

As Introduced

129th General Assembly
Regular Session
2011-2012

H. B. No. 574

Representative Celeste

—

A BILL

To amend sections 5311.08, 5311.081, 5311.09, 1
5311.091, and 5311.22 and to enact sections 2
5311.082, 5311.083, 5311.15, and 5311.28 to 3
5311.33 of the Revised Code to require certain 4
condominium association managers to hold a real 5
estate broker's license, to make changes to the 6
board meetings, record retention, and budget 7
procedure requirements of the Condominium Law, and 8
to establish the creation of a registry of 9
condominium developments and the Ohio Condominium 10
Dispute Resolution Board. 11

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

Section 1. That sections 5311.08, 5311.081, 5311.09, 12
5311.091, and 5311.22 be amended and sections 5311.082, 5311.083, 13
5311.15, 5311.28, 5311.29, 5311.30, 5311.31, 5311.32, and 5311.33 14
of the Revised Code be enacted to read as follows: 15

Sec. 5311.08. (A)(1) Every condominium property shall be 16
administered by a unit owners association. All power and authority 17
of the unit owners association shall be exercised by a board of 18
directors, which the unit owners shall elect from among the unit 19
owners or the spouses of unit owners. If a unit owner is not an 20

individual, that unit owner may nominate for the board of 21
directors any principal, member of a limited liability company, 22
partner, director, officer, or employee of that unit owner. 23

(2) The board of directors shall elect a president, 24
secretary, treasurer, and other officers that the board may 25
desire. 26

(3) Unless otherwise provided in the declaration or the 27
bylaws, all meetings of the unit owners association are open to 28
the unit owners, and those present in person or by proxy when 29
action is taken during a meeting of the unit owners association 30
constitute a sufficient quorum. 31

(4)(a) All meetings of the board of directors shall be open 32
to all unit owners. A portion of each board meeting shall be 33
allocated for comments by unit owners. A unit owner may send an 34
agent or a representative to attend a board meeting in the unit 35
owner's place. 36

(b) At least five days prior to a meeting of the board of 37
directors, the board shall send notice and an agenda to all unit 38
owners in the condominium property. The board shall make all 39
materials provided to board members for the meeting available to 40
unit owners. 41

(c) A meeting of the board of directors may be held by any 42
method of communication, including electronic or telephonic 43
communication provided that each member of the board, and each 44
unit owner that participates, can hear, participate, and respond 45
to every other member of the board or unit owner. 46

~~(b) In lieu of conducting a meeting, the (d) The board of 47~~
~~directors may take action with the unanimous written consent of 48~~
~~the members of the board. Those written consents shall be filed 49~~
~~with the minutes of the meetings of the board shall vote on the 50~~

record. 51

(B) The unit owners association shall be governed by bylaws. 52
No modification of or amendment to the bylaws is valid unless it 53
is set forth in an amendment to the declaration, and the amendment 54
to the declaration is filed for record. Unless otherwise provided 55
by the declaration, the bylaws shall provide for the following: 56

(1)(a) The election of the board of directors of the unit 57
owners association; 58

(b) The number of persons constituting the board; 59

(c) The terms of the directors, with not less than one-fifth 60
to expire annually; 61

(d) The powers and duties of the board; 62

(e) The compensation of the directors; 63

(f) The method of removal of directors from office; 64

(g) The election of officers of the board; 65

(h) Whether or not the services of a manager or managing 66
agent may be engaged. 67

(2) The time and place for holding meetings; the manner of 68
and authority for calling, giving notice of, and conducting 69
meetings; and the requirement, in terms of undivided interests in 70
the common elements, of a quorum for meetings of the unit owners 71
association; 72

(3) By whom and the procedure by which maintenance, repair, 73
and replacement of the common elements may be authorized; 74

(4) The common expenses for which assessments may be made and 75
the manner of collecting from the unit owners their respective 76
shares of the common expenses; 77

(5) The method of distributing the common profits; 78

(6) By whom and the procedure by which administrative rules 79

governing the operation and use of the condominium property or any 80
portion of the property may be adopted and amended. These rules 81
may govern any aspect of the condominium property that is not 82
required to be governed by bylaws and may include standards 83
governing the type and nature of information and documents that 84
are subject to examination and copying by unit owners pursuant to 85
section 5311.091 of the Revised Code, including the times and 86
location at which items may be examined or copied and any required 87
fee for copying the information or documents. 88

(C)(1) The unit owners association shall be established not 89
later than the date that the deed or other evidence of ownership 90
is filed for record following the first sale of a condominium 91
ownership interest in a condominium development. Membership in the 92
unit owners association shall be limited to unit owners, and all 93
unit owners shall be members. Until the unit owners association is 94
established, the developer shall act in all instances in which 95
action of the unit owners association or its officers is 96
authorized or required by law or the declaration. 97

