



Council of the **DISTRICT OF COLUMBIA**

Code of the District of Columbia

Subchapter III. Control and Governance of Condominiums.

[§ 42-1903.01. Bylaws; recordation; unit owners' association and executive board thereof; powers and duties; officers; amendment and contents thereof; responsibility for insurance on common elements.](#)

[§ 42-1903.02. Control by declarant; limitations; contracts entered on behalf of unit owners; declarant to act where owners' association or officers thereof not existent; graduated representation of unit owners in executive board; strict construction.](#)

[§ 42-1903.03. Meetings; electronic notice.](#)

[§ 42-1903.04. Meetings — Executive board; quorums.](#)

[§ 42-1903.05. Allocation of votes within unit owners' association; vote where more than 1 owner of unit; proxies; majority; provisions not applicable to units owned by association.](#)

[§ 42-1903.06. Officers; disqualification.](#)

[§ 42-1903.07. Maintenance, repair, etc., of condominiums; right of access for repair; liability for damages arising from exercise thereof; warranty against structural defects; limitations upon actions; bond or other security.](#)

[§ 42-1903.08. Unit owners' associations; powers and rights; deemed attorney-in-fact to grant and accept beneficial easements.](#)

[§ 42-1903.08a. Condominium Association Advisory Council.](#)

§ 42-1903.09. Tort and contract liability of association and declarant; judgment liens against common property and individual units.

§ 42-1903.10. Insurance obtained by association; notice to unit owners.

§ 42-1903.11. Rights to surplus funds.

§ 42-1903.12. Liability for common expenses; special assessments; proportionate liability fixed in bylaws; installment payment of assessments; when assessment past due; interest thereon.

§ 42-1903.12a. Notice of intention to take legal action to collect past due amounts.

§ 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.

§ 42-1903.14. Books, minutes, and records; inspection.

§ 42-1903.15. Limitation on right of first refusal and other restraints on alienation; recordable statement of waiver of rights to be supplied promptly upon request.

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

§ 42-1903.17. Statute of limitations for warranties.

§ 42-1903.18. Master associations — Authorization; powers; rights and responsibilities of unit owners; election of executive board.

§ 42-1903.19. Merger or consolidation of condominiums.

§ 42-1903.20. Conveyance or encumbrance of common elements.

§ 42-1903.21. Unit owners' association as trustee.

§ 42–1903.01. Bylaws; recordation; unit owners' association and executive board thereof; powers and duties; officers; amendment and contents thereof; responsibility for insurance on common elements.

(a) There shall be recorded simultaneously with the declaration a set of bylaws providing for the self-government of the condominium by an association of all the unit owners. The unit owners' association may be incorporated.

(b) The bylaws shall provide whether or not the unit owners' association shall have an executive board. The executive board, if any, shall, subsequent to the expiration of the period of declarant control specified pursuant to [§ 42-1903.02\(a\)](#), be elected by the unit owners unless the unit owners vote to amend the bylaws to provide otherwise. If there is to be such a board, the bylaws shall specify the powers and responsibilities of the same and the number and terms of its members. The bylaws may delegate to such board, *inter alia*, any of the powers and responsibilities assigned by this chapter to the unit owners' association. The bylaws shall also specify which, if any, of its powers and responsibilities the unit owners' association or its executive board may delegate to a managing agent.

(c) The bylaws shall provide whether or not there shall be officers in addition to the members of the executive board. If there are to be such additional officers, the bylaws shall specify the powers and responsibilities of the same, the manner of their selection and removal, their number and their terms. the bylaws may delegate to such additional officers, *inter alia*, any of the powers and responsibilities assigned by this chapter to the unit owners' association.

(d) In any case where an amendment to the declaration is required by subsection (b), (c), or (d) of [§ 42-1902.12](#), the person or persons required to execute the same shall also prepare and execute, and record simultaneously with such amendment, an amendment to the bylaws. The amendment to the bylaws shall allocate to the new units votes in the unit owners' association, rights to future surplus funds, and liabilities for future common expenses not specially assessed, on the same bases as were used for such allocations to the units depicted on plats and plans recorded pursuant to subsections (a) and (b) of [§ 42-1902.14](#); or shall abolish the votes appertaining to former units and reallocate their rights to future surplus funds, and their liabilities for future common expenses not specially assessed, to the remaining units in proportion to the relative rights and liabilities of the remaining units immediately prior to the amendment.

(e) Repealed.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 301, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(v\), 38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1841.

1973 Ed., § 5-1241.

Section References

This section is referenced in [§ 42-1901.02](#) and [§ 42-1903.18](#).

Cross References

Condominium or unit owners association defined, homestead housing preservation, see [§ 42-2103](#).

Emergency Legislation

For temporary addition of provisions authorizing the 8th Street Plaza Condominium Association, Inc., to correct and amend its condominium instruments and to file documents associated with convertible and expandable land, see §§ 2 and 3 of the 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012 (Oct. 22, 2012, D.C. Act 19-431, 59 DCR 9416).

For temporary (90 days) amendment of D.C. Law 19-178, §§ 2 and 3, see § 7008 of the Fiscal Year 2014 Budget Support Emergency Act of 2013 (D.C. Act 20-130, July 30, 2013, 60 DCR 11384, 20 DCSTAT 1827).

For temporary (90 days) amendment of D.C. Law 19-178, §§ 2 and 3, see § 7008 of the Fiscal Year 2014 Budget Support Congressional Review Emergency Act of 2013 (D.C. Act 20-204, October 17, 2013, 60 DCR 15341, 20 DCSTAT 2311).

Short Title

Section 7001 of [D.C. Law 20-61](#) provided that Subtitle A of Title VII of the act may be cited as the “Subject to Appropriations Repealers Amendment Act of 2013”.

Editor's Notes

Section 2 of D.C. Law 19-178, as amended by section 7008(a) of Law 20–61, provided:

“(a)(1) Notwithstanding any provision of law to the contrary, the principal officer of the 8th Street Plaza Condominium Association, Inc., ‘8th Street Association’) for the 8th Street Condominium, located in Square 5956W and Lots 26, 27, 817, 818, and 2001 through 2034 in Square 5956 (‘8th Street Condominium’) may:

“(A) Through a simple majority of a quorum of its Board of Directors, correct, amend, and restate its condominium instruments, including its bylaws, declaration, and plats and plans (‘modified instruments’), to correct any errors or omissions made by the declarant or other person; and

“(B) File the appropriate documents with the Mayor associated with convertible and expandable land (‘C & E land’) to be added to the 8th Street Condominium.

“(2) Notwithstanding any provision of law to the contrary, the Office of Tax and Revenue shall not require pre-payment of real property taxes and the Office of the Surveyor shall accept the modified instruments, and the C & E land documents or instruments, if any, for filing.

“(b)(1) The modified instruments and any C & E land documents or instruments shall be exempt from any filing fees established by the Mayor for services rendered by the Office of the Surveyor or the Recorder of Deeds.

“(2) The exemptions granted by paragraph (1) of this subsection shall expire on October 1, 2014.

“(c)(1) On the date that any modified instrument or C & E land document or instrument is filed with the Mayor, the Office of Tax and Revenue, the Recorder of Deeds, or the Office of the Surveyor, the Office of Tax and Revenue is authorized to reassess or redistribute, in accordance with D.C. Official Code [§ 47-835](#), any real property tax related to the 8th Street Condominium that is levied, unpaid, due, or resulting from these documents or instruments as of the date that the document or instrument was filed.

“(2) Any document or instrument filed pursuant to this act shall apply prospectively only for assessment and taxation purposes, and any lot created, discontinued, modified, or adjusted based on such document or instrument shall be effective for assessment and taxation purposes as of the beginning of the half tax year immediately succeeding the date such document or instrument is filed.

“(d) Except as provided in subsection (e) of this section, any lien for unpaid real property taxes or any tax sale outstanding with respect to any lot constituting part of the 8th Street Condominium shall be unimpaired by any document or instrument filed pursuant to this act.

“(e) If a lot is discontinued as a result of a filing made pursuant to this act, any unpaid real property tax for any period preceding the effective date of discontinuance shall be forgiven.”

Section 3 of D.C. Law 19-178 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

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Section 7008(b) of [D.C. Law 20-61](#) repealed D.C. Law 19-178, § 3.

§ 42–1903.02. Control by declarant; limitations; contracts entered on behalf of unit owners; declarant to act where owners’ association or officers thereof not existent; graduated representation of unit owners in executive board; strict construction.

