

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 534

Representatives Grossman, Perales

Cosponsors: Representatives Bocchieri, Rezabek, Duffey

A BILL

To amend sections 5302.30, 5311.01, 5311.08, 1
5311.081, 5311.09, 5311.091, 5311.16, 5311.18, 2
and 5311.22 and to enact sections 5311.082, 3
5311.083, 5311.29, 5311.30, 5311.31, 5311.32, 4
and 5311.33 of the Revised Code relative to the 5
Condominium Law and Planned Community Law. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5302.30, 5311.01, 5311.08, 7
5311.081, 5311.09, 5311.091, 5311.16, 5311.18, and 5311.22 be 8
amended and sections 5311.082, 5311.083, 5311.29, 5311.30, 9
5311.31, 5311.32, and 5311.33 of the Revised Code be enacted to 10
read as follows: 11

Sec. 5302.30. (A) As used in this section: 12

(1) "Good faith" means honesty in fact in a transaction 13
involving the transfer of residential real property. 14

(2) "Land installment contract" has the same meaning as in 15
section 5313.01 of the Revised Code. 16

(3) "Political subdivision" and "state" have the same 17

meanings as in section 2744.01 of the Revised Code. 18

(4) "Residential real property" means real property that 19
is improved by a building or other structure that has one to 20
four dwelling units. 21

(B)(1) Except as provided in division (B)(2) of this 22
section, this section applies to any transfer of residential 23
real property that occurs on or after July 1, 1993, by sale, 24
land installment contract, lease with option to purchase, 25
exchange, or lease for a term of ninety-nine years and renewable 26
forever. For purposes of this section, a transfer occurs when 27
the initial contract for transfer is executed, regardless of 28
when legal title is transferred, and references in this section 29
to transfer offers and transfer agreements refer to offers and 30
agreements in respect of the initial contract for transfer. 31

(2) This section does not apply to any transfer of 32
residential real property that is any of the following: 33

(a) A transfer pursuant to court order, including, but not 34
limited to, a transfer ordered by a probate court during the 35
administration of a decedent's estate, a transfer pursuant to a 36
writ of execution, a transfer by a trustee in bankruptcy, a 37
transfer as a result of the exercise of the power of eminent 38
domain, and a transfer that results from a decree for specific 39
performance of a contract or other agreement between persons; 40

(b) A transfer to a mortgagee by a mortgagor by deed in 41
lieu of foreclosure or in satisfaction of the mortgage debt; 42

(c) A transfer to a beneficiary of a deed of trust by a 43
trustor in default; 44

(d) A transfer by a foreclosure sale that follows a 45
default in the satisfaction of an obligation secured by a 46

mortgage;	47
(e) A transfer by a sale under a power of sale following a default in the satisfaction of an obligation that is secured by a deed of trust or another instrument containing a power of sale;	48 49 50 51
(f) A transfer by a mortgagee, or a beneficiary under a deed of trust, who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or a deed of trust or who has acquired the residential real property by a deed in lieu of foreclosure;	52 53 54 55 56
(g) A transfer by a fiduciary in the course of the administration of a decedent's estate, a guardianship, a conservatorship, or a trust;	57 58 59
(h) A transfer from one co-owner to one or more other co-owners;	60 61
(i) A transfer made to the transferor's spouse or to one or more persons in the lineal line of consanguinity of one or more of the transferors;	62 63 64
(j) A transfer between spouses or former spouses as a result of a decree of divorce, dissolution of marriage, annulment, or legal separation or as a result of a property settlement agreement incidental to a decree of divorce, dissolution of marriage, annulment, or legal separation;	65 66 67 68 69
(k) A transfer to or from the state, a political subdivision of the state, or another governmental entity;	70 71
(l) A transfer that involves newly constructed residential real property that previously has not been inhabited;	72 73
(m) A transfer to a transferee who has occupied the	74

property as a personal residence for one or more years 75
immediately prior to the transfer; 76

(n) A transfer from a transferor who both has not occupied 77
the property as a personal residence within one year immediately 78
prior to the transfer and has acquired the property through 79
inheritance or devise. 80

(C) Except as provided in division (B)(2) of this section 81
and subject to divisions (E) and (F) of this section, every 82
person who intends to transfer any residential real property on 83
or after July 1, 1993, by sale, land installment contract, lease 84
with option to purchase, exchange, or lease for a term of 85
ninety-nine years and renewable forever shall complete all 86
applicable items in a property disclosure form prescribed under 87
division (D) of this section and shall deliver in accordance 88
with division (I) of this section a signed and dated copy of the 89
completed form to each prospective transferee or prospective 90
transferee's agent as soon as is practicable. 91

(D)(1) Prior to July 1, 1993, the director of commerce, by 92
rule adopted in accordance with Chapter 119. of the Revised 93
Code, shall prescribe the disclosure form to be completed by 94
transferors. The form prescribed by the director shall be 95
designed to permit the transferor to disclose material matters 96
relating to the physical condition of the property to be 97
transferred, including, but not limited to, the source of water 98
supply to the property; the nature of the sewer system serving 99
the property; the condition of the structure of the property, 100
including the roof, foundation, walls, and floors; the presence 101
of hazardous materials or substances, including lead-based 102
paint, asbestos, urea-formaldehyde foam insulation, and radon 103
gas; and any material defects in the property that are within 104

the actual knowledge of the transferor. 105

The form also shall set forth a statement of the purpose 106
of the form, including statements substantially similar to the 107
following: that the form constitutes a statement of the 108
conditions of the property and of information concerning the 109
property actually known by the transferor; that, unless the 110
transferee is otherwise advised in writing, the transferor, 111
other than having lived at or owning the property, possesses no 112
greater knowledge than that which could be obtained by a careful 113
inspection of the property by a potential transferee; that the 114
statement is not a warranty of any kind by the transferor or by 115
any agent or subagent representing the transferor in this 116
transaction; that the statement is not a substitute for any 117
inspections; that the transferee is encouraged to obtain the 118
transferee's own professional inspection; that the 119
representations are made by the transferor and are not the 120
representations of the transferor's agent or subagent; and that 121
the form and the representations contained therein are provided 122
by the transferor exclusively to potential transferees in a 123
transfer made by the transferor, and are not made to transferees 124
in any subsequent transfers. 125

The form shall include instructions to the transferor for 126
completing the form, space in which the transferor or 127
transferors shall sign and date the form, and space in which the 128
transferee or transferees shall sign and date the form 129
acknowledging receipt of a copy of the form and stating that the 130
transferee or transferees understand the purpose of the form as 131
stated thereon. 132

(2) Not later than January 1, 2006, the director shall 133
revise the disclosure form to include a statement that 134

information on the operation and maintenance of the type of 135
sewage treatment system serving the property is available from 136
the department of health or the board of health of the health 137
district in which the property is located. 138

As used in this section, "sewage treatment system" has the 139
same meaning as in section 3718.01 of the Revised Code. 140

(3) Not later than January 1, 2017, the director, by rule 141
adopted in accordance with Chapter 119. of the Revised Code, 142
shall prescribe an addendum to the disclosure form required 143
pursuant to this division that shall be required for the 144
transfer of residential property that is subject to Chapter 145
5311. or 5312. of the Revised Code. The form prescribed by the 146
director shall include information that is reasonably attainable 147
by the transferor including all of the following: 148

(a) A copy of the association declaration, bylaws, and 149
code of regulations; 150

(b) A statement indicating the amount of any unit owners 151
association common assessments or other fees and any deed 152
restrictions; 153

(c) A copy of financial information regarding the planned 154
community or condominium property available to all community or 155
property residents, such as the budget for operating expenses 156
and reserves in effect for the current fiscal year or the 157
balance sheet and income-expense statements for the most 158
recently completed fiscal year of the property; 159

(d) A statement from the association indicating the 160
availability, if any, of special financing for planned community 161
or condominium property unit owners through the United States 162
federal housing authority or another source. 163