(2)(a) Not later than sixty days after the developer has sold 98
and conveyed condominium ownership interests appertaining to 99
twenty-five per cent of the undivided interests in the common 100
elements in a condominium development, the unit owners association 101
shall meet, and the unit owners other than the developer shall 102
elect not less than one-third of the members of the board of 103
directors. 104

(b) When computing undivided interests in expandable 105
condominium properties for purposes of divisions (C) and (D) of 106
this section, the undivided interests in common elements shall be 107
computed by comparing the number of units sold and conveyed to the 108
maximum number of units that may be created, as stated in the 109
declaration pursuant to division (C)(8) of section 5311.05 of the 110
Revised Code. 111

(D)(1) Except as provided in division (C) of this section, 112
the declaration or bylaws of a condominium development may 113
authorize the developer or persons the developer designates to 114
appoint and remove members of the board of directors of the unit 115
owners association and to exercise the powers and responsibilities 116
otherwise assigned by law, the declaration, or the bylaws to the 117
unit owners association or to the board of directors. The 118
authorization for developer control may extend from the date the 119
unit owners association is established until sixty days after the 120
sale and conveyance to purchasers in good faith for value of 121
condominium ownership interests to which seventy-five per cent of 122
the undivided interests in the common elements appertain, except 123
that in no case may the authorization extend for more than five 124
years after the unit owners association is established if the 125
declaration includes expandable condominium property or more than 126
three years after the unit owners association is established if 127
the declaration does not include expandable condominium property. 128

(2) If there is a unit owner other than the developer, the 129
declaration of a condominium development shall not be amended to 130
increase the scope or the period of the developer's control. 131

(3) Within sixty days after the expiration of the period 132
during which the developer has control pursuant to division (D)(1) 133
of this section, the unit owners association shall meet and elect 134
all members of the board of directors of the association. The 135
persons elected shall take office at the end of the meeting during 136
which they are elected and shall, as soon as reasonably possible, 137
appoint officers. 138

(E) The board of directors, or the developer while in control 139
of the association, may take any measures necessary to incorporate 140
the unit owners association as a not-for-profit corporation. 141

(F) If the services of a manager or managing agent are 142
engaged, the manager or managing agent shall comply with section 143

5311.15 of the Revised Code. 144

Sec. 5311.081. (A) Unless otherwise provided in the 145
declaration or bylaws, the unit owners association, through the 146
board of directors, shall do both of the following: 147

(1) ~~Adopt~~ Subject to division (D) of this section, adopt and 148
amend budgets for revenues, expenditures, and reserves in an 149
amount adequate to repair and replace major capital items in the 150
normal course of operations without the necessity of special 151
assessments, provided that the amount set aside annually for 152
reserves shall not be less than ten per cent of the budget for 153
that year unless the reserve requirement is waived annually by the 154
unit owners exercising not less than a majority of the voting 155
power of the unit owners association; 156

(2) Collect assessments for common expenses from unit owners. 157

(B) Unless otherwise provided in the declaration, the unit 158
owners association, through the board of directors, may exercise 159
all powers of the association, including the power to do the 160
following: 161

(1) ~~Hire~~ Subject to section 5311.15 of the Revised Code, hire 162
and fire managing agents, attorneys, accountants, and other 163
independent contractors and employees that the board determines 164
are necessary or desirable in the management of the condominium 165
property and the association; 166

(2) Commence, defend, intervene in, settle, or compromise any 167
civil, criminal, or administrative action or proceeding that is in 168
the name of, or threatened against, the unit owners association, 169
the board of directors, or the condominium property, or that 170
involves two or more unit owners and relates to matters affecting 171
the condominium property; 172

(3) Enter into contracts and incur liabilities relating to 173

the operation of the condominium property;	174
(4) Regulate the use, maintenance, repair, replacement,	175
modification, and appearance of the condominium property;	176
(5) Adopt rules that regulate the use or occupancy of units,	177
the maintenance, repair, replacement, modification, and appearance	178
of units, common elements, and limited common elements when the	179
actions regulated by those rules affect common elements or other	180
units;	181
(6) Cause additional improvements to be made as part of the	182
common elements;	183
(7) Purchase, encumber, and convey units, and, subject to any	184
restrictions in the declaration or bylaws and with the approvals	185
required by division (H)(2) or (3) of section 5311.04 of the	186
Revised Code, acquire an interest in other real property and	187
encumber or convey that interest. All expenses incurred in	188
connection with the acquisition, encumbrance, use, and operation	189
of that interest are common expenses.	190
(8) Acquire, encumber, and convey or otherwise transfer	191
personal property;	192
(9) Hold in the name of the unit owners association the real	193
property and personal property acquired pursuant to divisions	194
(B)(7) and (8) of this section;	195
(10) Grant easements, leases, licenses, and concessions	196
through or over the common elements;	197
(11) Impose and collect fees or other charges for the use,	198
rental, or operation of the common elements or for services	199
provided to unit owners;	200
(12) Impose interest and late charges for the late payment of	201
assessments; impose returned check charges; and, pursuant to	202
division (C) of this section, impose reasonable enforcement	203