(a) The condominium instruments may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners' association or members of its executive board, or both, or to exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit owners' association, the officers, or the executive board. But no amendment to the condominium instruments shall increase the scope of such authorization if there is any unit owner other than the declarant and no such authorization shall be valid after the time set by the condominium instruments or after units to which three-fourths of the undivided interests in the common elements appertain have been conveyed, whichever occurs first. For the purposes of the preceding sentence only, the calculation of the fraction of undivided interest shall be based upon the total undivided interests assigned or to be assigned to all units registered with the Mayor according to [§ 42-1904.06](#). The time limit initially set by the condominium instruments shall not exceed 3 years in the case of an expandable condominium or a condominium containing convertible land, or 2 years in the case of any other condominium containing any convertible land, or 2 years in the case of any other condominium. Such period shall commence upon settlement of the first unit to be sold in any portion of the condominium.

(b)(1) If entered into at any time prior to the expiration of the period of declarant control contemplated by subsection (a) of this section, no contract or lease entered into with the declarant or an affiliate of a declarant, other than a lease subject to [§ 42-1902.10\(e\)](#), management contract, employment contract, or lease of a recreational or parking area or facility, which is directly or indirectly made by or on behalf of the unit owners' association or the unit owners as a group, shall be entered into for a period in excess of 2 years. Any contract or agreement entered into after March 8, 1991, may be terminated without penalty by the unit owners' association or the executive board of the unit owners' association upon not less than 90 days written notice to the other party.

(2) If entered into at any time prior to the expiration of the period of declarant control contemplated by subsection (a) of this section, any contract, lease or agreement, other than those subject to the provisions of paragraph (1) of this subsection, may be entered into by or on behalf of the unit owners' association, its executive board, or the unit owners as a group, if such contract, lease or agreement is bona fide and is commercially reasonable to the unit owners' association at the time entered into under the circumstances.

(c) If the unit owners' association is not in existence or does not have officers at the time of the creation of the condominium, the declarant shall, until there is such an association with such officers, have the power and the responsibility to act in all instances where this subchapter or the condominium instruments require or permit action by the unit owners' association, its executive board, or any officer or officers.

(d) Notwithstanding subsection (a) of this section, the bylaws shall provide that:

(1) Not later than the time that units to which 25% of the undivided interests in the common elements appertain have been conveyed, the unit owners' association shall cause a special meeting to be held at which not less than 25% of the members of the executive board shall be selected by unit owners other than declarant; and

(2) Not later than the time units to which 50% of the undivided interests in the common elements appertain have been conveyed, the unit owners' association shall cause a special meeting to be held at which not less than 33 1/3% of the members of the executive board shall be selected by unit owners other than declarant.

(e) Repealed.

(f) This section shall be strictly construed to protect the rights of the unit owners.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 302, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(w\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1842.

1973 Ed., § 5-1242.

Section References

This section is referenced in [§ 42-1901.02](#), [§ 42-1902.02](#), [§ 42-1902.30](#), [§ 42-1903.01](#), [§ 42-1903.09](#), [§ 42-1903.18](#), and [§ 42-1904.07](#).

§ 42–1903.03. Meetings; electronic notice.

NOTE: This section includes amendments by temporary legislation that will expire on August 3, 2023. To view the text of this section after the expiration of all emergency and temporary legislation affecting this section, click this link: [Permanent Version](#).

(a) Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the unit owners' association and shall be open to all unit owners of record in good standing. The bylaws shall specify an officer who shall, at least 21 days in advance of any annual or regularly scheduled meeting, and at least 7 days in advance of any other meeting, send to each unit owner notice of time, place, and purposes of the meeting. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units and to one other address as any of them may have designated in writing to the officer, or notice may be hand delivered by the officer; provided, that the officer certifies in writing that notice was hand delivered to the unit owner. Alternatively, notice may be sent by electronic means to any unit owner who requests delivery of notice in an electronic manner and who waives notice by mail or hand delivery, pursuant to subsection (e) of this section.

(b)(1) Except as otherwise provided in the condominium instruments, all meetings of the unit owners' association, committees of the unit owners' association, and the executive board shall be open for observation to all unit owners in good standing. Minutes shall be recorded and shall be available for examination and copying by unit owners in good standing. This right of examination may be exercised:

(A) Only during reasonable business hours or at a mutually convenient time and location; and

(B) Upon 5 days' written notice identifying the specific minutes requested.

(2) Notice, including the time, date, and place of each executive board meeting, shall be furnished to a unit owner who requests this information and published in a location reasonably calculated to be seen by unit owners. Requests by a unit owner to be notified on a continual basis must be made at least once a year in writing and include the unit owner's name, address, and zip code. Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the executive board conducting the meeting.

(3) Unless otherwise exempt as relating to an executive session pursuant to paragraph (5) of this subsection, at least one copy of the agenda furnished to members of the executive board for a meeting shall be made available for inspection by unit owners.

(4) Meetings of the executive board may be conducted or attended by telephone conference or video conference or similar electronic means. If a meeting is conducted by telephone conference, video conference, or similar electronic means, the equipment or system used must permit any executive board member in attendance to hear and be heard by, and to communicate what is said by all other executive board members participating in the meeting.

(5)(A) The executive board, upon a motion and an affirmative vote in an open meeting to assemble in executive session, may convene in executive session to consider:

(i) Personnel matters relating to specific, identified persons who work for the unit owners' association, including a person's medical records;

(ii) Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

(iii) Pending or anticipated litigation;

(iv) Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the condominium instruments or rules and regulations promulgated by the executive board;

(v) Consultation with legal counsel;

(vi) Matters involving individual unit owners or members, including violations of the condominium instruments or rules and regulations promulgated pursuant to the condominium instruments and the personal liability of a unit owner to the unit owners' association; or

(vii) On an individually recorded affirmative vote of two-thirds of the board members present, for some other exceptional reason so compelling as to override the general public policy in favor of open meetings

(B) For the purpose of subparagraph (A)(iii) of this paragraph, the term "anticipated litigation" means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party.

(6) The motion to assemble in executive session shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The executive board shall restrict the consideration of matters during an executive session to those purposes specifically set forth in the motion. A motion passed, or other formal action taken, in an executive session shall be recorded in the minutes of the open meeting, but this shall not require disclosure of any details that are properly the subject of confidential consideration in an executive session. The action or actions authorized by a motion passed in an executive session shall be reflected in minutes available to unit owners in good standing. The requirements of this section shall not require the disclosure of information in violation of law.

(c) Subject to reasonable rules adopted by the executive board, the executive board shall provide a designated period of time during each regularly scheduled meeting to allow unit owners an opportunity to comment on any matter relating to the unit owners' association. During a meeting at which the agenda is limited to specific topics, or at a special meeting, the executive board may limit the comments of unit owners to the topics listed on the meeting agenda.

(d) The executive board may take action without a meeting by resolution issued with the unanimous written consent of the members of the executive board in support of the action being taken. A copy of the resolution shall be attached to the minutes of the next executive board meeting that occurs following its adoption.

(e)(1) Notwithstanding any language contained in the condominium instruments, the unit owners' association may provide notice of a meeting or deliver information to a unit owner by electronic transmission if:

(A) The executive board authorizes the unit owners' association to provide notice of a meeting or deliver information by electronic transmission;

(B) The unit owner provides the unit owners' association with prior written authorization to provide notice of a meeting or deliver material or information by electronic transmission; and

(C) An officer or agent of the unit owners' association certifies in writing that the unit owners' association has provided notice of a meeting or delivery of material or information by electronic transmission as authorized by the unit owner pursuant to this subsection.

(2) Notice or delivery by electronic transmission shall be considered ineffective if:

(A) The unit owners' association is unable to deliver 2 consecutive notices; and

(B) The inability to deliver the electronic transmission becomes known to the person responsible for the sending of the electronic transmission.

(3) The inadvertent failure to deliver notice by electronic transmission shall not invalidate any meeting or other action.

(f) Notwithstanding any language contained in [this chapter](#) or in the condominium instruments:

(1) The executive board may authorize unit owners to submit votes by electronic transmission up to 7 days before the scheduled date of any meeting of the unit owners, and unit owners who submit votes during such period shall be deemed to be present and voting in person at such meeting.