(e) Any information registered with the division of real estate and professional licensing in the department of commerce that is available for public inspection under division (B) of section 5311.082 of the Revised Code. 164
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(E) (1) Each disclosure of an item of information that is required to be made in the property disclosure form prescribed under division (D) of this section in connection with particular residential real property and each act that may be performed in making any disclosure of an item of information shall be made or performed in good faith. 168
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(2) If an item of information is unknown to the transferor of residential real property at the time the item is required to be disclosed in the property disclosure form prescribed under division (D) of this section and if the approximation is not used for the purpose of circumventing or otherwise evading divisions (C) and (D) of this section, the transferor may make a good faith approximation of the item of information. 174
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(F) (1) A transferor of residential real property is not liable in damages in a civil action for injury, death, or loss to person or property that allegedly arises from any error in, inaccuracy of, or omission of any item of information required to be disclosed in the property disclosure form prescribed under division (D) of this section if the error, inaccuracy, or omission was not within the transferor's actual knowledge. 181
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(2) If any item of information that is disclosed in the property disclosure form prescribed under division (D) of this section is rendered inaccurate after the delivery of the form to the transferee of residential real property or the transferee's agent as a result of any act, occurrence, or agreement, the subsequent inaccuracy does not cause, and shall not be construed 188
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as causing, the transferor of the residential real property to 194
be in noncompliance with the requirements of divisions (C) and 195
(D) of this section. 196

(G) Any disclosure of an item of information in the 197
property disclosure form prescribed under division (D) of this 198
section may be amended in writing by the transferor of 199
residential real property at any time following the delivery of 200
the form in accordance with divisions (C) and (I) of this 201
section. The amendment shall be subject to this section. 202

(H) Except as provided in division (B)(2) of this section, 203
every prospective transferee of residential real property who 204
receives in accordance with division (C) of this section a 205
signed and dated copy of a completed property disclosure form as 206
prescribed under division (D) of this section shall acknowledge 207
receipt of the form by doing both of the following: 208

(1) Signing and dating a copy of the form; 209

(2) Delivering a signed and dated copy of the form to the 210
transferor or the transferor's agent or subagent. 211

(I) The transferor's delivery under division (C) of this 212
section of a property disclosure form as prescribed under 213
division (D) of this section and the prospective transferee's 214
delivery under division (H) of this section of an acknowledgment 215
of receipt of that form shall be made by personal delivery to 216
the other party or the other party's agent or subagent, by 217
ordinary mail or certified mail, return receipt requested, or by 218
facsimile transmission. For the purposes of the delivery 219
requirements of this section, the delivery of a property 220
disclosure form to a prospective co-transferee of residential 221
real property or a prospective co-transferee's agent shall be 222

considered delivery to the other prospective transferees unless 223
otherwise provided by contract. 224

(J) The specification of items of information that must be 225
disclosed in the property disclosure form as prescribed under 226
division (D) (1) of this section does not limit or abridge, and 227
shall not be construed as limiting or abridging, any obligation 228
to disclose an item of information that is created by any other 229
provision of the Revised Code or the common law of this state or 230
that may exist in order to preclude fraud, either by 231
misrepresentation, concealment, or nondisclosure in a 232
transaction involving the transfer of residential real property. 233
The disclosure requirements of this section do not bar, and 234
shall not be construed as barring, the application of any legal 235
or equitable defense that a transferor of residential real 236
property may assert in a civil action commenced against the 237
transferor by a prospective or actual transferee of that 238
property. 239

(K) (1) Except as provided in division (K) (2) of this 240
section, but subject to divisions (J) and (L) of this section, a 241
transfer of residential real property that is subject to this 242
section shall not be invalidated because of the failure of the 243
transferor to provide to the transferee in accordance with 244
division (C) of this section a completed property disclosure 245
form as prescribed under division (D) of this section. 246

(2) Subject to division (K) (3) (c) of this section, if a 247
transferee of residential real property that is subject to this 248
section receives a property disclosure form as prescribed under 249
division (D) of this section or an amendment of that form as 250
described in division (G) of this section after the transferee 251
has entered into a transfer agreement with respect to the 252

property, the transferee, after receipt of the form or 253
amendment, may rescind the transfer agreement in a written, 254
signed, and dated document that is delivered to the transferor 255
or the transferor's agent or subagent in accordance with 256
divisions (K) (3) (a) and (b) of this section, without incurring 257
any legal liability to the transferor because of the rescission, 258
including, but not limited to, a civil action for specific 259
performance of the transfer agreement. Upon the rescission of 260
the transfer agreement, the transferee is entitled to the return 261
of, and the transferor shall return, any deposits made by the 262
transferee in connection with the proposed transfer of the 263
residential real property. 264

(3) (a) Subject to division (K) (3) (b) of this section, a 265
rescission of a transfer agreement under division (K) (2) of this 266
section only may occur if the transferee's written, signed, and 267
dated document of rescission is delivered to the transferor or 268
the transferor's agent or subagent within three business days 269
following the date on which the transferee or the transferee's 270
agent receives the property disclosure form prescribed under 271
division (D) of this section or the amendment of that form as 272
described in division (G) of this section. 273

(b) A transferee may not rescind a transfer agreement 274
under division (K) (2) of this section unless the transferee 275
rescinds the transfer agreement by the earlier of the date that 276
is thirty days after the date upon which the transferor accepted 277
the transferee's transfer offer or the date of the closing of 278
the transfer of the residential real property. 279

(c) A transferee of residential real property may waive 280
the right of rescission of a transfer agreement described in 281
division (K) (2) of this section. 282

(d) A rescission of a transfer agreement is not 283
permissible under division (K) (2) of this section if a 284
transferee of residential real property that is subject to this 285
section receives a property disclosure form as prescribed under 286
division (D) of this section or an amendment of that form as 287
described in division (G) of this section prior to the 288
transferee's submission to the transferor or the transferor's 289
agent or subagent of a transfer offer and the transferee's entry 290
into a transfer agreement with respect to the property. 291

(4) If a transferee of residential real property subject 292
to this section does not receive a property disclosure form as 293
prescribed under division (D) of this section, from the 294
transferor after the transferee has submitted to the transferor 295
or the transferor's agent or subagent a transfer offer and has 296
entered into a transfer agreement with respect to the property, 297
the transferee may rescind the transfer agreement in a written, 298
signed, and dated document that is delivered to the transferor 299
or the transferor's agent or subagent in accordance with 300
division (K) (4) of this section without incurring any legal 301
liability to the transferor because of the rescission, 302
including, but not limited to, a civil action for specific 303
performance of the transfer agreement. Upon the rescission of 304
the transfer agreement, the transferee is entitled to the return 305
of, and the transferor shall return, any deposits made by the 306
transferee in connection with the proposed transfer of the 307
residential real property. A transferee may not rescind a 308
transfer agreement under division (K) (4) of this section unless 309
the transferee rescinds the transfer agreement by the earlier of 310
the date that is thirty days after the date upon which the 311
transferor accepted the transferee's transfer offer or the date 312
of the closing of the transfer of the residential real property. 313

(L) The right of rescission of a transfer agreement 314
described in division (K) (2) of this section or the absence of 315
that right does not affect, and shall not be construed as 316
affecting, any other legal causes of action or other remedies 317
that a transferee or prospective transferee of residential real 318
property may possess against the transferor of that property. 319

Sec. 5311.01. As used in this chapter, except as otherwise 320
provided: 321

(A) "Agent" means any person who represents a developer or 322
who acts for or on behalf of a developer in selling or offering 323
to sell any ownership interest in a condominium development. 324
"Agent" does not include an attorney whose representation of a 325
developer consists solely of rendering legal services. 326

(B) "Additional property" means land, including surface 327
and air rights, or improvements to land that are described in an 328
original declaration and that may be added in the future to an 329
expandable condominium property. 330

(C) "Affiliate of a developer" means any person who 331
controls a developer or is controlled by a developer. For the 332
purposes of this division: 333

(1) A person "controls" a developer if any of the 334
following applies: 335

(a) The person is a general partner, officer, member, 336
manager, director, or employer of the developer. 337

(b) The person owns, controls, holds with power to vote, 338
or holds proxies representing more than twenty per cent of the 339
voting interest in the developer, doing so either directly or 340
indirectly, acting in concert with one or more other persons, or 341
through one or more subsidiaries. 342