assessments for violations of the declaration, the bylaws, and the	204
rules of the unit owners association, and reasonable charges for	205
damage to the common elements or other property;	206
(13) Adopt and amend rules that regulate the collection of	207
delinquent assessments and the application of payments of	208
delinquent assessments;	209
(14) Subject to applicable laws, adopt and amend rules that	210
regulate the termination of utility or other service to a	211
commercial unit if the unit owner is delinquent in the payment of	212
an assessment that pays, in whole or in part, the cost of that	213
service;	214
(15) Impose reasonable charges for preparing, recording, or	215
copying amendments to the declaration, resale certificates, or	216
statements of unpaid assessments;	217
(16) Enter a unit for bona fide purposes when conditions	218
exist that involve an imminent risk of damage or harm to common	219
elements, another unit, or to the health or safety of the	220
occupants of that unit or another unit;	221
(17) To the extent provided in the declaration or bylaws,	222
assign the unit owners association's rights to common assessments,	223
or other future income, to a lender as security for a loan to the	224
unit owners association;	225
(18) Suspend the voting privileges and use of recreational	226
facilities of a unit owner who is delinquent in the payment of	227
assessments for more than thirty days;	228
(19) Purchase insurance and fidelity bonds the directors	229
consider appropriate or necessary;	230
(20) Invest excess funds in investments that meet standards	231
for fiduciary investments under Ohio law;	232
(21) Exercise powers that are:	233

(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	234 235
(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;	236 237
(c) Permitted to be exercised in this state by a not-for-profit corporation;	238 239
(d) Necessary and proper for the government and operation of the unit owners association.	240 241
(C)(1) Prior to imposing a charge for damages or an enforcement assessment pursuant to division (B)(12) of this section, the board of directors shall give the unit owner a written notice that includes all of the following:	242 243 244 245
(a) A description of the property damage or violation;	246
(b) The amount of the proposed charge or assessment;	247
(c) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment;	248 249 250
(d) A statement setting forth the procedures to request a hearing pursuant to division (C)(2) of this section;	251 252
(e) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment.	253 254
(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.	255 256 257 258 259 260 261
(b) If a unit owner requests a hearing, at least seven days prior to the hearing the board of directors shall provide the unit	262 263

owner with a written notice that includes the date, time, and 264
location of the hearing. 265

(3) The board of directors shall not levy a charge or 266
assessment before holding any hearing requested pursuant to 267
division (C)(2) of this section. 268

(4) The unit owners, through the board of directors, may 269
allow a reasonable time to cure a violation described in division 270
(B)(12) of this section before imposing a charge or assessment. 271

(5) Within thirty days following a hearing at which the board 272
of directors imposes a charge or assessment, the unit owners 273
association shall deliver a written notice of the charge or 274
assessment to the unit owner. 275

(6) Any written notice that division (C) of this section 276
requires shall be delivered to the unit owner or any occupant of 277
the unit by personal delivery, by certified mail, return receipt 278
requested, or by regular mail. 279

(D) The board of directors shall adopt a proposed budget in 280
accordance with division (A)(1) of this section for consideration 281
by the unit owners. Not later than thirty days after adoption of a 282
proposed budget, the board shall provide to all the unit owners a 283
summary of the proposed budget including an explanation of the 284
amount and method of calculating and funding reserves, if 285
applicable. Starting on the date the board provides the summary of 286
the proposed budget, the board shall set a date of not less than 287
sixty days for a meeting of the unit owners to consider approval 288
of the budget. The board shall give all unit owners seven days 289
notice of the date, time, and location of the scheduled meeting. 290
If, at that meeting, a majority of all unit owners votes to reject 291
the budget, the budget is rejected. Otherwise the budget is 292
approved. The absence of a quorum at such meeting or participating 293
in the vote by ballot shall not affect rejection or approval of 294

the budget. If a proposed budget is rejected, the budget last 295
approved by the unit owner association continues until unit owners 296
approve a subsequent budget. 297

Sec. 5311.082. (A) The division of real estate and 298
professional licensing shall establish and maintain a registry, in 299
the form of a database, of the names of condominium associations 300
in the state. Information in the database shall be available for 301
public viewing. The division shall include access to the 302
information in the database on the division's web site and in 303
other materials, as determined by the superintendent. 304

(B) The division of real estate and professional licensing 305
shall perform all of the following duties: 306

(1) Adopt, amend, and rescind rules in accordance with 307
Chapter 119. of the Revised Code to carry out sections 5311.082 308
and 5311.083 of the Revised Code governing the registration of 309
condominium associations; 310