(2)(A) Meetings of the unit owners' association, board of directors, or committees may be conducted or attended by telephone conference, video conference, or similar electronic means. If a meeting is conducted by telephone conference, video conference, or similar electronic means, the equipment or system used must permit any unit owner in attendance to hear and be heard by, and to communicate what is said by, all other unit owners participating in the meeting. Any unit owner, board member, or committee member attending such meeting shall be deemed present for quorum purposes.

(B) A link or instructions on how to access an electronic meeting shall be included in the notice required under subsection (a) of this section.

(C) Any matters requiring a vote of the unit owners' association at an annual or regular meeting may be set by the executive board for a vote, and a ballot may be delivered with the notice required under subsection (a) of this section. The executive board may set a reasonable deadline for a ballot to be returned to the association.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 303, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(x\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(g\), 61 DCR 4304](#); [Dec. 21, 2022, D.C. Law 24-226, § 2, 69 DCR 13983](#).)

Prior Codifications

1981 Ed., § 45-1843.

1973 Ed., § 5-1243.

Section References

This section is referenced in [§ 42-1903.10](#) and [§ 42-1903.18](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote the section.

Emergency Legislation

[For temporary \(90 days\) amendment of this section, see § 2 of Post-Public Health Emergency Protections Extension Emergency Amendment Act of 2022 \(D.C. Act 24-564, Oct. 17, 2022, 0 DCR 0\)](#).

[For temporary \(90 days\) amendment of this section, see § 2 of Post-Public Health Emergency Protections Extension Congressional Review Emergency Amendment Act of 2022 \(D.C. Act 24-306, Jan. 24, 2022, 69 DCR 000630\)](#).

[For temporary \(90 days\) amendment of this section, see § 2 of Post-Public Health Emergency Protections Extension Emergency Amendment Act of 2021 \(D.C. Act 24-181, Oct. 25, 2021, 68 DCR 011320\)](#).

[For temporary \(90 days\) amendment of this section, see § 3 of Common Interest Community Virtual Meeting Congressional Review Emergency Amendment Act of 2020 \(D.C. Act 23-603, Jan. 13, 2021, 68 DCR 001208\)](#).

[For temporary \(90 days\) amendment of this section, see § 3 of Common Interest Community Virtual Meeting Emergency Amendment Act of 2020 \(D.C. Act 23-453, Oct. 9, 2020, 67 DCR 13075\)](#).

Temporary Legislation

[For temporary \(225 days\) amendment of this section, see § 2 of Post-Public Health Emergency Protections Extension Temporary Amendment Act of 2022 \(D.C. Law 24-226, Dec. 21, 2022, 69 DCR 13983\).](#)

[For temporary \(225 days\) amendment of this section, see § 2 of Post-Public Health Emergency Protections Extension Temporary Amendment Act of 2021 \(D.C. Law 24-83, Mar. 2, 2022, 68 DCR 012375\).](#)

[For temporary \(225 days\) amendment of this section, see § 3 of Common Interest Community Virtual Meeting Congressional Review Temporary Amendment Act of 2020 \(D.C. Law 23-259, Mar. 16, 2021, 67 DCR 14385\).](#)

§ 42–1903.04. Meetings — Executive board; quorums.

(a) Unless the condominium instruments otherwise provide, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than the thirty-three and one-third percent of the votes are present at the beginning of such meeting. The bylaws may provide for a larger percentage, or for a smaller percentage not less than 25 percent.

(b) Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the executive board if persons entitled to cast one half of the votes in that body are present at the beginning of such meeting.

[\(Mar. 29, 1977, D.C. Law 1-89, title III, § 304, 23 DCR 9532b; Mar. 8, 1991, D.C. Law 8-233, § 2\(y\), 38 DCR 261.\)](#)

Prior Codifications

1981 Ed., § 45-1844.

1973 Ed., § 5-1244.

Section References

This section is referenced in [§ 42-1903.05](#) and [§ 42-1903.18](#).

§ 42–1903.05. Allocation of votes within unit owners’ association; vote where more than 1 owner of unit; proxies; majority; provisions not applicable to units owned by association.

(a) The bylaws may allocate to each unit depicted on plats and plans that comply with subsections (a) and (b) of [§ 42-1902.14](#) a number of votes in the unit owners’ association proportionate to the liability for common expenses as established pursuant to [§ 42-1903.12\(c\)](#).

(b) Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners’ association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners’ association proportionate to the size of each such space, vis-à-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners’ association shall be allocated equally to the other units so depicted.

(c) Since a unit owner may be more than 1 person, if only 1 of such persons is present at a meeting of the unit owners’ association, that person shall be entitled to cast the votes appertaining to that unit. But if more than 1 of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any 1 of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word “person” shall be deemed for the purposes of this subsection to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a unit owner.

(d) Notwithstanding any contrary provisions of the condominium instruments, this subsection establishes the requirements for the validity of proxies. The votes that pertain to any unit may be cast pursuant to a proxy duly executed by or on behalf of the unit owner, or, in a case where the unit owner is more than 1 person, by or on behalf of all those persons. A proxy may be revoked if a unit owner or 1 of the unit owners, in the case of a unit owned by more than 1 person, gives actual notice of revocation to the person who presides over the meeting. A proxy shall be void if the proxy is not dated, if the proxy purports to be revocable without notice, or if the signatures of any person executing the proxy has not been witnessed by a person who shall sign his or her full name and address. A proxy shall terminate automatically upon the final adjournment of the first meeting held on or after the date of the proxy, but shall remain in effect during any recess or temporary adjournment of the meeting.

(e) If 50% or more of the votes in the unit owners' association appertain to 25% or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

(f) Notwithstanding anything in this section to the contrary, during any time that the unit owners' association is the owner of any condominium unit, the votes in the unit owners' association that pertain to the condominium unit shall be included in any calculation to determine the existence of a quorum at any meeting of the unit owners' association pursuant to [§ 42-1903.04](#), but otherwise shall be deemed to be cast in proportion to the affirmative and negative votes cast by all unit owners other than the unit owners' association at any meeting.

(g)(1) Notwithstanding any language contained in the condominium instruments, the executive board may authorize unit owners to submit votes or proxies by electronic transmission if the process used to provide notice of a vote and the means to submit votes or proxies are made in a consistent form approved by the executive board and available to all unit owners and the electronic transmission contains information that verifies that the vote or proxy is authorized by the unit owner or the unit owner's proxy.

(2) If the condominium instruments require voting by secret ballot and the anonymity of voting by electronic transmission cannot be guaranteed, voting by electronic transmission shall be permitted if unit owners have the option of casting printed secret ballots.

(3) The inadvertent failure to submit, receive, or count votes or proxies by electronic transmission shall not invalidate any meeting or other action; provided, that the persons responsible for facilitating electronic transmission shall make good-faith efforts to submit, receive, and count the votes or proxies and resolve problems when they become known.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 305, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(z\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(j\), 39 DCR 683](#); [June 21, 2014, D.C. Law 20-109, § 2\(h\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1845.

1973 Ed., § 5-1245.

Section References

This section is referenced in [§ 42-1901.01](#) and [§ 42-1903.18](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) added (g).

§ 42–1903.06. Officers; disqualification.

(a) If the condominium instruments provide that any officer or officers must be unit owners, then any such officer who disposes of all of his units in fee or for a term or terms of 6 months or more shall be deemed to have disqualified himself from continuing in office unless the condominium instruments otherwise provide, or unless he acquires or contracts to acquire another unit in the condominium under terms giving him a right of occupancy thereto effective on or before the termination of his right of occupancy under such disposition or dispositions.

(b) If the condominium instruments provide that any officer or officers must be unit owners, then notwithstanding the provisions of [§ 42-1902.06\(1\)](#), the term “unit owner” in such context shall, unless the condominium instruments otherwise provide, be deemed to include, without limitation, any director, officer, partner in, or trustee of any person, which is, either alone or in conjunction with another person or persons, a unit owner. Any officer who would not be eligible to serve as such were he not a director, officer, partner in, or trustee of such a person, shall be deemed to have disqualified himself from continuing in office if he ceases to have any such affiliation with that person, or if that person would itself have been deemed to have disqualified itself from continuing in such office under subsection (a) of this section were it a natural person holding such office.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 306, 23 DCR 9532b.](#))

Prior Codifications

1981 Ed., § 45-1846.

1973 Ed., § 5-1246.

§ 42–1903.07. Maintenance, repair, etc., of condominiums; right of access for repair; liability for damages arising from exercise thereof; warranty against structural defects; limitations upon actions; bond or other security.