(c) The person controls, in any manner, the election of a majority of the developer's directors.	343 344
(d) The person has contributed more than twenty per cent of the developer's capital.	345 346
(2) A person "is controlled by" a developer if any of the following applies:	347 348
(a) The developer is a general partner, member, manager, officer, director, or employer of the person.	349 350
(b) The developer owns, controls, holds with power to vote, or holds proxies representing more than twenty per cent of the voting interest in the person, doing so either directly or indirectly, acting in concert with one or more other persons, or through one or more subsidiaries.	351 352 353 354 355
(c) The developer controls, in any manner, the election of a majority of the person's directors.	356 357
(d) The developer has contributed more than twenty per cent of the person's capital.	358 359
(3) "Control" does not exist for purposes of division (C) (1) or (2) of this section if a person or developer holds any power described in either of those divisions solely as security for an obligation and that power is not exercised.	360 361 362 363
(D) "Body of water" means a stream, lake, pond, marsh, river, or other body of natural or artificial surface water.	364 365
(E) "Common assessments" means assessments that are charged proportionately against all units for common purposes.	366 367
(F) "Common elements" means, unless otherwise provided in the declaration, the following parts of the condominium	368 369

property:	370
(1) The land described in the declaration;	371
(2) All other areas, facilities, places, and structures that are not part of a unit, including, but not limited to, the following:	372 373 374
(a) Foundations, columns, girders, beams, supports, supporting walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of buildings;	375 376 377
(b) Basements, yards, gardens, parking areas, garages, and storage spaces;	378 379
(c) Premises for the lodging of janitors or persons in charge of the property;	380 381
(d) Installations of central services, including, but not limited to, power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;	382 383 384
(e) Elevators, tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use;	385 386 387
(f) Community and commercial facilities that are not listed in division (F) (2) (a), (b), (c), (d), or (e) of this section but provided for in the declaration;	388 389 390
(g) All parts of the condominium property that are not listed in division (F) (2) (a), (b), (c), (d), (e), or (f) of this section that are necessary or convenient to its existence, maintenance, and safety, that are normally in common use, or that have been designated as common elements in the declaration or drawings.	391 392 393 394 395 396

(G) "Common expenses" means expenses designated as common expenses in this chapter or in the declaration.	397 398
(H) "Common losses" means the amount by which the common expenses during any period of time exceeds the common assessments and common profits during that period.	399 400 401
(I) "Common profits" means the amount by which the total income received from any of the following exceeds expenses allocable to the particular income, rental, fee, or charge:	402 403 404
(1) Assessments charged for special benefits to specific units;	405 406
(2) Rents received from the rental of equipment or space in common elements;	407 408
(3) Any other fee, charge, or income other than common assessments.	409 410
(J) "Common surplus" means the amount by which common assessments collected during any period exceed common expenses.	411 412
(K) "Condominium" means a form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to this chapter and under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.	413 414 415 416 417 418 419
(L) "Condominium development" means a condominium property in which two or more individual residential or water slip units, together with their undivided interests in the common elements of the property, are offered for sale pursuant to a common promotional plan.	420 421 422 423 424

(M) "Condominium instruments" means the declaration and 425
accompanying drawings and plans, the bylaws of the unit owners 426
association, the condominium development disclosure statement 427
described in section 5311.26 of the Revised Code, any contracts 428
pertaining to the management of the condominium property, and 429
any other documents, contracts, or instruments establishing 430
ownership of or exerting control over a condominium property or 431
unit. 432

(N) "Condominium ownership interest" means a fee simple 433
estate or a ninety-nine-year leasehold estate, renewable 434
forever, in a unit, together with an appurtenant undivided 435
interest in the common elements. 436

(O) "Condominium property" means all real and personal 437
property submitted to the provisions of this chapter, including 438
land, the buildings, improvements, and structures on that land, 439
the land under a water slip, the buildings, improvements, and 440
structures that form or that are utilized in connection with 441
that water slip, and all easements, rights, and appurtenances 442
belonging to the land or to the land under a water slip. 443

(P) "Conversion condominium development" means a 444
condominium development that was operated as a rental property 445
and occupied by tenants immediately prior to the submission of 446
the property to the provisions of this chapter. 447

(Q) "Convertible unit" means a unit that may be converted 448
into one or more units and common elements, including limited 449
common elements. 450

(R) "Declaration" means the instrument by which property 451
is submitted to the provisions of this chapter. "Declaration" 452
includes all amendments to that declaration. 453

(S) "Developer" means any person who directly or 454
indirectly sells or offers for sale condominium ownership 455
interests in a condominium development. "Developer" includes the 456
declarant of a condominium development and any successor to that 457
declarant who stands in the same relation to the condominium 458
development as the declarant. 459

(T) "Exclusive use area" means common elements that the 460
declaration reserves for delegation by the board of directors to 461
the use of a certain unit or units, to the exclusion of other 462
units. 463

(U) "Expandable condominium property" means a condominium 464
property in which the original declaration reserves the right to 465
add additional property. 466

(V) "Leasehold condominium development" means a 467
condominium development in which each unit owner owns a ninety- 468
nine-year leasehold estate, renewable forever, in the owner's 469
unit, in the land upon which that unit is situated, or in both, 470
together with an undivided leasehold interest in the common 471
elements, with all leasehold interests due to expire at the same 472
time. 473

(W) "Limited common elements" means the common elements 474
that the declaration designates as being reserved for use by a 475
certain unit or units, to the exclusion of the other units. 476

(X) "Offer" includes any inducement or solicitation to 477
encourage a person to acquire a condominium ownership interest 478
in a condominium development. 479

(Y) "Par value" means a number, expressed in dollars, 480
points, or as a percentage or fraction, attached to a unit by 481
the declaration. 482

(Z) "Purchaser" means a person who purchases a condominium ownership interest for consideration pursuant to an agreement for the conveyance or transfer of that interest for consideration.

(AA) "Sale of a condominium ownership interest" means the execution by both parties of an agreement for the conveyance or transfer for consideration of a condominium ownership interest. "Sale of a condominium ownership interest" does not include a transfer of one or more units from the developer to another developer, a subsidiary of the developer, or a financial institution for the purpose of facilitating the sale or development of the remaining or unsold portion of the condominium property or additional property.

(BB) "Unit" means the part of the condominium property that is designated as a unit in the declaration, is delineated as a unit on the drawings prepared pursuant to section 5311.07 of the Revised Code, and is one of the following:

(1) A residential unit, in which the designated part of the condominium property is devoted in whole or in part to use as a residential dwelling consisting of one or more rooms on one or more floors of a building. A "residential unit" may include exterior portions of the building, spaces in a carport, and parking spaces as described and designated in the declaration and drawings.

(2) A water slip unit, which consists of the land that is under the water in a water slip and the land that is under the piers or wharves that form the water slip, and that is used for the mooring of watercraft.

(3) A commercial unit in which the property is designated

for separate ownership or occupancy solely for commercial 512
purposes, industrial purposes, or other nonresidential or 513
nonwater slip use. 514

(CC) "Unit owner" means a person who owns a condominium 515
ownership interest in a unit. 516

(DD) "Unit owners association" means the condominium 517
association or other organization that administers the 518
condominium property and that consists of all the owners of 519
units in a condominium property. 520

(EE) "Watercraft" has the same meaning as in division (A) 521
of section 1547.01 of the Revised Code. 522

(FF) "Water slip" means a channel of water between piers 523
or wharves. 524

(GG) "Manager" or "managing agent" means a person that is 525
responsible, alone or in concert with others, for the management 526
of a condominium property. 527

Sec. 5311.08. (A) (1) Every condominium property shall be 528
administered by a unit owners association. All power and 529
authority of the unit owners association shall be exercised by a 530
board of directors, which the unit owners shall elect from among 531
the unit owners or the spouses of unit owners. If a unit owner 532
is not an individual, that unit owner may nominate for the board 533
of directors any principal, member of a limited liability 534
company, partner, director, officer, or employee of that unit 535
owner. 536

(2) The board of directors shall elect a president, 537
secretary, treasurer, and other officers that the board may 538
desire. 539

(3) Unless otherwise provided in the declaration or the 540
bylaws, all meetings of the unit owners association are open to 541
the unit owners, and those present in person or by proxy when 542
action is taken during a meeting of the unit owners association 543
constitute a sufficient quorum. 544

(4) (a) All meetings of the board of directors shall be 545
open to all unit owners. A portion of each board meeting shall 546
be allocated for comments by unit owners. A unit owner may send 547
an agent or a representative, as authorized by a written 548
statement of the unit owner, to attend a board meeting in the 549
unit owner's place. Such an agent or representative may vote in 550
the unit owner's place at the board meeting in accordance with 551
section 5311.22 of the Revised Code, as authorized by a 552
notarized statement of the unit owner. 553

(b) At least five business days prior to a meeting of the 554
board of directors, the board shall post a notice of the meeting 555
in the common areas of the condominium property and on the web 556
site maintained by the association or managing agent, if the 557
association or managing agent has a web site. The board also 558
shall send notice to a unit owner who has requested to be 559
included in a mailing list, by electronic mail to the unit 560
owner's electronic mail address or by traditional mail to the 561
unit owner's home mailing address, as requested by the unit 562
owner. The board shall make all public materials provided to 563
board members for the meeting available to unit owners upon 564
request. 565