(2) Prescribe the form and content of all applications to be 311
used for registration and renewal of registration pursuant to 312
section 5311.083 of the Revised Code; 313

(3) Review applications for registration and issue 314
registration certificates to condominium associations that meet 315
the requirements for registration pursuant to section 5311.083 of 316
the Revised Code; 317

(4) Collect all fees related to the registration and renewal 318
of registration certificates for condominium associations; 319

(5) Maintain a written record of each condominium association 320
registered with the division, which shall include such 321
documentation as required by the division. The record shall be 322
available for inspection by the public through the web site and 323
copies shall be made available pursuant to division (B) of section 324

149.43 of the Revised Code. 325

(6) Hire all division personnel necessary to implement 326
sections 5311.082 and 5311.083 of the Revised Code. 327

Sec. 5311.083. (A)(1) The board of directors of a condominium 328
association shall apply to the division of real estate and 329
professional licensing in the department of commerce to register 330
the association on forms prescribed by the division. With the 331
application, the applicant shall submit any information required 332
by the division and a registration fee of twenty-five dollars. 333

(2) The director of commerce, by rule adopted in accordance 334
with Chapter 119. of the Revised Code, may reduce the amount of 335
the registration fee required by this section in any year if the 336
director determines that the total amount of funds the fee is 337
generating at the amount specified by this section exceeds the 338
amount of funds the division and the Ohio condominium dispute 339
resolution board created by section 5311.28 of the Revised Code 340
need to carry out their powers and duties under this chapter. If 341
the director so reduces the amount of the registration fee, the 342
director shall reduce it for all owners or other persons required 343
to pay the fee under division (A)(1) of this section. If the 344
director has reduced the fee under division (A)(2) of this 345
section, the director may later raise it up to the amounts 346
specified in division (A)(1) of this section if, in any year, the 347
director determines that the total amount of funds the fee is 348
generating at the reduced amount is insufficient for the division 349
and the Ohio condominium dispute resolution board to carry out 350
their powers and duties under this chapter. 351

(B) Upon receipt of the completed application form, 352
documentation, and registration fee, the division shall issue a 353
certificate of registration to the applicant. The applicant shall 354
display the certificate in a conspicuous place on the premises of 355

the condominium property for which the registration was obtained. 356

(C) Except as otherwise provided in this division, each 357
registration issued pursuant to this section shall expire annually 358
on the thirtieth day of June and may be renewed. The renewal fee 359
shall be the same as the initial registration fee prescribed in 360
division (A) of this section. 361

(D) All registration and renewal fees collected pursuant to 362
this section shall be paid into the state treasury to the credit 363
of the division of real estate and professional licensing in the 364
department of commerce to be used by the division to carry out its 365
powers and duties under this chapter and by the Ohio condominium 366
dispute resolution board created by section 5311.28 of the Revised 367
Code. 368

Sec. 5311.09. (A)(1) The unit owners association shall keep 369
all of the following: 370

(a) Correct and complete books and records of account that 371
specify the receipts and expenditures relating to the common 372
elements and other common receipts and expenses; 373

(b) Records showing the allocation, distribution, and 374
collection of the common profits, losses, and expenses among and 375
from the unit owners; 376

(c) Minutes of the meetings of the association and the board 377
of directors; 378

(d) Records of the names, in alphabetical order, and 379
addresses of the unit owners and their respective undivided 380
interests in the common elements; 381

(e) Records showing the names and addresses of the members of 382
the board of directors and association officers; 383

(f) Records of all actions taken without a meeting of the 384
board of directors; 385

(g) The original or restated documents described in division 386
(B)(1)(b) of this section; 387

(h) All financial statements and tax returns, which shall be 388
kept for a minimum of three years; 389

(i) All current contracts into which the condominium 390
development has entered; 391

(j) Records of approvals or denials for requests for design 392
or architectural approval from the board of directors or the unit 393
owners association; 394

(k) Ballots, proxies, and other voting records of the board 395
of directors and the unit owners association, which shall be kept 396
for a minimum of one year. 397

(2) Within thirty days after a unit owner obtains a 398
condominium ownership interest, the unit owner shall provide the 399
following information in writing to the unit owners association 400
through the board of directors: 401

(a) The home address, home and business mailing addresses, 402
and the home and business telephone numbers of the unit owner and 403
all occupants of the unit; 404

(b) The name, business address, and business telephone number 405
of any person who manages the owner's unit as an agent of that 406
owner. 407

(3) Within thirty days after a change in any information that 408
division (A)(2) of this section requires, a unit owner shall 409
notify the association, through the board of directors, in writing 410
of the change. When the board of directors requests, a unit owner 411
shall verify or update the information. 412

