

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 371

Representatives Grossman, Perales

Cosponsor: Representative Anielski

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A B I L L

To amend sections 5311.01, 5311.08, 5311.081, 1
5311.09, 5311.091, and 5311.22 and to enact 2
sections 5311.082, 5311.083, 5311.15, 5311.28 to 3
5311.33, and 5311.99 of the Revised Code to 4
require certain unit owners association managers 5
to hold a real estate broker's license, to make 6
changes to the board meetings, record retention, 7
and budget procedure requirements of the 8
Condominium Law, and to establish a registry of 9
condominium developments and the Ohio Condominium 10
Dispute Resolution Commission. 11

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

Section 1. That sections 5311.01, 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, 5311.33, and 14
5311.99 of the Revised Code be enacted to read as follows: 15

Sec. 5311.01. As used in this chapter, except as otherwise 17
provided: 18

(A) "Agent" means any person who represents a developer or 19

who acts for or on behalf of a developer in selling or offering to 20
sell any ownership interest in a condominium development. "Agent" 21
does not include an attorney whose representation of a developer 22
consists solely of rendering legal services. 23

(B) "Additional property" means land, including surface and 24
air rights, or improvements to land that are described in an 25
original declaration and that may be added in the future to an 26
expandable condominium property. 27

(C) "Affiliate of a developer" means any person who controls 28
a developer or is controlled by a developer. For the purposes of 29
this division: 30

(1) A person "controls" a developer if any of the following 31
applies: 32

(a) The person is a general partner, officer, member, 33
manager, director, or employer of the developer. 34

(b) The person owns, controls, holds with power to vote, or 35
holds proxies representing more than twenty per cent of the voting 36
interest in the developer, doing so either directly or indirectly, 37
acting in concert with one or more other persons, or through one 38
or more subsidiaries. 39

(c) The person controls, in any manner, the election of a 40
majority of the developer's directors. 41

(d) The person has contributed more than twenty per cent of 42
the developer's capital. 43

(2) A person "is controlled by" a developer if any of the 44
following applies: 45

(a) The developer is a general partner, member, manager, 46
officer, director, or employer of the person. 47

(b) The developer owns, controls, holds with power to vote, 48
or holds proxies representing more than twenty per cent of the 49

voting interest in the person, doing so either directly or 50
indirectly, acting in concert with one or more other persons, or 51
through one or more subsidiaries. 52

(c) The developer controls, in any manner, the election of a 53
majority of the person's directors. 54

(d) The developer has contributed more than twenty per cent 55
of the person's capital. 56

(3) "Control" does not exist for purposes of division (C)(1) 57
or (2) of this section if a person or developer holds any power 58
described in either of those divisions solely as security for an 59
obligation and that power is not exercised. 60

(D) "Body of water" means a stream, lake, pond, marsh, river, 61
or other body of natural or artificial surface water. 62

(E) "Common assessments" means assessments that are charged 63
proportionately against all units for common purposes. 64

(F) "Common elements" means, unless otherwise provided in the 65
declaration, the following parts of the condominium property: 66

(1) The land described in the declaration; 67

(2) All other areas, facilities, places, and structures that 68
are not part of a unit, including, but not limited to, the 69
following: 70

(a) Foundations, columns, girders, beams, supports, 71
supporting walls, roofs, halls, corridors, lobbies, stairs, 72
stairways, fire escapes, entrances, and exits of buildings; 73

(b) Basements, yards, gardens, parking areas, garages, and 74
storage spaces; 75

(c) Premises for the lodging of janitors or persons in charge 76
of the property; 77

(d) Installations of central services, including, but not 78

limited to, power, light, gas, hot and cold water, heating,	79
refrigeration, air conditioning, and incinerating;	80
(e) Elevators, tanks, pumps, motors, fans, compressors,	81
ducts, and, in general, all apparatus and installations existing	82
for common use;	83
(f) Community and commercial facilities that are not listed	84
in division (F)(2)(a), (b), (c), (d), or (e) of this section but	85
provided for in the declaration;	86
(g) All parts of the condominium property that are not listed	87
in division (F)(2)(a), (b), (c), (d), (e), or (f) of this section	88
that are necessary or convenient to its existence, maintenance,	89
and safety, that are normally in common use, or that have been	90
designated as common elements in the declaration or drawings.	91
(G) "Common expenses" means expenses designated as common	92
expenses in this chapter or in the declaration.	93
(H) "Common losses" means the amount by which the common	94
expenses during any period of time exceeds the common assessments	95
and common profits during that period.	96
(I) "Common profits" means the amount by which the total	97
income received from any of the following exceeds expenses	98
allocable to the particular income, rental, fee, or charge:	99
(1) Assessments charged for special benefits to specific	100
units;	101
(2) Rents received from the rental of equipment or space in	102
common elements;	103
(3) Any other fee, charge, or income other than common	104
assessments.	105
(J) "Common surplus" means the amount by which common	106
assessments collected during any period exceed common expenses.	107
(K) "Condominium" means a form of real property ownership in	108

which a declaration has been filed submitting the property to the 109
condominium form of ownership pursuant to this chapter and under 110
which each owner has an individual ownership interest in a unit 111
with the right to exclusive possession of that unit and an 112
undivided ownership interest with the other unit owners in the 113
common elements of the condominium property. 114