(c) A meeting of the board of directors may be held by any 566
method of communication, including electronic or telephonic 567
communication provided that each member of the board, and each 568
unit owner that participates, can hear, participate, and respond 569

to every other member of the board or unit owner. 570

~~(b) In lieu of conducting a meeting, the~~ (d) The board of 571
~~directors may take action with the unanimous written consent of~~ 572
~~the members of the board. Those written consents shall be filed~~ 573
~~with the minutes of the meetings of the board shall vote on the~~ 574
record. 575

(B) The unit owners association shall be governed by 576
bylaws. No modification of or amendment to the bylaws is valid 577
unless it is set forth in an amendment to the declaration, and 578
the amendment to the declaration is filed for record. Unless 579
otherwise provided by the declaration, the bylaws shall provide 580
for the following: 581

(1) (a) The election of the board of directors of the unit 582
owners association; 583

(b) The number of persons constituting the board; 584

(c) The terms of the directors, with not less than one- 585
fifth to expire annually; 586

(d) The powers and duties of the board; 587

(e) The compensation of the directors; 588

(f) The method of removal of directors from office; 589

(g) The election of officers of the board; 590

(h) Whether or not the services of a manager or managing 591
agent may be engaged. 592

(2) The time and place for holding meetings; the manner of 593
and authority for calling, giving notice of, and conducting 594
meetings; and the requirement, in terms of undivided interests 595
in the common elements, of a quorum for meetings of the unit 596

owners association;	597
(3) By whom and the procedure by which maintenance, repair, and replacement of the common elements may be authorized;	598 599 600
(4) The common expenses for which assessments may be made and the manner of collecting from the unit owners their respective shares of the common expenses;	601 602 603
(5) The method of distributing the common profits;	604
(6) By whom and the procedure by which administrative rules governing the operation and use of the condominium property or any portion of the property may be adopted and amended. These rules may govern any aspect of the condominium property that is not required to be governed by bylaws and may include standards governing the type and nature of information and documents that are subject to examination and copying by unit owners pursuant to section 5311.091 of the Revised Code, including the times and location at which items may be examined or copied and any required fee for copying the information or documents.	605 606 607 608 609 610 611 612 613 614 615
(C) (1) The unit owners association shall be established not later than the date that the deed or other evidence of ownership is filed for record following the first sale of a condominium ownership interest in a condominium development. Membership in the unit owners association shall be limited to unit owners, and all unit owners shall be members. Until the unit owners association is established, the developer shall act in all instances in which action of the unit owners association or its officers is authorized or required by law or the declaration.	616 617 618 619 620 621 622 623 624 625

(2) (a) Not later than sixty days after the developer has 626
sold and conveyed condominium ownership interests appertaining 627
to twenty-five per cent of the undivided interests in the common 628
elements in a condominium development, the unit owners 629
association shall meet, and the unit owners other than the 630
developer shall elect not less than one-third of the members of 631
the board of directors. 632

(b) When computing undivided interests in expandable 633
condominium properties for purposes of divisions (C) and (D) of 634
this section, the undivided interests in common elements shall 635
be computed by comparing the number of units sold and conveyed 636
to the maximum number of units that may be created, as stated in 637
the declaration pursuant to division (C) (8) of section 5311.05 638
of the Revised Code. 639

(D) (1) Except as provided in division (C) of this section, 640
the declaration or bylaws of a condominium development may 641
authorize the developer or persons the developer designates to 642
appoint and remove members of the board of directors of the unit 643
owners association and to exercise the powers and 644
responsibilities otherwise assigned by law, the declaration, or 645
the bylaws to the unit owners association or to the board of 646
directors. The authorization for developer control may extend 647
from the date the unit owners association is established until 648
sixty days after the sale and conveyance to purchasers in good 649
faith for value of condominium ownership interests to which 650
seventy-five per cent of the undivided interests in the common 651
elements appertain, except that in no case may the authorization 652
extend for more than five years after the unit owners 653
association is established if the declaration includes 654
expandable condominium property or more than three years after 655
the unit owners association is established if the declaration 656

does not include expandable condominium property. 657

(2) If there is a unit owner other than the developer, the 658
declaration of a condominium development shall not be amended to 659
increase the scope or the period of the developer's control. 660

(3) Within sixty days after the expiration of the period 661
during which the developer has control pursuant to division (D) 662
(1) of this section, the unit owners association shall meet and 663
elect all members of the board of directors of the association. 664
The persons elected shall take office at the end of the meeting 665
during which they are elected and shall, as soon as reasonably 666
possible, appoint officers. 667

(E) The board of directors, or the developer while in 668
control of the association, may take any measures necessary to 669
incorporate the unit owners association as a not-for-profit 670
corporation. 671

Sec. 5311.081. (A) Unless otherwise provided in the 672
declaration or bylaws, the unit owners association, through the 673
board of directors, shall do both of the following: 674

(1) Adopt and amend budgets for revenues, expenditures, 675
and reserves in an amount adequate to repair and replace major 676
capital items in the normal course of operations without the 677
necessity of special assessments, provided that the amount set 678
aside annually for reserves shall not be less than ten per cent 679
of the budget for that year unless the reserve requirement is 680
waived annually by the unit owners exercising not less than a 681
majority of the voting power of the unit owners association; 682

(2) Collect assessments for common expenses from unit 683
owners. 684

(B) Unless otherwise provided in the declaration, the unit 685

owners association, through the board of directors, may exercise 686
all powers of the association, including the power to do the 687
following: 688

(1) Hire and fire managing agents, attorneys, accountants, 689
and other independent contractors and employees that the board 690
determines are necessary or desirable in the management of the 691
condominium property and the association; 692

(2) Commence, defend, intervene in, settle, or compromise 693
any civil, criminal, or administrative action or proceeding that 694
is in the name of, or threatened against, the unit owners 695
association, the board of directors, or the condominium 696
property, or that involves two or more unit owners and relates 697
to matters affecting the condominium property; 698

(3) Enter into contracts and incur liabilities relating to 699
the operation of the condominium property; 700

(4) Regulate the use, maintenance, repair, replacement, 701
modification, and appearance of the condominium property; 702

(5) Adopt rules that regulate the use or occupancy of 703
units, the maintenance, repair, replacement, modification, and 704
appearance of units, common elements, and limited common 705
elements when the actions regulated by those rules affect common 706
elements or other units; 707

(6) Cause additional improvements to be made as part of 708
the common elements; 709

(7) Purchase, encumber, and convey units, and, subject to 710
any restrictions in the declaration or bylaws and with the 711
approvals required by division (H) (2) or (3) of section 5311.04 712
of the Revised Code, acquire an interest in other real property 713
and encumber or convey that interest. All expenses incurred in 714

connection with the acquisition, encumbrance, use, and operation	715
of that interest are common expenses.	716
(8) Acquire, encumber, and convey or otherwise transfer	717
personal property;	718
(9) Hold in the name of the unit owners association the	719
real property and personal property acquired pursuant to	720
divisions (B) (7) and (8) of this section;	721
(10) Grant easements, leases, licenses, and concessions	722
through or over the common elements;	723
(11) Impose and collect fees or other charges for the use,	724
rental, or operation of the common elements or for services	725
provided to unit owners;	726
(12) Impose interest and late charges for the late payment	727
of assessments; impose returned check charges; and, pursuant to	728
division (C) of this section, impose reasonable enforcement	729
assessments for violations of the declaration, the bylaws, and	730
the rules of the unit owners association, and reasonable charges	731
for damage to the common elements or other property;	732
(13) Adopt and amend rules that regulate the collection of	733
delinquent assessments and the application of payments of	734
delinquent assessments;	735
(14) Subject to applicable laws, adopt and amend rules	736
that regulate the termination of utility or other service to a	737
commercial unit if the unit owner is delinquent in the payment	738
of an assessment that pays, in whole or in part, the cost of	739
that service;	740
(15) Impose reasonable charges for preparing, recording,	741
or copying amendments to the declaration, resale certificates,	742

or statements of unpaid assessments;	743
(16) Enter a unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to common elements, another unit, or to the health or safety of the occupants of that unit or another unit;	744 745 746 747
(17) To the extent provided in the declaration or bylaws, assign the unit owners association's rights to common assessments, or other future income, to a lender as security for a loan to the unit owners association;	748 749 750 751
(18) Suspend the voting privileges and use of recreational facilities of a unit owner who is delinquent in the payment of assessments for more than thirty days;	752 753 754
(19) Purchase insurance and fidelity bonds the directors consider appropriate or necessary;	755 756
(20) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;	757 758
(21) Exercise powers that are:	759
(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	760 761
(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;	762 763
(c) Permitted to be exercised in this state by a not-for-profit corporation;	764 765
(d) Necessary and proper for the government and operation of the unit owners association.	766 767
(C) (1) Prior to imposing a charge for damages or an enforcement assessment pursuant to division (B) (12) of this	768 769

section, the board of directors shall give the unit owner a written notice that includes all of the following:

- (a) A description of the property damage or violation;
- (b) The amount of the proposed charge or assessment;
- (c) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment;
- (d) A statement setting forth the procedures to request a hearing pursuant to division (C) (2) of this section;
- (e) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment.

