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Councilmember Anita Bonds

1 A BILL  
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6 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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11 To amend, on an emergency basis, due to congressional review, the Condominium Act of 1976  
12 to clarify standards and procedures governing the resolution of a claim for a  
13 condominium developer’s warranty against structural defects, that a claimant may appeal  
14 the findings of the Mayor to the Office of Administrative Hearings, and the  
15 circumstances when the Mayor may release the warranty security funds to the claimant.

16 BE IT ENACTED BY THE COUNCIL DISTRICT OF COLUMBIA, That this act may  
17 be cited as the “Condominium Warranty Claims Clarification Congressional Review Emergency  
18 Amendment Act of 2020”.

19 Sec. 2. Section 316 of the Condominium Act of 1976, effective March 29, 1977 (D.C.  
20 Law 1-89; D.C. Official Code § 42-1903.16), is amended as follows:

21 (a) Subsection (a) is amended to read as follows:

22 “(a) As used in this section, the term:

23 “(1) “Adjudication” shall have the meaning set forth in section 102(19) of the  
24 District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204;  
25 D.C. Official Code § 2-502(19)).

26 “(2) “Claimant” means a person or entity asserting a claim under the warranty for  
27 structural defects required by this section.

28                   “(3) “Conveyance” means the transfer of title by written instrument.

29                   “(4) “Order” shall have the meaning set forth in section 102(11) of the District of  
30 Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.  
31 Official Code § 2-502(11)).

32                   “(5) “Perfected claim” means a claim that contains all required information or  
33 proof for which all requirements of this section and any other applicable law or regulation are  
34 satisfied.

35                   “(6) “Structural defect” means a defect in a component that constitutes any unit or  
36 portion of the common elements that reduces the stability or safety of the structure below  
37 standards commonly accepted in the real estate market or restricts the normally intended use of  
38 all or part of the structure and which requires repair, renovation, restoration, or replacement. The  
39 term “structural defect” does not include items of maintenance relating to the units or common  
40 elements.”.

41                   (b) New subsections (e-1) and (e-2) are added to read as follows:

42                   “(e-1)(1) A claimant asserting a claim for a structural defect under this section shall  
43 provide notice of each such claim to the Mayor and to the declarant on a form issued by the  
44 Mayor.

45                   “(2) Notwithstanding paragraph (1) of this subsection, the declarant shall notify the  
46 Mayor within 10 business days after receiving a notice of a structural defect from a claimant.

47                   “(3) Within 90 days after providing notice to the Mayor and to the declarant  
48 pursuant to paragraph (1) of this subsection, the claimant may pursue the remedies provided by  
49 the Act by filing a claim with the Mayor on a form issued by the Mayor.

50                   “(4) After receipt of a claim, the Mayor shall determine whether the claim is a  
51 perfected claim, and if so, the Mayor shall adjudicate the claim on the merits and issue an order  
52 setting forth the decision of the Mayor within 60 days.

53                   “(5)(A) The order of the Mayor may be appealed by the declarant or claimant to  
54 the Office of Administrative Hearings no later than 30 days after the order is issued by the  
55 Mayor.

56                   “(B) Review of the Mayor’s order by the Office of Administrative  
57 Hearings shall be *de novo*.

58                   “(6) In the event that the Mayor has not yet issued the forms required by  
59 paragraphs (1) and (3) of this subsection, the claimant may assert a claim in writing to the  
60 satisfaction of the Mayor.

61                   “(e-2) The Mayor shall approve the release of the funds secured under subsection (e) of  
62 this section to satisfy any costs that arise from a declarant’s failure to satisfy the requirements of  
63 this section pursuant to:

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

66                   “(2) An order issued by the Mayor in an adjudication pursuant to subsection  
67 (e-1)(4) of this section, after the expiration of the applicable appeal period;

68                   “(3) An order of the Office of Administrative Hearings issued on appeal under  
69 subsection (e-1)(5) of this section, after the expiration of the applicable appeal period; or

70                   “(4) An order of a court of competent jurisdiction, after the expiration of the  
71 applicable appeal period.”.

72                   (c) Subsection (f) is repealed.

73 Sec. 3. Applicability.

74 This act shall apply as of May 27, 2020.

75 Sec. 4. Fiscal impact statement.

76 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
77 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
78 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

79 Sec. 5. Effective date.

80 This act shall take effect following approval by the Mayor (or in the event of veto by the  
81 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
82 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
83 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
84 D.C. Official Code § 1-204.12(a)).