(B)(1) When elected members of a board of directors of a unit 413
owners association take control of the association, the declarant 414
or developer shall deliver to the board correct and complete 415

copies of all of the following: 416

(a) The books, records, and minutes referred to in division 417
(A) of this section; 418

(b) The declaration, the bylaws, the drawings prepared 419
pursuant to section 5311.07 of the Revised Code, as recorded, and 420
any articles of incorporation of the unit owners association, as 421
recorded; 422

(c) Except in the case of a conversion condominium, 423
documents, information, and sources of information concerning the 424
location of underground utility lines, and plans and 425
specifications that are not proprietary or copyrighted, of the 426
buildings, other improvements, and structures of the condominium 427
property that are reasonably available to the developer, but only 428
in connection with condominium developments declared on or after 429
~~the effective date of this amendment~~ July 20, 2004, and 430
condominium developments that are declared prior to that date but 431
originally built or constructed on or after that date. 432

(2) The board of directors may commence a civil action on 433
behalf of the unit owners association in the court of common pleas 434
of the county in which the condominium property is located to 435
obtain injunctive relief or recover damages for harm resulting 436
from the declarant's or developer's failure to comply with 437
division (B)(1) of this section. 438

Sec. 5311.091. (A)(1) Except as otherwise prohibited by this 439
section, any member of a unit owners association or any manager or 440
managing agent of the condominium property may examine and copy 441
the ~~books, records, and minutes~~ information described in division 442
(A) of section 5311.09 of the Revised Code pursuant to reasonable 443
standards set forth in the declaration, bylaws, or rules the board 444
promulgates, which may include, ~~but are not limited to, standards~~ 445
~~governing the type of documents that are subject to examination~~ 446

~~and copying,~~ the times and locations at which those documents may 447
be examined or copied, and the specification of a reasonable fee 448
for copying the documents or the supervision of examination. A 449
member of the unit owners association, manager, or managing agent 450
desiring to examine or copy the information shall submit a notice 451
five days in advance of the date of examination. 452

(2) Unless otherwise provided in the declaration or bylaws 453
pursuant to division (B)(6) of section 5311.08 of the Revised 454
Code, the board of directors may establish a policy requiring a 455
unit owner, manager, or managing agent that requests records in 456
accordance with division (A)(1) of this section to pay a 457
reasonable charge for copies of the records or supervision for 458
examination of the records. 459

(B) The unit owners association is not required to permit the 460
examination and copying of any of the following from books, 461
records, and minutes: 462

(1) Information that pertains to condominium property-related 463
personnel matters; 464

(2) Communications with legal counsel or attorney work 465
product pertaining to pending litigation or other condominium 466
property-related matters; 467

(3) Information that pertains to contracts or transactions 468
currently under negotiation, or information that is contained in a 469
contract or other agreement containing confidentiality 470
requirements and that is subject to those requirements; 471

(4) Information that relates to the enforcement of the 472
declaration, bylaws, or rules of the unit owners association 473
against unit owners; 474

(5) Information the disclosure of which is prohibited by 475
state or federal law. 476

Sec. 5311.15. No manager or managing agent of a condominium 477
development containing more than ten units shall manage or be 478
hired by a unit owners association pursuant to sections 5311.08 479
and 5311.081 of the Revised Code unless the manager or managing 480
agent holds a current and active real estate broker's license 481
issued under Chapter 4735. of the Revised Code. 482

Sec. 5311.22. (A) Unless otherwise provided in the 483
declaration or bylaws, each unit owner may exercise that 484
percentage of the total voting power of all unit owners on any 485
question for which the vote of unit owners is permitted or 486
required that is equivalent to the undivided interest in the 487
common elements appurtenant to the owner's unit. 488

(B) Fiduciaries who are owners of record of a unit or units 489
may vote their respective interests as unit owners. Unless 490
otherwise provided in the declaration or bylaws, if two or more 491
persons, whether fiduciaries, tenants in common, or otherwise, own 492
undivided interests in a unit, each person may exercise the 493
proportion of the voting power of all of the owners of the unit 494
that is equivalent to the person's proportionate undivided 495
interest in the unit. 496

(C) A fiduciary for a unit owner or of the estate of a unit 497
owner may vote as though the fiduciary were the unit owner when 498
the fiduciary has furnished to the unit owners association proof, 499
satisfactory to it, of the fiduciary's appointment and 500
qualification as an executor under the last will of a deceased 501
unit owner, an administrator of the estate of a deceased unit 502
owner, a guardian, committee, or conservator of the estate of a 503
minor or incompetent who is a unit owner, a trustee in bankruptcy 504
of a unit owner, a statutory or judicial receiver or liquidator of 505
the estate or affairs of a unit owner, or an assignee for the 506
benefit of creditors of a unit owner. 507

(D) When any fiduciary or representative of a unit owner who 508
is not described in division (C) of this section has furnished the 509
unit owners association with satisfactory proof of authority, that 510
person may vote as though a unit owner. 511

