to make sure the workload does not outgrow DHCD's current staffing levels.

⁸ According to Diana Kampert, Real Estate Development Specialist with Florida's Department of Business and Professional Regulation, in a phone conversation on January 10, 2014.