(2) (a) To request a hearing, the owner shall deliver a written notice to the board of directors not later than the tenth day after receiving the notice required by division (C) (1) of this section. If the owner fails to make a timely request for a hearing, the right to that hearing is waived, and the board may immediately impose a charge for damages or an enforcement assessment pursuant to division (C) of this section.

(b) If a unit owner requests a hearing, at least seven days prior to the hearing the board of directors shall provide the unit owner with a written notice that includes the date, time, and location of the hearing.

(3) The board of directors shall not levy a charge or assessment before holding any hearing requested pursuant to division (C) (2) of this section.

(4) The unit owners, through the board of directors, may allow a reasonable time to cure a violation described in division (B) (12) of this section before imposing a charge or

assessment. 798

(5) Within thirty days following a hearing at which the 799
board of directors imposes a charge or assessment, the unit 800
owners association shall deliver a written notice of the charge 801
or assessment to the unit owner. 802

(6) Any written notice that division (C) of this section 803
requires shall be delivered to the unit owner or any occupant of 804
the unit by personal delivery, by certified mail, return receipt 805
requested, or by regular mail. 806

(D) Not later than thirty days after the board of 807
directors adopts a budget in accordance with division (A) (1) of 808
this section, the board shall provide to all the unit owners a 809
summary of the budget including an explanation of the amount and 810
method of calculating and funding reserves, if applicable. 811

Sec. 5311.082. (A) The division of real estate and 812
professional licensing in the department of commerce shall 813
establish and maintain a registry, in the form of a database, of 814
the names of unit owners associations in the state. Information 815
in the database shall be available for public viewing. The 816
division shall include access to the information in the database 817
on the division's web site and in other materials, as determined 818
by the superintendent of real estate and professional licensing. 819

(B) The division shall perform all of the following 820
duties: 821

(1) Adopt, amend, and rescind rules in accordance with 822
Chapter 119. of the Revised Code to carry out sections 5311.082 823
and 5311.083 of the Revised Code governing the registration of 824
unit owners associations; 825

(2) Prescribe the form and content of all applications to 826

be used for registration and renewal of registration pursuant to 827
section 5311.083 of the Revised Code; 828

(3) Review applications for registration and issue 829
registration certificates to unit owners associations that meet 830
the requirements for registration pursuant to section 5311.083 831
of the Revised Code; 832

(4) Collect all fees related to the registration and 833
renewal of registration certificates for unit owners 834
associations; 835

(5) Maintain a written record of each unit owners 836
association registered with the division, which shall include 837
such documentation as required by the division. The record shall 838
be available for inspection by the public through the web site 839
and copies shall be made available pursuant to division (B) of 840
section 149.43 of the Revised Code. 841

(6) Hire all division personnel necessary to implement 842
this section and section 5311.083 of the Revised Code. 843

Sec. 5311.083. (A) (1) The board of directors of a unit 844
owners association shall apply to the division of real estate 845
and professional licensing in the department of commerce to 846
register the association on forms prescribed by the division. 847
With the application, the applicant shall submit any information 848
required by the division and a registration fee as specified in 849
rules adopted by the superintendent of real estate and 850
professional licensing pursuant to division (A) (2) of section 851
5311.31 of the Revised Code. In no event shall the registration 852
fee exceed three dollars for each unit. 853

(2) The director of commerce, by rule adopted in 854
accordance with Chapter 119. of the Revised Code, may reduce the 855

amount of the registration fee required by this section in any 856
year if the director determines that the total amount of funds 857
the fee is generating at the amount specified in the rules 858
adopted by the superintendent exceeds the amount of funds the 859
division needs to carry out the division's powers and duties 860
under this chapter. If the director so reduces the amount of the 861
registration fee, the director shall reduce it for all owners or 862
other persons required to pay the fee under division (A) (1) of 863
this section. If the director has reduced the fee under division 864
(A) (2) of this section, the director may later raise it up to 865
the amounts permitted under division (A) (1) of this section if, 866
in any year, the director determines that the total amount of 867
funds the fee is generating at the reduced amount is 868
insufficient for the division to carry out its powers and duties 869
under this chapter. 870

(B) Upon receipt of the completed application form, 871
documentation, and registration fee, the division shall issue a 872
certificate of registration to the unit owners association. The 873
board of directors of the unit owners association shall display 874
the certificate in a conspicuous place on the premises of the 875
condominium property for which the registration was obtained. If 876
no appropriate place for displaying the certificate exists on 877
the premises, the board of directors shall keep the certificate 878
of registration on file and available for public inspection at 879
the board's office or at the office of the unit association's 880
managing agent. 881

(C) (1) Except as otherwise provided in this division, each 882
registration issued pursuant to this section shall expire 883
annually on the thirty-first day of August and may be renewed. 884
The renewal fee shall be the same as the initial registration 885
fee prescribed under division (A) of this section. 886

(2) The board of directors of a unit owners association 887
that fails to timely file its renewal with the division also 888
shall be required to pay a late penalty fee in an amount equal 889
to fifty per cent of the renewal fee prescribed under division 890
(C) (1) of this section. 891

(D) All registration and renewal fees collected pursuant 892
to this section shall be paid into the state treasury to the 893
credit of the division to be used by the division to carry out 894
its powers and duties under this chapter. 895

(E) (1) If the board of directors of a unit owners 896
association fails to register the association as required by 897
division (A) of this section or renew its registration as 898
required by division (C) of this section, the superintendent 899
shall assess the board a civil penalty of not more than two 900
hundred dollars for each violation. 901

(2) If a board of directors fails to pay a civil penalty 902
assessed pursuant to division (E) (1) of this section within the 903
time prescribed by the superintendent, the superintendent shall 904
forward to the attorney general the name of the board's unit 905
owners association and the amount of the civil penalty, for the 906
purpose of collecting that civil penalty. In addition to the 907
civil penalty assessed pursuant to this section, the board also 908
shall pay any fee assessed by the attorney general for 909
collection of the civil penalty. 910

Sec. 5311.09. (A) (1) The unit owners association shall 911
keep all of the following: 912

(a) Correct and complete books and records of account that 913
specify the receipts and expenditures relating to the common 914
elements and other common receipts and expenses; 915

(b) Records showing the allocation, distribution, and collection of the common profits, losses, and expenses among and from the unit owners;	916 917 918
(c) Minutes of the meetings of the association and the board of directors;	919 920
(d) Records of the names and addresses of the unit owners and their respective undivided interests in the common elements;	921 922
<u>(e) Records showing the names and addresses of the members of the board of directors and association officers;</u>	923 924
<u>(f) Records of all actions taken without a meeting of the board of directors;</u>	925 926
<u>(g) The original or restated documents described in division (B) (1) (b) of this section;</u>	927 928
<u>(h) All financial statements and tax returns, which shall be kept for a minimum of three years;</u>	929 930
<u>(i) All current contracts into which the condominium development has entered;</u>	931 932
<u>(j) Records of approvals or denials for requests for design or architectural approval from the board of directors or the unit owners association;</u>	933 934 935
<u>(k) Ballots, proxies, and other voting records of the board of directors and the unit owners association, which shall be kept for a minimum of one year.</u>	936 937 938
(2) Within thirty days after a unit owner obtains a condominium ownership interest, the unit owner shall provide the following information in writing to the unit owners association through the board of directors:	939 940 941 942

(a) The home address, home and business mailing addresses, 943
and the home and business telephone numbers of the unit owner 944
and all occupants of the unit; 945

(b) The name, business address, and business telephone 946
number of any person who manages the owner's unit as an agent of 947
that owner. 948

(3) Within thirty days after a change in any information 949
that division (A) (2) of this section requires, a unit owner 950
shall notify the association, through the board of directors, in 951
writing of the change. When the board of directors requests, a 952
unit owner shall verify or update the information. 953

(B) (1) When elected members of a board of directors of a 954
unit owners association take control of the association, the 955
declarant or developer shall deliver to the board correct and 956
complete copies of all of the following: 957