(a)(1) Except to the extent otherwise provided by the condominium instruments, all powers and responsibilities with regard to maintenance, repair, renovation, restoration, and replacement of a condominium shall belong to:

(A) The unit owners’ association in the case of the common elements; and

(B) The individual unit owner in the case of any unit or any part of a unit.

(2) Each unit owner shall afford to the other unit owners and to the unit owners' association and to any agents or employees of either access to the owner's unit as may be reasonably necessary to enable them to exercise and discharge their respective powers and responsibilities. To the extent that damage is inflicted on the common elements or any unit that is accessed, the unit owner causing the same, or the unit owners' association if it caused the same, shall be liable for the prompt repair of the damage. Notwithstanding any provision of this section or any provisions of the condominium instruments, the unit owners' association may elect to maintain, repair, or replace specified unit components, or limited common element components for which individual unit owners are responsible, using common expense funds, if failure to perform the maintenance, repair, or replacement could have a material adverse effect on the common elements, the health, safety, or welfare of the unit owners, or the income and the common expenses of the unit owners' association. The maintenance, repair, or replacement may be at the expense of the unit owners' association or, in the reasonable judgment of the executive board, if a limited number of units is affected, at the expense of the unit owners affected. The expense will be considered for all purposes an assessment against any unit to which the limited common element appertains.

(b) Repealed.

(c) Repealed.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 307, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(aa\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(i\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1847.

1973 Ed., § 5-1247.

Section References

This section is referenced in [§ 42-1904.04](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote (a).

Temporary Legislation

For temporary (225 day) amendment of section, see § 2(j) 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).

§ 42–1903.08. Unit owners’ associations; powers and rights; deemed attorney-in-fact to grant and accept beneficial easements.

(a) Except to the extent expressly prohibited by the condominium instruments, and subject to any restrictions and limitations specified herein, the unit owners’ association shall have the:

(1) Power to adopt and amend bylaws or rules and regulations;

(2) Power to adopt and amend a budget for revenues, expenditures, and reserves, and collect assessments for common expenses from unit owners;

(3) Power to hire or discharge a managing agent or other employees, agents, or independent contractors;

(4) Power to institute, defend, or intervene in litigation or administrative proceedings in the name of the unit owners’ association on behalf of the unit owners’ association or 2 or more unit owners on any matter that affects the condominium;

(5) Power to make a contract or incur liability;

(6) Power to regulate the use, maintenance, repair, replacement, or modification of common elements;

(7) Power to cause an additional improvement to be made as a part of the common elements;

(8) Power to acquire, hold, encumber, or convey in the name of the unit owners' association any right, title, or interest to real or personal property;

(9) Power to grant an easement, lease, license, or concession through or over the common elements;

(10) Power to impose on and receive from individual unit owners any payment, fee, or charge for the use, rental, or operation of the common elements or for any service provided to unit owners;

(11) Power to impose a charge for late payment of an assessment and, after notice and an opportunity to be heard, levy a reasonable fine for violation of the condominium instruments or rules and regulations of the unit owners' association;

(12) Power to impose a reasonable charge for the preparation and recordation of an amendment to the condominium instruments, a statement concerning the resale of units required by [§ 42-1904.11](#), or a statement of an unpaid assessment;

(13) Power to provide for the indemnification of officers or the executive board of the unit owners' association and maintain liability insurance for directors or officers;

(14) Power to assign the unit owners' association's right to further income, including the right to future income or the right to receive common expense assessments to the extent necessary for the reasonable performance of the unit owners' associations' duties and responsibilities, unless expressly prohibited in the condominium instruments;

(14A) Power to reasonably restrict the leasing of residential units; provided, that any restriction described under this paragraph shall not apply to a unit that is leased at the time of any action taken to restrict the leasing of residential units until the unit is subsequently occupied by the owner or ownership transfers;

(15) Power to exercise any other power conferred by the condominium instruments;

(16) Power to exercise any other power that may be exercised in the District of Columbia by a legal entity of the same type as the unit owners' association; and

(17) Power to exercise any other power necessary and proper for the governance or operation of the unit owners' association.

(b) Except to the extent prohibited by the condominium instruments, and subject to any restrictions and limitations specified therein, the executive board of the unit owners' association, if any, and if not, then the unit owners' association itself, shall have the irrevocable power as attorney-in-fact on behalf of all the unit owners and their successors in title to grant easements through the common elements and accept easements benefiting the condominium or any part thereof.

(c) The condominium instruments may not impose any limitation on the power of the unit owners' association to deal with the declarant that is more restrictive than the limitation imposed on the power of the unit owners' association to deal with any other person.

(d) In the performance of duties, an officer or member of the executive board shall exercise the care required of a fiduciary of the unit owners.

[\(Mar. 29, 1977, D.C. Law 1-89, title III, § 308, 23 DCR 9532b; Mar. 8, 1991, D.C. Law 8-233, § 2\(bb\), 38 DCR 261; June 21, 2014, D.C. Law 20-109, § 2\(j\), 61 DCR 4304.\)](#)

Prior Codifications

1981 Ed., § 45-1848.

1973 Ed., § 5-1248.

Section References

This section is referenced in [§ 42-1901.01](#) and [§ 42-1903.18](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote (a)(14); and added (a)(14A).

§ 42–1903.08a. Condominium Association Advisory Council.

(a) There is established a Condominium Association Advisory Council ("CAAC").

(b) The purpose of the CAAC shall be to serve as an advisory body to the Mayor, the Council, and District agencies on matters relating to condominiums located in the District.

(c) The CAAC shall be composed of 14 members appointed as follows:

(1) One community representative from each of the 8 District wards, appointed by the Councilmember representing each respective ward;

(2) One community representative appointed by the chairperson of the Committee of the Council that oversees the Department of Housing and Community Development;

(3) One community representative appointed by the Mayor;

(4) The Director of the Department of Housing and Community Development, or his or her designee;

(5) A representative from the community association management industry with at least 7 years of experience in the profession, appointed by the Mayor;

(6) A representative from the mortgage industry with at least 5 years of experience in the profession, appointed by the Mayor; and

(7) A representative from the legal community who is an attorney licensed to practice in the District and has at least 5 years of experience representing community associations, appointed by the Mayor.

(d)(1) Each community representative shall be a resident of the District who has been a member in good standing of a unit owners' association for at least one year, with a priority for community representatives with experience on a condominium board.

(2) A chairperson shall be elected from among the 10 community representatives, and shall serve for a term of 2 years.

(3)(A) Each community representative member shall be appointed for a term of 3 years.

(B) Initial appointments shall be staggered with 3 members appointed for a one-year term, 4 members appointed for a 2-year term, and 3 members appointed for a 3-year term.

(C) The initial appointment terms shall be determined by lot at the first meeting of the CAAC.

(4) The 3 non-community members appointed by the Mayor shall each be appointed for a term of 3 years.

(e) Meetings of the CAAC shall be open to the public and shall take place at a public location at least 4 times a year. The CAAC shall provide a public listing of members by ward, meeting notices, and meeting minutes on a CAAC website.

[\(Mar. 29, 1977, D.C. Law 1-89, title III, § 308a; as added Apr. 7, 2017, D.C. Law 21-241, § 2\(b\), 64 DCR 1602.\)](#)

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.

§ 42–1903.09. Tort and contract liability of association and declarant; judgment liens against common property and individual units.

(a) An action for tort alleging a wrong done: (1) by any agent or employee of the declarant or of the unit owners' association; or (2) in connection with the condition of any portion of the condominium which the declarant or the association has the responsibility to maintain, shall be brought against the declarant or the association, as the case may be. No unit owner shall be precluded from bringing such an action by virtue of ownership of an undivided interest in the common elements or by reason of membership in the association or status as an officer.

(b) Unit owners other than the declarant shall not be liable for torts caused by agents or employees of the declarant within any convertible land or using any easement reserved in the declaration or created by [§§ 42-1902.21](#) and 42-1902.22.

(c) An action arising from a contract made by or on behalf of the unit owners' association, its executive board, or the unit owners as a group, shall be brought against the association, or against the declarant if the cause of action arose during the exercise by the declarant of control reserved pursuant to [§ 42-1903.02\(a\)](#). No unit owner shall be precluded from bringing such an action by reason of membership in the association or status as an officer.