(E) Unless otherwise provided in the declaration or bylaws, 512
votes allocated to a unit may be cast by a directed or undirected 513
proxy executed by a unit owner, provided that a person shall not 514
cast votes representing more than fifteen per cent of the votes in 515
the unit owners association pursuant to undirected proxies. 516

Sec. 5311.28. (A) There is hereby created the Ohio 517
condominium dispute resolution board, consisting of seven members 518
who shall be appointed by the governor, with the advice and 519
consent of the senate. The board shall be comprised of the 520
following members: 521

(1) Two members shall be condominium unit owners and members 522
of a condominium unit owners association, but not members of a 523
condominium unit owners association board of directors. One of 524
these members shall be from a small association and one shall be 525
from a large association. 526

(2) Two members shall be members of a condominium unit 527
association board of directors. One of these members shall be from 528
a small association and one shall be from a large association. 529

(3) One member shall be a certified public accountant. 530

(4) One member shall be a real estate attorney. 531

(5) One member shall represent the public and be a 532
non-condominium property homeowner. 533

(B)(1) Within a reasonable time, the governor shall make 534
initial appointments to the board. The initial members of the 535
board shall serve staggered terms ending on the thirtieth day of 536
June one, two, three, four, or five years after appointment, as 537

determined by the governor. Thereafter, terms of office shall be 538
for five years, commencing on the first day of July and ending on 539
the thirtieth day of June. Each member shall hold office from the 540
date of appointment until the end of the term for which appointed. 541
No more than four members shall be members of any one political 542
party. Each member, before entering upon the duties of office, 543
shall subscribe to and file with the secretary of state the 544
constitutional oath of office. The governor may remove any member 545
for misconduct, neglect of duty, incapacity, or malfeasance in 546
accordance with section 3.04 of the Revised Code. All vacancies 547
that occur shall be filled in the manner prescribed for the 548
regular appointments to the board. Any member appointed to fill a 549
vacancy occurring prior to the expiration of the term for which 550
the member's predecessor was appointed shall hold office for the 551
remainder of such term. Any member shall continue in office 552
subsequent to the expiration date of the member's term until the 553
member's successor takes office, or until a period of sixty days 554
has elapsed, whichever occurs first. No member shall hold office 555
for more than two consecutive full terms. 556

(2) Annually, upon the qualification of the member appointed 557
in such year, the board shall organize by selecting from its 558
members a chairperson, vice-chairperson, and secretary, and shall 559
do all things necessary and proper to carry out and enforce this 560
chapter. 561

The chairperson or vice-chairperson may do all of the 562
following: 563

(a) Administer oaths; 564

(b) Issue subpoenas; 565

(c) Summon witnesses; 566

(d) Compel the production of books, papers, records, and 567
other forms of evidence; 568

(e) Fix the time and place for hearing any matter related to 569
compliance with sections 5311.08, 5311.081, 5311.083, 5311.09, and 570
5311.091 of the Revised Code. 571

(3) A majority of the members of the board shall constitute a 572
quorum, but a lesser number may adjourn from time to time. 573

(4) Members of the board shall receive no compensation but 574
shall be reimbursed for their actual and necessary expenses 575
incurred in the discharge of their duties. 576

(C) The division of real estate and professional licensing in 577
the department of commerce shall provide the board with meeting 578
space, staff services, and other technical assistance required by 579
the board in carrying out its duties pursuant to sections 5311.29 580
to 5311.33 of the Revised Code. 581

(D) As used in this section: 582

(1) "Small association" means a condominium development with 583
fifty units or less; 584

(2) "Large association" means a condominium development with 585
more than fifty units. 586

Sec. 5311.29. The Ohio condominium dispute resolution board, 587
the director of commerce, or the superintendent of real estate and 588
professional licensing may compel, by order or subpoena, the 589
attendance of witnesses to testify in relation to any matter over 590
which the board, director, or superintendent has jurisdiction and 591
which is the subject of inquiry and investigation by the board, 592
director, or superintendent, and require the production of any 593
book, paper, or document pertaining to such matter. For such 594
purpose, the board, director, or superintendent shall have the 595
same power as judges of county courts to administer oaths, compel 596
the attendance of witnesses, and punish them for refusal to 597
testify. Service of the subpoena may be made by sheriffs or 598

constables, or by certified mail, return receipt requested, and 599
the subpoena shall be deemed served on the date delivery is made 600
or the date the person refused to accept delivery. Witnesses shall 601
receive, after their appearance before the board or 602
superintendent, the fees and mileage provided for under section 603
119.094 of the Revised Code. If two or more witnesses travel 604
together in the same vehicle, the mileage fee shall be paid to 605
only one of those witnesses, but the witnesses may agree to divide 606
the fee among themselves in any manner. 607