(a) The books, records, and minutes referred to in 958
division (A) of this section; 959

(b) The declaration, the bylaws, the drawings prepared 960
pursuant to section 5311.07 of the Revised Code, as recorded, 961
and any articles of incorporation of the unit owners 962
association, as recorded; 963

(c) Except in the case of a conversion condominium, 964
documents, information, and sources of information concerning 965
the location of underground utility lines, and plans and 966
specifications that are not proprietary or copyrighted, of the 967
buildings, other improvements, and structures of the condominium 968
property that are reasonably available to the developer, but 969
only in connection with condominium developments declared on or 970
~~after the effective date of this amendment~~ July 20, 2004, and 971

condominium developments that are declared prior to that date 972
but originally built or constructed on or after that date. 973

(2) The board of directors may commence a civil action on 974
behalf of the unit owners association in the court of common 975
pleas of the county in which the condominium property is located 976
to obtain injunctive relief or recover damages for harm 977
resulting from the declarant's or developer's failure to comply 978
with division (B) (1) of this section. 979

Sec. 5311.091. (A) (1) Except as otherwise prohibited by 980
this section, any member of a unit owners association or any 981
manager or managing agent of the condominium property may 982
examine and copy the ~~books, records, and minutes~~ information 983
described in division (A) of section 5311.09 of the Revised Code 984
pursuant to reasonable standards set forth in the declaration, 985
bylaws, or rules the board promulgates, which may include, ~~but~~ 986
~~are not limited to, standards governing the type of documents~~ 987
~~that are subject to examination and copying,~~ the times and 988
locations at which those documents may be examined or copied, ~~7~~ 989
and the specification of a reasonable fee for copying the 990
documents or the supervision of examination. A member of the 991
unit owners association, manager, or managing agent desiring to 992
examine or copy the information shall submit written notice five 993
days in advance of the date of examination. 994

(2) Unless otherwise provided in the declaration or bylaws 995
pursuant to division (B) (6) of section 5311.08 of the Revised 996
Code, the board of directors may establish a policy requiring a 997
unit owner, manager, or managing agent that requests records in 998
accordance with division (A) (1) of this section to pay a 999
reasonable charge for copies of the records or supervision for 1000
examination of the records. 1001

(B) The unit owners association is not required to permit 1002
the examination and copying of any of the following from books, 1003
records, and minutes: 1004

(1) Information that pertains to condominium property- 1005
related personnel matters; 1006

(2) Communications with legal counsel or attorney work 1007
product pertaining to pending litigation or other condominium 1008
property-related matters; 1009

(3) Information that pertains to contracts or transactions 1010
currently under negotiation, or information that is contained in 1011
a contract or other agreement containing confidentiality 1012
requirements and that is subject to those requirements; 1013

(4) Information that relates to the enforcement of the 1014
declaration, bylaws, or rules of the unit owners association 1015
against unit owners; 1016

(5) Information the disclosure of which is prohibited by 1017
state or federal law. 1018

Sec. 5311.16. Unless otherwise provided by the declaration 1019
or bylaws, the board of directors shall insure-maintain, with 1020
the cost to be a common expense, all of the following: 1021

(A) Liability insurance for all unit owners, their 1022
tenants, and all persons lawfully in possession or control of 1023
any part of the condominium property ~~for the~~ in an amount that 1024
it determines ~~against liability~~ for personal injury or property 1025
damage arising from or relating to the common elements ~~and shall~~ 1026
~~obtain for i~~ 1027

(B) For the benefit of all unit owners, fire and extended 1028
coverage insurance on all buildings and structures of the 1029

condominium property in an amount not less than eighty per cent 1030
of the fair market value. ~~The cost of the insurance is a common~~ 1031
~~expense;~~ 1032

(C) (1) Blanket fidelity insurance coverage for any person 1033
who controls or disburses association funds. The insurance must 1034
cover the maximum amount of funds that will be in the custody of 1035
the association or its designated agent at any one time plus 1036
three months operating expenses. The insurance shall be in favor 1037
of the unit owners association and shall protect against theft, 1038
embezzlement, misappropriation, or any other unauthorized taking 1039
or loss of association funds. The insurance shall be the 1040
property of and for the sole benefit of the unit owners 1041
association. 1042

(2) The policy for the blanket fidelity insurance shall 1043
include in its definition of "employee" the manager and the 1044
managing agent of the association's funds or provide for this 1045
inclusion by an endorsement to the policy. The policy shall name 1046
the association as the insured party and shall include a 1047
provision requiring the issuer of the policy to provide ten days 1048
written notice to the association president or manager and the 1049
division of real estate and professional licensing in the 1050
department of commerce in the event of cancellation or 1051
substantial modification of the policy. The manager or managing 1052
agent of the association shall be the designated agent on the 1053
policy. 1054

(3) As used in division (C) (1) of this section, "person 1055
who controls or disburses association funds" means any 1056
individual with authority or access to sign checks, conduct 1057
electronic transfers, or otherwise withdraw funds from any 1058
association account or deposit, including a management company, 1059

the company's principals and employees, a bookkeeper, and the 1060
president, secretary, treasurer, other board member, and 1061
employee of the unit owners association. 1062

Sec. 5311.18. (A) (1) Unless otherwise provided by the 1063
declaration or the bylaws, the unit owners association has a 1064
lien upon the estate or interest of the owner in any unit and 1065
the appurtenant undivided interest in the common elements for 1066
the payment of any of the following expenses that are chargeable 1067
against the unit and that remain unpaid for ten days after any 1068
portion has become due and payable: 1069

(a) The portion of the common expenses chargeable against 1070
the unit; 1071

(b) Interest, administrative late fees, enforcement 1072
assessments, and collection costs, attorney's fees, and 1073
paralegal fees the association incurs if authorized by the 1074
declaration, the bylaws, or the rules of the unit owners 1075
association and if chargeable against the unit. 1076

(2) Unless otherwise provided by the declaration, the 1077
bylaws, or the rules of the unit owners association, the 1078
association shall credit payments made by a unit owner for the 1079
expenses described in divisions (A) (1) (a) and (b) of this 1080
section in the following order of priority: 1081

(a) First, to interest owed to the association; 1082

(b) Second, to administrative late fees owed to the 1083
association; 1084

(c) Third, to collection costs, attorney's fees, and 1085
paralegal fees incurred by the association; 1086

(d) Fourth, to the principal amounts the unit owner owes 1087

to the association for the common expenses or penalty 1088
assessments chargeable against the unit. 1089

(3) The lien described in division (A)(1) of this section 1090
is effective on the date that a certificate of lien in the form 1091
described in division (A)(3) of this section is filed for record 1092
in the office of the recorder of the county or counties in which 1093
the condominium property is situated pursuant to an 1094
authorization given by the board of directors of the unit owners 1095
association. The certificate shall contain a description of the 1096
unit, the name of the record owner of the unit, and the amount 1097
of the unpaid portion of the common expenses and, subject to 1098
subsequent adjustments, any unpaid interest, administrative late 1099
fees, enforcement assessments, collection costs, attorney's 1100
fees, and paralegal fees. The certificate shall be subscribed by 1101
the president or other designated representative of the 1102
association. 1103

(4) The lien described in division (A)(1) of this section 1104
is a continuing lien and is subject to automatic subsequent 1105
adjustments that reflect any additional unpaid assessments for 1106
common expenses, interest, administrative late fees, enforcement 1107
assessments, collection costs, attorney's fees, paralegal fees, 1108
and court costs. 1109

(5) The lien described in division (A)(1) of this section 1110
is valid for a period of five years from the date of filing, 1111
unless it is sooner released or satisfied in the same manner 1112
provided by law for the release and satisfaction of mortgages on 1113
real property or unless it is discharged by the final judgment 1114
or order of a court in an action brought to discharge the lien 1115
as provided in division (C) of this section. 1116

(B)(1) The lien described in division (A)(1) of this 1117

section is prior to any lien or encumbrance subsequently arising 1118
or created except liens for real estate taxes and assessments of 1119
political subdivisions and liens of first mortgages that have 1120
been filed for record and may be foreclosed in the same manner 1121
as a mortgage on real property in an action brought ~~on behalf of~~ 1122
~~by the unit owners association by the president or other chief~~ 1123
~~officer of the association pursuant to authority given to that~~ 1124
~~individual by the board of directors.~~ 1125