(d) A judgment for money against the unit owners' association shall be a lien against any property owned by the unit owners' association, and against each of the condominium units in proportion to the liability of each unit owner for common expenses as established pursuant to [§ 42-1903.12\(c\)](#), but no unit owner shall be otherwise liable on account of a judgment and, after payment by the unit owner of his or her proportionate share, the association shall not assess or have a lien against the unit owner's condominium unit for any portion of the common expenses incurred in connection with the lien. If after payment by a unit owner of a proportionate share, the unit owners' association elects to pay the balance of the judgment from common funds, the unit owners' association shall reimburse the unit owner for the amount the unit owner paid separately. Any judgment shall be satisfied first out of the property of the unit owners' association. The judgment shall be otherwise subject to the provisions of Title 15.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 309, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(cc\), 38 DCR 261](#); [Apr. 18, 1996, D.C. Law 11-110, § 48\(a\), 43 DCR 530](#).)

Prior Codifications

1981 Ed., § 45-1849.

1973 Ed., § 5-1249.

Section References

This section is referenced in [§ 42-1901.01](#).

§ 42–1903.10. Insurance obtained by association; notice to unit owners.

(a) When any insurance policy has been obtained by or on behalf of the unit owners' association, written notice of the procurement thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each unit owner by the officer required to send notices of meetings of the unit owners' association. Such notices shall be sent in accordance with the provisions of the last sentence of [§ 42-1903.03](#).

(b) Unless the condominium instruments expressly provide otherwise, commencing no later than the time of the first conveyance of a condominium unit to a person other than a declarant, the unit owners' association shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall not be less than 90% of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluded from property policies; and

(2) Liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the condominium instruments that covers all occurrences commonly insured against for death, bodily injury, or property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(c) If a building contains units that have horizontal boundaries described in the condominium instruments, the insurance maintained under subsection (b) (1) of this section, to the extent reasonably available, shall include the units, but need not include an improvement or betterment installed by unit owners.

(d) If the insurance described in subsections (b) and (c) of this section is not reasonably available, the unit owners' association shall promptly cause notice of the unavailability of insurance to be hand-delivered or sent prepaid by the United States mail to all unit owners. The condominium instruments may require the unit owners' association to carry any other insurance the unit owners' association deems appropriate to protect the unit owners' association or the unit owners.

(d-1) Each unit owner shall, to the extent reasonably available, purchase condominium owner's insurance coverage with dwelling (whether residential or commercial) property coverage at a minimum of \$ 10,000 and condominium owner personal liability insurance coverage at a minimum of \$ 300,000; provided, that the executive board may increase the minimum amounts required under this subsection at a meeting properly noticed under this chapter.

(e) An insurance policy carried pursuant to subsection (b) of this section shall provide that:

(1) A unit owner is an insured person under the policy with respect to liability that arises out of the unit owner's interest in the common elements or membership in the unit owner's association;

(2) The insurer waives the insurer's right to subrogation under the policy against any unit owner or member of the unit owner's household;

(3) An act or omission by any unit owner, unless acting within the scope of his or her authority on behalf of the unit owners' association, shall not void the policy or be a condition to recovery under the policy; and

(4) If at the time of loss under the policy, there is other insurance in the name of a unit owner that covers the same risk covered by the policy, the unit owners' association's policy shall provide primary insurance.

(5) Repealed.

(f) Any loss covered by the property policy under subsections (b)(1) and (c) of this section shall be adjusted with the unit owners' association, but the insurance proceeds for the loss shall be payable to any insurance trustee designated to receive payments or otherwise to the unit owners' association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the unit owners' association shall hold any insurance proceeds in trust for unit owners or lienholders as the unit owners' or lienholders' interests may appear. Subject to the provisions of subsection (i) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged property. A unit owner or lienholder shall not be entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the condominium is terminated.

(g) An insurance policy issued to the unit owners' association shall not prevent a unit owner from obtaining insurance for his or her own benefit.

(h) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the unit owners' association and, upon written request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurer that issues the policy may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the unit owners' association, any unit owner, and any mortgagee or beneficiary under the deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(i) Any portion of the condominium for which insurance is required under this section that is damaged or destroyed shall be repaired or replaced promptly by the unit owners' association unless the condominium is terminated, repair or replacement would be illegal under any health or safety statute, rule, or regulation, or 80% of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a common expense. If the entire condominium is not repaired, the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium. The insurance proceeds attributable to the units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements appertained, or to lienholders, as their interests may appear. The remainder of the proceeds shall be distributed to all the unit owners or lienholders, as their interests may appear, in proportion to the interests in the common elements appertaining to all the units. If the unit owners vote not to rebuild any unit, that unit's allocated interests shall be automatically reallocated upon the vote as if the unit had been condemned under [§ 42-1901.06](#), and the unit owners' association promptly shall prepare, execute, and record an amendment to the condominium instruments reflecting the reallocations. Notwithstanding the provisions of this subsection, [§ 42-1902.28](#) governs the distribution of insurance proceeds if the condominium is terminated.

(j)(1) The bylaws shall specify insurance coverage and limits with respect to any insurance policy that may be required on the common elements and shall indicate who shall be responsible for payment of any deductible amount in connection with the insurance policy.

(2) Unless the condominium instruments provide otherwise, if the cause of any damage to or destruction of any portion of a condominium originates from the common elements, the association's property insurance deductible shall be a common expense. If the bylaws do not indicate the entity responsible for payment of a deductible amount if the cause of damage to or destruction of a portion of a condominium originates from a unit, the owner of the unit where the cause of the damage or destruction originated shall be responsible for the association's property insurance deductible in an amount not to exceed \$ 5,000; provided, that the unit owners' association affords notice to unit owners of this responsibility before the damage is caused. If the owner is responsible for the association's property insurance deductible or an uncovered loss up to \$ 5,000, this amount shall be assessed against the owner's unit. Nothing in this section is intended to limit the rights of a unit owners' association to pursue its subrogation rights, if any, against a unit owner in whose unit the cause of the property or personal liability damage or destruction originated

(k) The provisions of this section may be varied or waived in the case of a condominium all of whose units are restricted to nonresidential use.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 310, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(dd\), 38 DCR 261](#); [Apr. 18, 1996, D.C. Law 11-110, § 48\(b\), 43 DCR 530](#); [June 21, 2014, D.C. Law 20-109, § 2\(k\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1850.

1973 Ed., § 5-1250.

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) added “Unless the condominium instruments expressly provide otherwise” in (b); added (d-1); repealed (e)(5) and made related changes; and added (j)(2).

§ 42–1903.11. Rights to surplus funds.

Unless otherwise provided in the condominium instruments, any surplus funds of the unit owners' association that remain after payment of or provision for common expenses and any prepayment of reserves shall be paid to the unit owners in proportion to the unit owners' liabilities for common expenses or credited to the unit owners to reduce the unit owners' future common expense assessments.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 311, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(ee\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1851.

1973 Ed., § 5-1251.

§ 42–1903.12. Liability for common expenses; special assessments; proportionate liability fixed in bylaws; installment payment of assessments; when assessment past due; interest thereon.

(a) Except to the extent that the condominium instruments provide otherwise, any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of any limited common element shall be specially assessed against the condominium unit to which that limited common element was assigned at the time such expenses were made or incurred. If the limited common element involved was assigned at that time to more than 1 condominium unit, however, such expenses shall be specially assessed against each such condominium unit equally so that the total of such special assessments equals the total of such expenses, except to the extent that the condominium instruments provide otherwise.

(b) To the extent that the condominium instruments expressly so provide, any other common expenses benefiting less than all of the condominium units, or caused by the conduct of less than all those entitled to occupy the same or by their licensees or invitees, shall be specially assessed against the condominium unit or units involved, in accordance with such reasonable provisions as the condominium instruments may make for such cases.

(c) The amount of any common expense not specially assessed pursuant to subsection (a) or (b) of this section shall, subject to the provisions of subsection (f) of this section, be assessed against the condominium units, including the condominium units owned by the declarant, in accordance with the provisions of the condominium instruments. The bylaws may establish the fraction or percentage of liability for such expenses appertaining to each condominium unit proportionate to either the size or par value of such condominium unit. Otherwise, the bylaws shall allocate to each such condominium unit an equal liability for such expenses, subject to the following exception: Each convertible space shall be allocated a liability for common expenses proportionate to the size of each such space, vis-à-vis the aggregate size of all units, while the remaining liability for common expenses shall be allocated equally to the other units. Such assessments shall be made by the unit owners' association annually, or more often if the condominium instruments so provide. No change in the number of votes in the unit owners' association appertaining to any condominium unit shall enlarge, diminish, or otherwise affect any liabilities arising from assessments made prior to such change.