In addition to the powers granted to the board, director, and 608
superintendent under this section, in case any person fails to 609
file any statement or report, obey any subpoena, give testimony, 610
answer questions, or produce any books, records, or papers as 611
required by the board, director, or superintendent under this 612
chapter, the court of common pleas of any county in the state, 613
upon application made to it by the board, director, or 614
superintendent setting forth such failure, may make an order 615
awarding process of subpoena or subpoena duces tecum for the 616
person to appear and testify before the board, director, or 617
superintendent, and may order any person to give testimony and 618
answer questions, and to produce books, records, or papers, as 619
required by the board or superintendent. Upon the filing of such 620
order in the office of the clerk of the court of common pleas, the 621
clerk, under the seal of the court, shall issue process of 622
subpoena for the person to appear before the board or 623
superintendent at a time and place named in the subpoena, and each 624
day thereafter until the examination of such person is completed. 625
The subpoena may contain a direction that the witness bring with 626
the witness to the examination any books, records, or papers 627
mentioned in the subpoena. The clerk shall also issue, under the 628
seal of the court, such other orders, in reference to the 629
examination, appearance, and production of books, records, or 630
papers, as the court directs. If any person so summoned by 631

subpoena fails to obey the subpoena, to give testimony, to answer 632
questions as required, or to obey an order of the court, the 633
court, on motion supported by proof, may order an attachment for 634
contempt to be issued against the person charged with disobedience 635
of any order or injunction issued by the court under this chapter. 636
If the person is brought before the court by virtue of the 637
attachment, and if upon a hearing the disobedience appears, the 638
court may order the offender to be committed and kept in close 639
custody. 640

Sec. 5311.30. (A) The Ohio condominium dispute resolution 641
board is a part of the department of commerce for administrative 642
purposes. The director of commerce is ex officio the executive 643
officer of the board, or the director may appoint the 644
superintendent of real estate and professional licensing, if a 645
superintendent is designated pursuant to section 4735.05 of the 646
Revised Code, to act as executive officer of the board. 647

(B) The director, the superintendent, or the board, except as 648
otherwise provided, shall do all of the following: 649

(1) Hear and investigate all of the following: 650

(a) General complaints and disputes between a unit owner, a 651
unit owners association, or a board of directors; 652

(b) Requests for elections monitoring and oversight of unit 653
owners associations and boards of directors; 654

(c) Disputes over access to records of a unit owners 655
association or board of directors. 656

(2) Establish and maintain an investigation and audit section 657
to investigate complaints and conduct inspections, audits, and 658
other inquiries as in the judgment of the director, 659
superintendent, or board are appropriate. The investigators or 660
auditors have the right to review and audit the records described 661

in division (A)(1) of section 5311.09 of the Revised Code during 662
normal business hours. 663

(C) The director, superintendent, or board may, in connection 664
with investigations and audits under division (B) of this section, 665
subpoena witnesses as provided in section 5311.29 of the Revised 666
Code. 667

(D) All information that is obtained by the board, 668
investigators, and auditors performing investigations or 669
conducting inspections, audits, and other inquiries pursuant to 670
division (B) of this section and all reports, documents, and other 671
work products that arise from that information and that are 672
prepared by the board, investigators, auditors, or other personnel 673
of the department, shall be held in confidence by the director, 674
superintendent, or board, the investigators and auditors, and 675
other personnel of the department. All information obtained by the 676
board, investigators, or auditors from an informal mediation 677
meeting held pursuant to section 5311.31 of the Revised Code, 678
including the agreement to mediate and the accommodation 679
agreement, shall be held in confidence by the director, 680
superintendent, or board, investigators, auditors, and other 681
personnel of the department. 682

Sec. 5311.31. The Ohio condominium dispute resolution board 683
shall perform all of the following duties: 684

(A) Adopt, amend, and rescind such rules in accordance with 685
Chapter 119. of the Revised Code as are necessary in carrying out 686
sections 5311.29 to 5311.33 of the Revised Code, including rules 687
relative to the following: 688

(1) Transacting the board's business and managing its 689
affairs; 690

(2) Establishing procedures for receiving, reviewing, and 691

responding to complaints filed pursuant to section 5311.32 of the 692
Revised Code; 693

(3) Conducting investigations in response to complaints filed 694
pursuant to division (A) of section 5311.32 of the Revised Code; 695

(4) Resolving complaints by using informal techniques of 696
mediation, conciliation, and persuasion, including requiring the 697
parties involved in a complaint to be given prompt notice of any 698
offers to resolve disputes and responses thereto; 699

(5) Advising all parties making a complaint, or who are the 700
subject of a complaint, of any recommendations or findings of fact 701
made by the board with respect to the complaint; 702