(2)(a) The lien described in division (A)(1) of this 1126
section, in the amount described in division (B)(2)(b) of this 1127
section, is prior to any lien or encumbrance previously arising 1128
or created except liens for real estate taxes and assessments of 1129
political subdivisions. Following the security interest created 1130
by division (B)(2)(a) of this section, the association's lien 1131
returns to the priority outlined in division (B)(1) of this 1132
section. 1133

(b) The security interest created by division (B)(2)(a) of 1134
this section shall be in an amount equal to the lesser of the 1135
amount of the delinquency or six months of common expense 1136
assessments charged to the unit, provided that the amount shall 1137
not exceed five per cent of the original amount of the first 1138
mortgage, if any. 1139

(3) In a foreclosure action a unit owners association 1140
commences pursuant to division (B)(1) of this section or a 1141
foreclosure action the holder of a first mortgage or other lien 1142
on a unit commences, the owner of the unit, as the defendant in 1143
the action, shall be required to pay a reasonable rental for the 1144
unit during the pendency of the action. The unit owners 1145
association or the holder of the lien is entitled to the 1146
appointment of a receiver to collect the rental from the owner 1147

or directly from the occupant, regardless of the filing or 1148
priority of liens. Each rental payment a receiver collects 1149
during the pendency of the foreclosure action shall be applied 1150
first to the payment of the portion of the common expenses 1151
chargeable to the unit during the foreclosure action. 1152

~~(3)~~(4) In a foreclosure action the holder of a lien on a 1153
unit commences, the holder of that lien shall name the unit 1154
owners association as a defendant in the action. 1155

~~(4)~~(5) Unless prohibited by the declaration or the 1156
bylaws, following a foreclosure action a unit owners association 1157
commences pursuant to division (B)(1) of this section or a 1158
foreclosure action the holder of a lien on a unit commences, the 1159
association or its agent duly authorized by action of the board 1160
of directors, is entitled to become a purchaser at the 1161
foreclosure sale. 1162

~~(5)~~(6) A mortgage on a unit may contain a provision that 1163
secures the mortgagee's advances for the payment of the portion 1164
of the common expenses chargeable against the unit upon which 1165
the mortgagee holds the mortgage. 1166

~~(6)~~(7) In any foreclosure action, it is not a defense, 1167
set off, counterclaim, or crossclaim that the unit owners 1168
association has failed to provide the unit owner with any 1169
service, goods, work, or material, or failed in any other duty. 1170

(C) A unit owner who believes that the portion of the 1171
common expenses chargeable to the unit, for which the unit 1172
owners association files a certificate of lien pursuant to 1173
division (A) of this section, has been improperly charged may 1174
commence an action for the discharge of the lien in the court of 1175
common pleas of the county in which all or a part of the 1176

condominium property is situated. In the action, if it is 1177
finally determined that the portion of the common expenses was 1178
improperly charged to the unit owner or the unit, the court 1179
shall enter an order that it determines to be just, which may 1180
provide for a discharge of record of all or a portion of the 1181
lien. 1182

Sec. 5311.22. (A) Unless otherwise provided in the 1183
declaration or bylaws, each unit owner may exercise that 1184
percentage of the total voting power of all unit owners on any 1185
question for which the vote of unit owners is permitted or 1186
required that is equivalent to the undivided interest in the 1187
common elements appurtenant to the owner's unit. 1188

(B) Fiduciaries who are owners of record of a unit or 1189
units may vote their respective interests as unit owners. Unless 1190
otherwise provided in the declaration or bylaws, if two or more 1191
persons, whether fiduciaries, tenants in common, or otherwise, 1192
own undivided interests in a unit, each person may exercise the 1193
proportion of the voting power of all of the owners of the unit 1194
that is equivalent to the person's proportionate undivided 1195
interest in the unit. 1196

(C) A fiduciary for a unit owner or of the estate of a 1197
unit owner may vote as though the fiduciary were the unit owner 1198
when the fiduciary has furnished to the unit owners association 1199
proof, satisfactory to it, of the fiduciary's appointment and 1200
qualification as an executor under the last will of a deceased 1201
unit owner, an administrator of the estate of a deceased unit 1202
owner, a guardian, committee, or conservator of the estate of a 1203
minor or incompetent who is a unit owner, a trustee in 1204
bankruptcy of a unit owner, a statutory or judicial receiver or 1205
liquidator of the estate or affairs of a unit owner, or an 1206

assignee for the benefit of creditors of a unit owner. 1207

(D) When any fiduciary or representative of a unit owner 1208
who is not described in division (C) of this section has 1209
furnished the unit owners association with satisfactory proof of 1210
authority, that person may vote as though a unit owner. 1211

(E) Unless otherwise provided in the declaration or 1212
bylaws, votes allocated to a unit may be cast by a directed or 1213
undirected proxy executed by a notarized statement by the unit 1214
owner, provided that a person shall not cast votes representing 1215
more than fifteen per cent of the votes in the unit owners 1216
association pursuant to undirected proxies. 1217

Sec. 5311.29. The superintendent of real estate and 1218
professional licensing may compel, by order or subpoena, the 1219
production of any book, paper, or document in relation to any 1220
matter over which the superintendent has jurisdiction and which 1221
is the subject of inquiry and investigation by the 1222
superintendent. The superintendent also may compel, by order or 1223
subpoena, the attendance of witnesses to testify in a hearing 1224
held pursuant to section 5311.32 of the Revised Code. For those 1225
purposes, the superintendent shall have the same power as judges 1226
of courts of common pleas to administer oaths, compel the 1227
attendance of witnesses, and compel the production of any book, 1228
paper, or document. Service of the subpoena may be made by 1229
sheriffs or constables, or by certified mail, return receipt 1230
requested, and the subpoena shall be deemed served on the date 1231
delivery is made or the date the person refused to accept 1232
delivery. Witnesses shall receive, after their appearance before 1233
the superintendent, the fees and mileage provided for under 1234
section 119.094 of the Revised Code. If two or more witnesses 1235
travel together in the same vehicle, the mileage fee shall be 1236

paid to only one of those witnesses, but the witnesses may agree 1237
to divide the fee among themselves in any manner. 1238

In addition to the powers granted to the superintendent 1239
under this section, in case any person fails to file any 1240
statement or report, obey any subpoena, give testimony, answer 1241
questions, or produce any books, records, or papers as required 1242
by the superintendent under this chapter, the court of common 1243
pleas of any county in the state, upon application made to it by 1244
the superintendent setting forth such failure, may make an order 1245
awarding process of subpoena or subpoena duces tecum for the 1246
person to appear and testify before the superintendent, and may 1247
order any person to give testimony and answer questions, and to 1248
produce books, records, or papers, as required by the 1249
superintendent. Upon the filing of such order in the office of 1250
the clerk of the court of common pleas, the clerk, under the 1251
seal of the court, shall issue process of subpoena for the 1252
person to appear before the superintendent at a time and place 1253
named in the subpoena, and each day thereafter until the 1254
examination of such person is completed. The subpoena may 1255
contain a direction that the witness bring with the witness to 1256
the examination any books, records, or papers mentioned in the 1257
subpoena. The clerk shall also issue, under the seal of the 1258
court, such other orders, in reference to the examination, 1259
appearance, and production of books, records, or papers, as the 1260
court directs. If any person so summoned by subpoena fails to 1261
obey the subpoena, to give testimony, to answer questions as 1262
required, or to obey an order of the court, the court, on motion 1263
supported by proof, may order an attachment for contempt to be 1264
issued against the person charged with disobedience of any order 1265
or injunction issued by the court under this chapter. If the 1266
person is brought before the court by virtue of the attachment, 1267

and if upon a hearing the disobedience appears, the court may 1268
order the offender to be committed and kept in close custody. 1269

Sec. 5311.30. (A) The superintendent of real estate and 1270
professional licensing, except as otherwise provided, shall do 1271
all of the following: 1272

(1) Mediate and investigate all of the following: 1273

(a) General complaints and disputes between a unit owner 1274
and a unit owners association or board of directors; 1275

(b) Requests by a majority of unit owners in a unit owners 1276
association or upon a motion of the board of directors of a unit 1277
owners association to audit the elections of the unit owners 1278
association; 1279

(c) Disputes over access to records of a unit owners 1280
association or board of directors. 1281

(2) Establish and maintain an investigation and audit 1282
section to investigate complaints and conduct inspections, 1283
audits, and other inquiries as in the judgment of the 1284
superintendent are appropriate. The investigators or auditors 1285
have the right to review and audit the records described in 1286
division (A) (1) of section 5311.09 of the Revised Code during 1287
normal business hours. 1288