(d) If the condominium instruments provide for any common expense assessments to be paid in installments, such instruments may further provide that upon default in the payment of any 1 or more of such installments, the balance thereof shall be accelerated, or that the said balance may be accelerated at the option of the unit owners' association, its executive board, or the managing agent.

(e) Unless the condominium instruments provide otherwise, unpaid assessments for common expense and unpaid installments of such assessments shall become past due on the 15th day from the day such assessment or installment thereof first became due and payable, and any past due assessment or installment thereof shall bear interest at the lesser of 10 percent per annum or the maximum rate permitted to be charged in the District of Columbia to natural persons on first mortgage loans at the time such assessment or installment became past due.

(f) Unless the condominium instruments provide otherwise, the declarant may elect to pay all common expenses for a period not to exceed 1 year from the conveyance of the first condominium unit to a purchaser. If the declarant elects, common expenses shall not be assessed against any condominium unit or imposed upon or collected from any unit owner, and the declarant shall pay all the costs including the costs of any contributions to reserve accounts as set forth in the budget of the condominium described in

[§ 42-1904.04.](#)

([Mar. 29, 1977, D.C. Law 1-89, title III, § 312, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(ff\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1852.

1973 Ed., § 5-1252.

Section References

This section is referenced in [§ 42-1902.02](#), [§ 42-1903.05](#), [§ 42-1903.09](#), and [§ 42-1903.13](#).

§ 42–1903.12a. Notice of intention to take legal action to collect past due amounts.

The unit owners' association shall, when advising the unit owner of its intention to take legal action to collect any past due amount owed by a unit owner, provide a notice to the unit owner to include:

- (1) A statement of the account showing the total amount that is past due, including a breakdown of the categories of amounts claimed to be due and the dates those amounts accrued;
- (2) Contact information for the individual or office the unit owner must contact to settle the past due amount; and
- (3) An enclosure providing 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 PAST DUE AMOUNTS MAY RESULT IN LEGAL ACTION, INCLUDING FORECLOSURE.

"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].".

([Mar. 29, 1977, D.C. Law 1-89, title III, § 312a](#); [as added Apr. 7, 2017, D.C. Law 21-241, § 2\(c\)](#), [64 DCR 1602](#).)

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.

§ 42–1903.13. 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.

NOTE: This section includes amendments by temporary legislation that will expire on May 4, 2023. To view the text of this section after the expiration of all emergency and temporary legislation, click this link: [Permanent Version](#).

(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:

(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, not including any period of time from March 11, 2020, to September 30, 2022, 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](#); [Sept. 21, 2022, D.C. Law 24-186, § 3, 69 DCR 009938](#).)

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).

Emergency Legislation

[For temporary \(90 days\) amendment of this section, see § 3 of Foreclosure Moratorium Extension Revision and Homeowner Assistance Fund Promotion Emergency Amendment Act of 2022 \(D.C. Act 24-508, July 25, 2022, 69 DCR 009369\).](#)

[For temporary \(90 days\) amendment of this section, see § 408\(b\) of Coronavirus Support Congressional Review Emergency Amendment Act of 2021 \(D.C. Act 24-96, June 7, 2021, 68 DCR 006025\).](#)

[For temporary \(90 days\) amendment of this section, see § 408\(b\) of Coronavirus Support Emergency Amendment Act of 2021 \(D.C. Act 24-30, Mar. 17, 2021, 68 DCR 003101\).](#)

[For temporary \(90 days\) amendment of this section, see § 408\(b\) of Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020 \(D.C. Act 23-405, Aug. 19, 2020, 67 DCR 10235\).](#)

Temporary Legislation

[For temporary \(225 days\) amendment of this section, see § 3 of Foreclosure Moratorium Extension Revision and Homeowner Assistance Fund Promotion Temporary Amendment Act of 2022 \(D.C. Law 24-186, Sept. 21, 2022, 69 DCR 009938\).](#)

[For temporary \(225 days\) amendment of this section, see § 408\(b\) of Coronavirus Support Temporary Amendment Act of 2021 \(D.C. Law 24-9, June 24, 2021, 68 DCR 004824\).](#)

[For temporary \(225 days\) amendment of this section, see § 408\(b\) of Coronavirus Support Temporary Amendment Act of 2020 \(D.C. Law 23-130, Oct. 9, 2020, 67 DCR 8622\).](#)

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.

§ 42–1903.14. Books, minutes, and records; inspection.

(a) The unit owners' association, or the declarant, the managing agent, or other person specified in the bylaws acting on behalf of the unit owners' association, shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the association's expenses related to the common elements and any other expenses incurred by or on behalf of the association.

(b) Subject to the provisions of subsection (c) of this section, books and records kept by or on behalf of the unit owners' association, including the unit owners' association membership list, mailing addresses of unit owners, and financial records, including aggregate salary information of the unit owners' association employees, shall be available in the District of Columbia and within 50 miles of the District of Columbia, for examination and copying by a unit owner in good standing or such unit owner's authorized agent so long as the request is for a proper purpose related to the unit owner's membership in the unit owners' association, and not for pecuniary gain, commercial solicitation, or other purpose unrelated to the unit owner's membership in the unit owners' association. This right of examination may be exercised only during reasonable hours on business days. The books shall be subject to an independent audit upon the request of owners of units to which 33 1/3% of the votes in the unit owners' association pertain or a lower percentage as may be specified.

(c)(1) Books and records kept by or on behalf of a unit owners' association may be withheld from examination or copying by unit owners and their agents to the extent that they are drafts not yet incorporated into the unit owners' association's books and records or if the books and records concern:

(A) Personnel matters relating to specific, identified persons who work for the unit owners' association, including a person's medical records;

(B) Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

(C) Pending or anticipated litigation;

(D) Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the condominium instruments or rules and regulations promulgated by the executive board;

(E) Communications with legal counsel;

(F) Disclosure of information in violation of law;

(G) Minutes or other records of an executive session of the executive board;

(H) Documentation, correspondence, management, or reports compiled for or on behalf of the unit owners' association or the executive board by its agents or committees for consideration by the executive board in executive session; or

(1) Individual unit owner or member files, other than those of the requesting unit owner, including any individual unit owner's files kept by or on behalf of the unit owners' association.

(2) For the purposes of paragraph (1)(C) of this subsection, the term "anticipated litigation" means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party.

(d) Before providing copies of any books or records, the unit owners' association may impose and collect a fee reflecting the actual costs of materials and labor for providing access to copies of the requests books and records.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 314, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(hh\), 38 DCR 261](#); [June 21, 2014, D.C. Law 20-109, § 2\(m\), 61 DCR 4304](#).)

Prior Codifications

1981 Ed., § 45-1854.

1973 Ed., § 5-1254.

Section References

This section is referenced in [§ 42-1901.01](#).

Effect of Amendments

The 2014 amendment by [D.C. Law 20-109](#) rewrote the section.

§ 42–1903.15. Limitation on right of first refusal and other restraints on alienation; recordable statement of waiver of rights to be supplied promptly upon request.

If the condominium instruments create any rights of first refusal or other restraints on free alienability of any of the condominium units, such rights and restraints shall be void unless the condominium instruments make provisions for promptly furnishing to any unit owner or purchaser requesting the same a recordable statement certifying to any waiver of, or failure or refusal to exercise, such rights and restraints, in all cases where such waiver, failure, or refusal does in fact occur. Failure or refusal to furnish promptly such a statement in such circumstances in accordance with the provisions of the condominium instruments shall make all such rights and restraints inapplicable to any disposition of a condominium unit in contemplation of which such statement was requested. Any such statement shall be binding on the association of unit owners, its 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.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 315, 23 DCR 9532b](#); [Mar. 8, 1991, D.C. Law 8-233, § 2\(ii\), 38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1855.

1973 Ed., § 5-1255.

Section References

This section is referenced in [§ 42-1904.11](#).

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

(a) Repealed.

(a-1)(1) The failure to comply with the applicable building code in effect at the time of construction shall create a rebuttable presumption that an affected component of a unit or common area falls below standards commonly accepted in the real estate market if:

(A) The failure to comply with building code requirements results in demonstrable harm to the health or safety of a unit owner, lawful unit inhabitant, or guest; or

(B) The units are conveyed prior to the issuance of a certificate of occupancy, or if the developed condominium units do not require a certificate of occupancy to be occupied, prior to the date of substantial completion of condominium construction as certified by the condominium development architect.