(6) Requesting the party who has filed a complaint or is the 703
subject of a complaint, and is affected by recommendations of the 704
board made with respect to the complaint, to notify the board 705
within a time specified by the board of any action the party has 706
taken in response to the board's recommendations; 707

(7) Conducting nonpublic hearings and maintaining board 708
proceedings and records as confidential, notwithstanding sections 709
121.22 and 149.43 of the Revised Code when the board determines 710
that the nature of the complaints merits that action; 711

(8) Determining the method to be used in serving notices as 712
required by section 5311.32 of the Revised Code. 713

(B) Publicize information concerning the existence and duties 714
of the board and the procedure for filing complaints pursuant to 715
section 5311.32 of the Revised Code; 716

(C) Conduct hearings on complaints pursuant to section 717
5311.32 of the Revised Code; 718

(D) Submit at least annually by the thirty-first day of March 719
a report on the board's activities of the immediately preceding 720
calendar year to the governor and the majority and minority 721

leaders of the senate and house of representatives. The report 722
shall indicate the total number of complaints received, initiated, 723
and investigated under sections 5311.32 and 5311.33 of the Revised 724
Code; the total number of complaints for which hearings were held; 725
and the total number of referrals made to prosecuting attorneys 726
pursuant to section 5311.33 of the Revised Code. 727

(E) Review, at least once each year, all actions taken by the 728
prosecuting attorneys in response to referrals made to them by the 729
board, director of commerce, or the superintendent of the division 730
of real estate and professional licensing in the department of 731
commerce. The board shall include in the report required in 732
division (D) of this section information regarding the nature of 733
the inappropriate conduct alleged in each referral and the status 734
or disposition made of each referral occurring during the 735
preceding two years. 736

(F) Perform all functions as are necessary in administering 737
and enforcing sections 5311.29 to 5311.33 of the Revised Code. 738

Sec. 5311.32. (A) Any person may file a complaint regarding 739
the activity, practice, policy, or procedure of, or regarding an 740
alleged violation of section 5311.08, 5311.081, 5311.09, or 741
5311.091 of the Revised Code by, any board of directors of a 742
condominium association registered pursuant to section 5311.083 of 743
the Revised Code that adversely affects or may adversely affect 744
the interest of a unit owner. All complaints shall be in writing 745
and submitted to the division of real estate in the department of 746
commerce on forms provided by the division. 747

(B) With respect to complaints filed pursuant to division (A) 748
of this section, the division of real estate and professional 749
licensing shall do all of the following: 750

(1) Acknowledge receipt of the complaint by sending written 751
notice to the person who filed the complaint not more than twenty 752

days after receipt of the complaint; 753

(2) Send written notice of the complaint within seven days 754
after receipt of the complaint to the entity that is the subject 755
of the complaint; 756

(3) Before taking further action, allow the entity that is 757
the subject of a complaint thirty days after the date the division 758
sends notice of the complaint to respond to the division with 759
respect to the complaint. 760

(C) The condominium dispute resolution board shall hear each 761
complaint filed pursuant to division (A) of this section within 762
one hundred eighty days after its filing, unless it has been 763
resolved by the parties to the complaint. 764

Sec. 5311.33. (A) The Ohio condominium dispute resolution 765
board, on its own motion or as a result of a complaint received 766
pursuant to section 5311.32 of the Revised Code and with good 767
cause shown, shall investigate or cause to be investigated alleged 768
violations of sections 5311.08, 5311.081, 5311.09, and 5311.091 of 769
the Revised Code. If the board, the director of commerce, or the 770
superintendent of the division of real estate and professional 771
licensing in the department of commerce believes that a violation 772
has occurred, the board, director, or superintendent shall request 773
the prosecuting attorney of the county in which the alleged 774
violation occurred to initiate such proceedings as are 775
appropriate. 776

(B) The board, at any time, may dismiss a complaint if it 777
determines there is not good cause shown for the complaint. If the 778
board dismisses a complaint, it shall notify the person who filed 779
the complaint within twenty days of reaching its decision and 780
identify the reason why the complaint was dismissed. 781

(D) When necessary for the division of real estate and 782

professional licensing to perform the duties required by sections 783
5311.32 and 5311.33 of the Revised Code, the superintendent of the 784
division may issue subpoenas and compel the production of books, 785
papers, records, and other forms of evidence. 786

Section 2. That existing sections 5311.08, 5311.081, 5211.09, 787
5311.091, and 5311.22 of the Revised Code are hereby repealed. 788
789

Section 3. Sections 5311.082, 5311.083, and 5311.15 of the 790
Revised Code, as enacted by this act, shall take effect one 791
hundred twenty days after the effective date of this act. During 792
that period, the Superintendent of Real Estate and Professional 793
Licensing shall collect and process applications for condominium 794
association registration and shall issue certificates of 795
registration. During that time, no association is required to have 796
a certificate of registration. 797