(B) The superintendent may, in connection with 1289
investigations and audits under division (A) of this section, 1290
subpoena witnesses as provided in section 5311.29 of the Revised 1291
Code. 1292

(C) All information that is obtained by the 1293
superintendent, investigators, and auditors performing 1294
investigations or conducting inspections, audits, and other 1295

inquiries pursuant to division (A) of this section and all 1296
reports, documents, and other work products that arise from that 1297
information and that are prepared by investigators, auditors, or 1298
other personnel of the department, shall be held in confidence 1299
by the superintendent, the investigators and auditors, and other 1300
personnel of the department. 1301

Sec. 5311.31. The superintendent of real estate and 1302
professional licensing shall perform all of the following 1303
duties: 1304

(A) Adopt, amend, and rescind such rules in accordance 1305
with Chapter 119. of the Revised Code as are necessary in 1306
carrying out sections 5311.29 to 5311.33 of the Revised Code, 1307
including rules relative to the following: 1308

(1) Transacting the business of and managing the affairs 1309
of the division of real estate and professional licensing in the 1310
department of commerce; 1311

(2) Establishing registration and renewal fees pursuant to 1312
section 5311.083 of the Revised Code; 1313

(3) Establishing procedures for receiving, reviewing, 1314
mediating, and responding to complaints filed pursuant to 1315
section 5311.32 of the Revised Code; 1316

(4) Conducting investigations in response to complaints 1317
filed pursuant to division (A) of section 5311.32 of the Revised 1318
Code; 1319

(5) Auditing elections pursuant to division (A) of section 1320
5311.30 of the Revised Code or as part of an investigation in 1321
response to complaints filed pursuant to division (A) of section 1322
5311.32 of the Revised Code; 1323

- (6) Conducting audits pursuant to division (A) of section 5311.30 of the Revised Code; 1324
1325
- (7) Resolving complaints by using informal techniques of mediation, conciliation, and persuasion, including requiring the parties involved in a complaint to be given prompt notice of any offers to resolve disputes and responses thereto; 1326
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- (8) Advising all parties making a complaint, or who are the subject of a complaint, of any recommendations made by the superintendent with respect to the complaint; 1330
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- (9) Requesting the party who has filed a complaint or is the subject of a complaint, and is affected by recommendations of the superintendent made with respect to the complaint, to notify the superintendent within a time specified by the superintendent of any action the party has taken in response to the superintendent's recommendations; 1333
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- (10) Maintaining division proceedings and records as confidential, notwithstanding sections 121.22 and 149.43 of the Revised Code when the superintendent determines that the nature of the complaints merits that action pursuant to section 5311.33 of the Revised Code; 1339
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- (11) Determining the method to be used in serving notices as required by section 5311.32 of the Revised Code. 1344
1345
- (B) Publicize information concerning the existence and duties of the division and the procedure for filing complaints pursuant to section 5311.32 of the Revised Code; 1346
1347
1348
- (C) Conduct mediations on complaints pursuant to section 5311.32 of the Revised Code; 1349
1350
- (D) Submit at least annually by the thirty-first day of 1351

July a report on the division's activities of the immediately 1352
preceding fiscal year to the governor and the majority and 1353
minority leaders of the senate and house of representatives. The 1354
report shall indicate the total number of complaints received, 1355
initiated, and investigated under sections 5311.32 and 5311.33 1356
of the Revised Code; the total number of complaints for which 1357
mediations were held pursuant to section 5311.32 of the Revised 1358
Code; the total number of audits conducted pursuant to section 1359
5311.30 of the Revised Code; and the total number of referrals 1360
made to prosecuting attorneys pursuant to section 5311.33 of the 1361
Revised Code. 1362

(E) Review, at least once each year, all actions taken by 1363
the prosecuting attorneys in response to referrals made to them 1364
by the superintendent of real estate and professional licensing. 1365
The superintendent shall include in the report required in 1366
division (D) of this section information regarding the nature of 1367
the inappropriate conduct alleged in each referral and the 1368
status or disposition made of each referral occurring during the 1369
preceding two years. 1370

(F) Perform all functions as are necessary in 1371
administering and enforcing sections 5311.29 to 5311.33 of the 1372
Revised Code. 1373

Sec. 5311.32. (A) Any person with standing or the 1374
superintendent of real state and professional licensing, upon 1375
the superintendent's own motion, may file a written complaint 1376
regarding the activity, practice, policy, or procedure of, or 1377
regarding an alleged violation of section 5311.08, 5311.081, 1378
5311.09, 5311.091, or 5311.16 of the Revised Code by, any board 1379
of directors of a unit owners association registered pursuant to 1380
section 5311.083 of the Revised Code that adversely affects or 1381

may adversely affect the interest of a unit owner. All 1382
complaints shall be in writing and submitted to the division of 1383
real estate and professional licensing in the department of 1384
commerce on forms provided by the division. 1385

(B) With respect to complaints filed pursuant to division 1386
(A) of this section, the division shall do all of the following: 1387

(1) Acknowledge receipt of the complaint by sending 1388
written notice to the person who filed the complaint not more 1389
than twenty days after receipt of the complaint; 1390

(2) Send written notice of the complaint within seven days 1391
after receipt of the complaint to the entity that is the subject 1392
of the complaint; 1393

(3) Before taking further action, allow the entity that is 1394
the subject of a complaint thirty days after the date the 1395
division sends notice of the complaint to respond to the 1396
division with respect to the complaint. 1397

(C) Upon written request and with good cause shown, the 1398
superintendent may grant an extension of the time limits 1399
established under division (B) of this section. 1400

(D) The superintendent or superintendent's designee shall 1401
schedule a mediation for each complaint filed pursuant to 1402
division (A) of this section within one hundred eighty days 1403
after its filing, unless it has been resolved by the parties to 1404
the complaint. All mediations scheduled under division (D) of 1405
this section shall be held pursuant to Chapter 2710. of the 1406
Revised Code. 1407

Sec. 5311.33. (A) The superintendent of real estate and 1408
professional licensing, as a result of an unresolved complaint 1409
received pursuant to section 5311.32 of the Revised Code or an 1410

audit pursuant to section 5311.30 of the Revised Code, and with 1411
good cause shown, may investigate or cause to be investigated 1412
alleged violations of sections 5311.08, 5311.081, 5311.09, 1413
5311.091, and 5311.16 of the Revised Code. If the superintendent 1414
of real estate and professional licensing believes that a 1415
violation has occurred, the superintendent may do both of the 1416
following: 1417

(1) Request the prosecuting attorney of the county in 1418
which the alleged violation occurred to initiate such 1419
proceedings as are appropriate; 1420

(2) In accordance with section 5311.30 of the Revised 1421
Code, audit the records of the condominium association named in 1422
the complaint to ensure compliance with this chapter. 1423

(B) The superintendent, at any time, may dismiss a 1424
complaint if the superintendent determines there is not good 1425
cause shown for the complaint. If the superintendent dismisses a 1426
complaint, the superintendent shall notify the person who filed 1427
the complaint within twenty days of reaching the 1428
superintendent's decision and identify the reason why the 1429
complaint was dismissed. 1430

(C) When necessary for the division of real estate and 1431
professional licensing in the department of commerce to perform 1432
the duties required by sections 5311.32 and 5311.33 of the 1433
Revised Code, the superintendent may issue subpoenas and compel 1434
the production of books, papers, records, and other forms of 1435
evidence. 1436

(D) When the superintendent determines that the nature of 1437
a complaint merits it, the superintendent may maintain division 1438
proceedings and records as confidential in accordance with rules 1439

adopted under division (A) (10) of section 5311.31 of the Revised Code. 1440
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(E) If the superintendent believes that a violation of section 5311.083 of the Revised Code has occurred, the superintendent shall request the prosecuting attorney of the county in which the alleged violation occurred to initiate such proceedings as are appropriate. 1442
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Section 2. That existing sections 5302.30, 5311.01, 1447
5311.08, 5311.081, 5311.09, 5311.091, 5311.16, 5311.18, and 1448
5311.22 of the Revised Code are hereby repealed. 1449

Section 3. Sections 5311.082, 5311.083, 5311.29, 5311.30, 1450
5311.31, 5311.32, and 5311.33 of the Revised Code, as enacted by 1451
this act, shall take effect one hundred twenty days after the 1452
effective date of this act. During that time, the Superintendent 1453
of Real Estate and Professional Licensing shall collect and 1454
process applications for unit owners association registration 1455
and shall issue certificates of registration. During that time, 1456
no association is required to have a certificate of 1457
registration. 1458