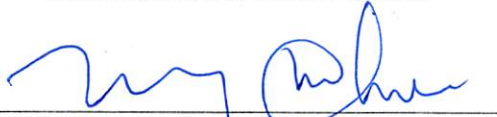
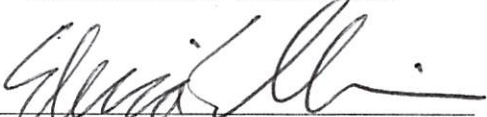
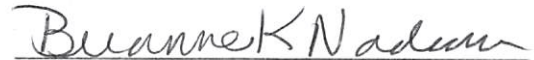



Councilmember David Grosso


Councilmember Mary M. Cheh


Councilmember Anita Bonds


Councilmember Elissa Silverman


Councilmember Brianne K. Nadeau

A Bill

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Air Pollution Control Act of 1984 to require an executive board of a condominium, cooperative, or homeowner association to remediate indoor mold in common areas; to provide a cause of action by a unit owner or member against an executive board of a condominium, cooperative, or homeowner association for a violation of the District Housing or Property Maintenance Codes; and to provide financial assistance from the Indoor Mold Assessment Fund to low-income District unit owners or members of a condominium, cooperative, or homeowner association.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Common-interest Community Air Quality Amendment Act of 2020".

Sec. 2. Title III of the Air Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law 20-135; D.C. Official Code § 8-241.01), is amended as follows:

(a) Section 302 (D.C. Code Official § 8-241.01) is amended as follows:

(1) Paragraphs (1) and (3) are redesignated as paragraphs (1C) and (3A) respectively.

26 (2) New paragraphs (1), (1A), (1B), and (3) are added to read as follows:

27 “(1) “Common area” shall mean all portions of a condominium, cooperative, or
28 homeowner association other than the units.

29 “(1A) “Condominium” has the same meaning as in § 42–1901.02(4).

30 “(1B) “Cooperative” has the same meaning as in § 42–2061(1).

31 “(3) “Homeowner association” has the same meaning as in § 47–871(2).”.

32 (b) Section 303(b) (D.C. Code Official § 8–241.02(b)) is amended by striking the phrase
33 “property owner to provide a remediation report from an indoor mold remediation professional
34 to the tenant” and inserting the phrase “property owner or the executive board of a condominium,
35 cooperative, or homeowner association to provide a remediation report from an indoor mold
36 remediation professional to the tenant or the affected unit owner or member,” in its place.

37 (c) Section 305 (D.C. Code Official § 8–241.04) is amended as follows:

38 (1) A new subsection (a-1) is added to read as follows:

39 “(a-1) An executive board of a condominium, cooperative, or homeowner association that
40 receives written or electronic notice from a unit owner or member that indoor mold or suspected
41 indoor mold exists in a common area of the property shall inspect the property within 7 days and
42 remediate the condition in accordance with subsections (b) and (c) of this section within 30 days
43 of the inspection unless a shorter timeframe is ordered by a court or the Mayor.”.

44 (2) Subsection (b) is amended to read as follows:

45 “(b) Where professional indoor mold remediation is not required under subsection (c) of
46 this section, a residential property owner notified of indoor mold by a tenant in accordance with
47 subsection (a) or an executive board of a condominium, cooperative, or homeowner association
48 notified of indoor mold by a unit owner or member in accordance with subsection (a-1) shall

clean and remove the indoor mold from the contaminated surface in accordance with the guidelines established under section 303(a)(4). Failure of the Director to issue guidelines under section 303(a)(4) shall not excuse the residential property owner or executive board of a condominium, cooperative, or homeowner association from the obligation to clean and remove visible indoor mold from the contaminated surface.

(3) A new subsection (c-1) is added to read as follows:

“(c-1) If an executive board of a condominium, cooperative, or homeowner association knows or has reason to know that indoor mold contamination exists in a common area of the property, the executive board of the condominium, cooperative, or homeowner association shall cause the mold to be remediated by an indoor mold remediation professional.”.

(d) Section 306 (D.C. Code Official § 8–241.05) is amended as follows:

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

“(a) In a private cause of action, claim, or defense by a tenant against a residential property owner or by a unit owner against an executive board of a condominium, cooperative, or homeowner association for a violation of Title 12G of the District of Columbia Municipal Regulations (12G DCMR § 101G et seq.) (“Property Maintenance Code”) or Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 100 et seq.) (“Housing Code”):

“(1)(A)(i) A professional indoor mold assessment finding indoor mold contamination in a tenant’s dwelling unit or a common area of the property shall create a rebuttable presumption of a violation of the property owner’s obligation to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code.

“(ii) To establish the presumption, the tenant must demonstrate that

the property owner received a professional indoor mold assessment in written or electronic form that determined that indoor mold contamination existed in the tenant's dwelling unit; or

“(B)(i) A professional indoor mold assessment finding indoor mold contamination in a common area of the property shall create a rebuttable presumption of a violation of the executive board of a condominium, cooperative, or homeowner association's obligation to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code.

“(ii) To establish the presumption, the unit owner or member must demonstrate that the executive board of a condominium, cooperative, or homeowner association received a professional indoor mold assessment in written or electronic form that determined that indoor mold contamination existed in the common area of the property.

“(2) When ruling in favor of a tenant, unit owner, or member with respect to a Property Maintenance Code or Housing Code violation based on a professional mold assessment, the court shall have discretion to reimburse indoor mold assessment costs and award attorney fees and court costs to the tenant, unit owner, or member. The court may award treble damages to a tenant, unit owner, or member when:

“(A) The tenant, unit owner, or member discovered the indoor mold;

“(B) A professional indoor mold assessment determined that indoor mold contamination existed in the tenant's dwelling unit or with respect to a unit owner or member, in a common area of the property;

“(C) The residential property owner, executive board of a condominium, cooperative, or homeowner association received the indoor mold assessment in written or electronic form;

95 “(D) The residential property owner, executive board of a condominium,
96 cooperative, or homeowner association did not remediate the indoor mold within 60 days; and

97 “(E) The court finds that the residential property owner, executive board
98 of a condominium, cooperative, or homeowner association acted in bad faith.”.

99 (2) Subsection (b) is amended by striking the phrase “property owner” and
100 inserting the phrase “a property owner, executive board of a condominium, cooperative, or
101 homeowner association” in its place.

102 (e) Subsection (c)(2) of section 308 (D.C. Code Official § 8–241.07(c)(2)) is amended as
103 follows:

104 (1) Subparagraph (A) is amended to read as follows:

105 “(A) Low-income District residents for the purpose of having a professional mold
106 assessment conducted in their premises, or in the case of a condominium, cooperative, or
107 homeowner association, in a common are of the condominium, cooperative, or homeowner
108 association where the resident is a unit owner or member, in the event that the owner of the
109 resident’s property or the executive board of a condominium, cooperative, or homeowner
110 association fails to comply with the requirements in section 305; and”.

111 (2) Subparagraph (B) is amended by striking the phrase “Residential property
112 owners” and inserting the phrase “Residential property owners, executive board of a
113 condominium, cooperative, or homeowner association” in its place.

114 Sec. 3. Fiscal impact statement.

115 The Council adopts the fiscal impact statement in the committee report as the fiscal
116 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
117 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

118 Sec. 4. Effective date.

119 This act shall take effect following approval by the Mayor (or in the event of veto by the
120 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
121 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
122 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
123 Columbia Register.