(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 pursuant to the declarant's common element warranty against structural defects 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 a declarant responsible for any damage resulting from lack of proper maintenance of a unit or the 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) At the time that the condominium registration order is issued by the Mayor, the declarant shall post with the Mayor a warranty security in the amount of 10% of the estimated hard construction and conversion costs, including labor and materials, to satisfy costs that arise from a declarant's failure to fulfill the requirements of this section.

(B) If prior to the conveyance of the first residential unit to a purchaser, the declarant has not posted warranty security as required by subparagraph (A) of this paragraph, the escrow agent for the sale of the residential unit shall collect the warranty security payment prior to closing and submit the warranty security payment to the Mayor on the settlement date.

(C) The bond, letter of credit, or other security shall be in a form that is automatically renewable and may only expire with permission by the Mayor, unless a release or approval of revocation is granted by the Mayor.

(D) The amount of the warranty security shall be based on the estimated hard construction and conversion costs, including labor and materials, at the time of filing the application for condominium registration. These costs shall be determined according to industry standards for estimating construction costs. If the actual hard construction and conversion costs, including labor and materials, as of the time of substantial completion of the condominium, as certified by the project architect, exceeds the previously estimated costs by more than 10%, the declarant shall post an additional warranty security in the amount of 10% of the difference between the estimated hard construction and conversion costs, including labor and materials, and the actual hard construction and conversion costs, including labor and materials, as of project substantial completion, as certified by the project architect.

(E) No condominium unit shall be conveyed to a purchaser until the warranty security has been posted in accordance with requirements set forth in this subsection.

(2) To support the amount of the warranty security posted by the declarant, a declarant shall provide a sworn statement attesting to cost estimates for the conversion construction work proposed, including the costs of materials and labor at the time of filing the application for condominium registration, and at the time of substantial completion of the condominium, as certified by the project architect, if the costs have exceeded the estimates as set forth in paragraph (1)(D) of this subsection.

(3)(A) The warranty security may be reduced at the declarant's request in pro rata segments beginning 2 years after the conveyance of each unit, based on the residential unit's percentage interest in the residential portion of the condominium; provided, that in no event shall the warranty security be reduced below 50% of the original amount of the warranty security until one year after the transfer of control of the residential executive board of the unit owners' association to residential unit owners other than the declarant, or an affiliate of the declarant.

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

(4) At the end of 5 years after the conveyance of the first residential unit to a purchaser, 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.

(5) 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 that contain 2 or more types of uses, including residential, retail, or office. If a residential unit is part of a mixed-use condominium, the cost of the residential portion of the condominium shall include:

(A) The residential condominium unit's pro rata share of common elements, based on the residential condominium unit's percentage interest in the common elements; or

(B) The residential condominium unit's pro rata share of those portions of the project directly supporting, enclosing, or servicing the residential condominium.

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

(7)(A) A claimant asserting a claim of structural defect to a residential unit or a portion of the common elements shall notify the declarant in writing via certified mail and return receipt requested of the claimant's intent to file a claim with the Mayor at least 30 calendar days prior to filing such a claim. The declarant shall have an opportunity to respond to the claimant during the 30 calendar days following the date the declarant receives the notice required by this subsection.

(B) After 30 calendar days from the date the declarant receives the claimant's notice of intent to file a claim, the claimant may file a claim of structural defect to a residential unit or portion of the common elements with the Mayor on a form prescribed by the Mayor. The claimant shall send a copy of the claim to the declarant via certified mail and return receipt requested on the same date the claimant files a claim with the Mayor.

(C) A declarant shall file with the Mayor a written response to a structural defect claim filed with the Mayor within 30 calendar days after receipt of a copy of the claim. The declarant shall also send a copy to the claimant via certified mail with return receipt requested.

(D)(i) After receiving the unit owner's or unit owners' association's structural defect claim and the declarant's response, the Mayor shall make a final determination as to whether the claim of structural defect is a perfected claim.

(ii) The Mayor's determination that the structural defect claim is not perfected in a previous instance will have no bearing on any other current or future claim by a unit owner or the unit owners' association based on additional or different information.

(E) Upon a final determination by the Mayor that the claim is perfected, the Mayor shall make a determination based on the materials provided in the claim of the cost to repair or replace the structural defects to be paid from the warranty security posted with the Mayor.

(F)(i) Upon the Mayor's final determination of a perfected claim and determination of the amount of warranty security to be awarded for payment of the costs to repair or replace the structural defects, the declarant and the claimant shall complete all forms required by the Mayor to release the necessary funds.

(ii) Upon receipt of all necessary completed forms, the Mayor shall release the funds to the claimant within 30 calendar days.

(G) Any party aggrieved by the Mayor's determination may submit a written request to the Office of Administrative Hearings ("OAH") within 30 calendar days after the date of the Mayor's final determination for a de novo consideration of the claim. Any award from the warranty security posted by the declarant shall be suspended pending the issuance of an order from OAH, in which case the decision of the OAH shall supersede any decision by the Mayor.

(H) If a unit owners association or unit owner files suit in a court of competent jurisdiction for a breach of the warranties created by this section, the prevailing party shall be entitled to an award of reasonable attorney fees and costs as may be determined by the court. A unit owners' association or unit owner that files suit shall provide written notice to the Mayor, and the warranty security posted by the declarant shall not be reduced or released until a decision is rendered by the court.

(8) If claims for structural defects under this section are pending at the time the warranty security that is posted would otherwise be allowed to be reduced or no longer be required, then the warranty security shall be required to be maintained until the claims have been finally resolved, and the warranty security has been made available to satisfy the declarant's responsibilities to the unit owners and unit owners' association under this section.

(9) The bylaws or other condominium documents prepared by the declarant shall not restrict or hinder a unit owner or a unit owners' association's right to assert claims under this section.

(10) 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, successor declarant, or the declarant's selections or nominees.

(e-1) The Mayor shall approve the release of the funds secured under subsection (e) of this section to satisfy any costs that arise from a declarant's failure to satisfy the requirements of this section pursuant to:

(1) A written agreement between the declarant and claimant regarding the release of the warranty security in satisfaction of the claim and approved by the Mayor;

(2) An order issued by the Mayor pursuant to subsection (e)(7)(F) of this section;

(3) An order of the Office of Administrative Hearings issued following an appeal under subsection (e)(7)(G) of this section; or

(4) An order of a court of competent jurisdiction.

(f) Repealed.

(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.

(1A)(A) The Mayor shall issue proposed rules to implement the provisions of the Condominium Warranty Claims Clarification Amendment Act of 2022 [D.C. Law 24-262] within 180 days after February 23, 2023.

(B) The proposed rules shall be published in the District of Columbia Register with a 60-day public comment period. 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) At least 7 calendar days prior to the initial conveyance of a residential unit, the declarant shall provide a copy of the bond, letter of credit, or other warranty security required under subsection (e)(1) of this section to the purchaser of the residential unit.

(2) At any time prior to 30 calendar days after the date that the declarant's control of the condominium expires, the declarant shall provide a copy of the warranty security required under subsection (e)(1) of this section to the executive board of the unit owners' association.

(i) Not Funded.

(j) For the purposes of this section, the term:

(1) "Adjudication" shall have the same meaning set forth in [§ 2-502\(19\)](#).

(2) "Claimant" means a unit owners association or a unit owner asserting a claim under the warranty for structural defects required by this section.

(3) "Conveyance" or "convey" means the transfer of legal title to real estate by written instrument, which for purposes of warranty security reduction and calculating the 2-year warranty against structural defects is deemed to be the date on which the applicable deed of conveyance is recorded with the Recorder of Deeds of the District of Columbia.

(4) "Order" shall have the same meaning set forth in [§ 2-502\(11\)](#).

(5) "Perfected claim" means a claim that a structural defect exists, which contains all information and supporting proof required by this section or any other applicable law or regulation.

(6) "Structural defect" means a defect in a component that constitutes a portion or all of either a unit or the common elements that:

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

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

(7) "Warranty security" means a payment in the form of a bond, letter of credit, or other form approved by the Mayor that is required to be posted with the Mayor.

([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](#); [Feb. 23, 2023, D.C. Law 24-262, § 2, 69 DCR 15105](#).)

Prior Codifications

1981 Ed., § 45-1856.

Section References

This section is referenced in [§ 42-1903.17](#).

Applicability

Applicability of [D.C. Law 24-262: § 3 of D.C. Law 24-262](#) provided that the creation of subsection (i) this section by [§ 2 of D.C. Law 24-262](#) is subject to the inclusion of the law's fiscal effect in an approved budget and financial plan. Therefore that amendment has not been implemented.

Emergency Legislation

[For temporary \(90 days\) amendment of this section, see § 2 of Condominium Warranty Claims Clarification Emergency Amendment Act of 2022 \(D.C. Act 24-721, Jan. 10, 2023, 0 DCR 0\)](#).

[For temporary \(90 days\) amendment of this section, see § 2 of Condominium Warranty Claims Clarification Congressional Review Emergency Amendment Act of 2020 \(D.C. Act 23-329, July 7, 2020, 67 DCR 8602\)](#).

[For temporary \(90 days\) amendment of this section, see § 2 of Condominium Warranty Claims Clarification Emergency Amendment Act of 2020 \(D.C. Act 23-231, Feb. 27, 2020, 0 DCR 0\)](#).

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).

Temporary Legislation

[For temporary \(225 days\) amendment of this section, see § 2 of Condominium Warranty Claims Clarification Temporary Amendment Act of 2020 \(D.C. Law 23-103, June 17, 2020, 67 DCR 3938\)](#).

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).

§ 42–1903.17. Statute of limitations for warranties.

(a) A judicial, non-judicial, regulatory, or administrative proceeding for breach of a warranty that arises under [§ 42-1903.16](#) shall be commenced within 5 years after the date the applicable warranty period began.

(b) Filing of a claim with the Mayor shall not preclude the claimant from also seeking to judicially enforce its claim. If a breach of warranty claim is filed with a court of competent jurisdiction, the Mayor's decision issued under this section will be stayed until the breach of warranty claim is resolved.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 317](#); [as added Mar. 8, 1991, D.C. Law 8-233, § 2\(kk\), 38 DCR 261](#); [Mar. 20, 1992, D.C. Law 9-82, § 2\(m\), 39 DCR 683](#); [Feb. 23, 2023, D.C. Law 24-262, § 2\(b\), 69 DCR 15105.](#))

Prior Codifications

1981 Ed., § 45-1857.

§ 42–1903.18. Master associations — Authorization; powers; rights and responsibilities of unit owners; election of executive board.

(a) If the condominium instruments for a condominium provide that any of the powers described in [§ 42-1903.08](#) are to be exercised by or may be delegated to a for-profit or nonprofit corporation or incorporated association that exercises the powers described in [§ 42-1903.08](#) or other powers on behalf of 1 or more condominiums or for the benefit of the unit owners of 1 or more condominiums, all provisions of this chapter applicable to unit owners’ associations shall apply to the for-profit or nonprofit corporation or unincorporated association, except as modified by this section.

(b) Unless a master association is acting in the capacity of an association described in [§ 42-1903.04](#), it may exercise the powers set forth in [§ 42-1903.08\(a\)\(2\)](#) only to the extent expressly permitted in the condominium instruments of condominiums that are part of the master association or expressly described in the delegations of power from those condominiums to the master association.

(c) If the condominium instruments of any condominium provide that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to the powers following delegation.

(d) The rights or responsibilities of a unit owner with respect to the unit owners' association set forth in §§ [42-1903.02](#), [42-1903.03](#), [42-1903.04](#), [42-1903.05](#), and [42-1903.20](#) shall apply in the conduct of the affairs of a master association only to any person who elects the board of a master association, whether or not the person is otherwise a unit owner within the meaning of this chapter.

(e) Notwithstanding the provisions of [§ 42-1903.02\(a\)](#) with respect to the election of the executive board of a unit owners' association by all unit owners after the period of declarant control ends, and regardless of whether a master association is an association described in [§ 42-1903.01](#), the certificate of incorporation or other instrument that creates the master association and the condominium instruments of each condominium, the powers of which are assigned by the condominium instruments or delegated to the master association, may provide that the executive board of the master association shall be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all condominiums subject to the master association may elect all members of the executive board;

(2) All members of the executive boards of all condominiums subject to the master association may elect all members of the executive board;

(3) All unit owners of each condominium subject to the master association may elect specified members of the executive board; or

(4) All members of the executive board of each condominium subject to the master association may elect specified members of the executive board.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 318](#); [as added Mar. 8, 1991, D.C. Law 8-233, § 2\(II\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1858.

Section References

This section is referenced in [§ 42-1901.02.](#)

§ 42–1903.19. Merger or consolidation of condominiums.

(a) Any 2 or more condominiums, by agreement of the unit owners as provided in subsection (b) of this section, may be merged or consolidated into a single condominium. Unless the agreement otherwise provides, if 2 or more condominiums merge or consolidate the resultant condominium shall be, for all purposes, the legal successor of all of the preexisting condominiums, and the operations or activities of all unit owners' associations of the preexisting condominiums shall be merged or consolidated into a single unit owners' association. The single unit owners' association shall hold any power, right, obligation, asset, or liability of all preexisting unit owners' associations.

(b) An agreement of 2 or more condominiums to merge or consolidate pursuant to subsection (a) of this section shall be evidenced by an agreement prepared, executed, recorded, and certified by the president of the unit owners' association of each of the preexisting condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate the condominium.

(c)(1) A merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium either by stating the reallocations or the formulas upon which the reallocations are based, or by stating the percentage of overall allocated interests of the new condominiums which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the portion of the percentages allocated to each unit formerly comprising a part of the preexisting condominium must be equal to the percentages of allocated interests allocated to that unit by the condominium instruments of the preexisting condominium.

(2) For purposes of this section, the term “allocated interests” shall mean the individual interest in the common elements, the liability for common expenses, and the votes in the unit owners’ association that pertain to each unit.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 319](#); [as added Mar. 8, 1991, D.C. Law 8-233, § 2\(mm\)](#), [38 DCR 261](#).)

Prior Codifications

1981 Ed., § 45-1859.

Section References

This section is referenced in [§ 42-1901.02](#).

§ 42–1903.20. Conveyance or encumbrance of common elements.

(a) A portion of the common elements may be conveyed or subjected to a security interest by the unit owners’ association if persons entitled to cast at least 80% of the votes in the unit owners’ association, including 80% of the votes allocated to units not owned by a declarant, or any larger percentage the condominium instruments specify, agree to convey or subject to a security interest. To convey or subject a limited common element to a security interest, all the owners of units to which any limited common element is allocated shall agree. The condominium instruments may specify a smaller percentage if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale shall be an asset of the unit owners’ association.

(b) An agreement to convey or subject common elements to a security interest shall be evidenced by the execution and recordation of the agreement, or ratification of the agreement, in the same manner as a deed, and by the requisite number of unit owners. The agreement shall specify a date after which the agreement shall be void unless recorded before that date.

(c) The unit owners’ association, on behalf of the unit owners, may contract to convey or subject common elements to a security interest. The contract shall not be enforceable against the unit owners’ association until approved pursuant to subsections (a) and (b) of this section. Upon approval, the unit owners’ association shall have any power necessary and appropriate to effect the conveyance or encumbrance of the common elements, including the power to execute a deed or other instrument.

(d) Any purported conveyance, encumbrance, judicial sale, or other voluntary transfer of common elements pursuant to this section shall not deprive any unit of the unit's right of access or support.

(e) Unless the condominium instruments otherwise provide, a conveyance or encumbrance of common elements pursuant to this section shall not affect the priority or validity of a preexisting encumbrance.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 320](#); [as added Mar. 8, 1991, D.C. Law 8-233, § 2\(nn\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1860.

Section References

This section is referenced in [§ 42-1901.01](#) and [§ 42-1903.18](#).

§ 42–1903.21. Unit owners' association as trustee.

With respect to a third person that deals with the unit owners' association in the unit owners' association's capacity as a trustee, the existence and proper exercise of trust powers by the unit owners' association, may be assumed without inquiry. A third person shall not be bound to inquire whether the unit owners' association has the power to act as trustee or is properly exercising trust powers. A third person without actual knowledge that the unit owners' association is exceeding or improperly exercising its powers is fully protected in dealing with the unit owners' association as if the unit owners' association possessed and properly executed the powers the unit owners' association purports to exercise. A third person shall not be bound to assure the proper application of trust assets paid or delivered to the unit owners' association in its capacity as trustee.

([Mar. 29, 1977, D.C. Law 1-89, title III, § 321](#); [as added Mar. 8, 1991, D.C. Law 8-233, § 2\(oo\), 38 DCR 261.](#))

Prior Codifications

1981 Ed., § 45-1860.1.

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Mar. 10, 2023

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