(L) "Condominium development" means a ~~condominium~~ property in 115
which two or more individual residential or water slip units, 116
together with their undivided interests in the common elements of 117
the property, are offered for sale pursuant to a common 118
promotional plan. 119

(M) "Condominium instruments" means the declaration and 120
accompanying drawings and plans, the bylaws of the unit owners 121
association, the condominium development disclosure statement 122
described in section 5311.26 of the Revised Code, any contracts 123
pertaining to the management of the condominium property, and any 124
other documents, contracts, or instruments establishing ownership 125
of or exerting control over a condominium property or unit. 126

(N) "Condominium ownership interest" means a fee simple 127
estate or a ninety-nine-year leasehold estate, renewable forever, 128
in a unit, together with an appurtenant undivided interest in the 129
common elements. 130

(O) "Condominium property" means all real and personal 131
property submitted to the provisions of this chapter, including 132
land, the buildings, improvements, and structures on that land, 133
the land under a water slip, the buildings, improvements, and 134
structures that form or that are utilized in connection with that 135
water slip, and all easements, rights, and appurtenances belonging 136
to the land or to the land under a water slip. 137

(P) "Conversion condominium development" means a condominium 138
development that was operated as a rental property and occupied by 139

tenants immediately prior to the submission of the property to the 140
provisions of this chapter. 141

(Q) "Convertible unit" means a unit that may be converted 142
into one or more units and common elements, including limited 143
common elements. 144

(R) "Declaration" means the instrument by which property is 145
submitted to the provisions of this chapter. "Declaration" 146
includes all amendments to that declaration. 147

(S) "Developer" means any person who directly or indirectly 148
sells or offers for sale condominium ownership interests in a 149
condominium development. "Developer" includes the declarant of a 150
condominium development and any successor to that declarant who 151
stands in the same relation to the condominium development as the 152
declarant. 153

(T) "Exclusive use area" means common elements that the 154
declaration reserves for delegation by the board of directors to 155
the use of a certain unit or units, to the exclusion of other 156
units. 157

(U) "Expandable condominium property" means a condominium 158
property in which the original declaration reserves the right to 159
add additional property. 160

(V) "Leasehold condominium development" means a condominium 161
development in which each unit owner owns a ninety-nine-year 162
leasehold estate, renewable forever, in the owner's unit, in the 163
land upon which that unit is situated, or in both, together with 164
an undivided leasehold interest in the common elements, with all 165
leasehold interests due to expire at the same time. 166

(W) "Limited common elements" means the common elements that 167
the declaration designates as being reserved for use by a certain 168
unit or units, to the exclusion of the other units. 169

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

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

(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 201
the mooring of watercraft. 202

(3) A commercial unit in which the property is designated for 203
separate ownership or occupancy solely for commercial purposes, 204
industrial purposes, or other nonresidential or nonwater slip use. 205

(CC) "Unit owner" means a person who owns a condominium 206
ownership interest in a unit. 207

(DD) "Unit owners association" means the condominium 208
association or other organization that administers the condominium 209
property and that consists of all the owners of units in a 210
condominium property. 211

(EE) "Watercraft" has the same meaning as in division (A) of 212
section 1547.01 of the Revised Code. 213

(FF) "Water slip" means a channel of water between piers or 214
wharves. 215

(GG) "Manager" or "managing agent" means a person that is 216
responsible, alone or in concert with others, for the management 217
of a condominium property. 218

Sec. 5311.08. (A)(1) Every condominium property shall be 219
administered by a unit owners association. All power and authority 220
of the unit owners association shall be exercised by a board of 221
directors, which the unit owners shall elect from among the unit 222
owners or the spouses of unit owners. If a unit owner is not an 223
individual, that unit owner may nominate for the board of 224
directors any principal, member of a limited liability company, 225
partner, director, officer, or employee of that unit owner. 226

(2) The board of directors shall elect a president, 227
secretary, treasurer, and other officers that the board may 228
desire. 229

(3) Unless otherwise provided in the declaration or the 230

bylaws, all meetings of the unit owners association are open to 231
the unit owners, and those present in person or by proxy when 232
action is taken during a meeting of the unit owners association 233
constitute a sufficient quorum. 234

(4)(a) All meetings of the board of directors shall be open 235
to all unit owners. A portion of each board meeting shall be 236
allocated for comments by unit owners. A unit owner may send an 237
agent or a representative, as authorized by a notarized statement 238
of the unit owner, to attend a board meeting in the unit owner's 239
place. 240

(b) At least five days prior to a meeting of the board of 241
directors, the board shall post a notice of the meeting in the 242
common areas of the condominium property and on the web site 243
maintained by the association or managing agent, if the 244
association or managing agent has a web site. The board also shall 245
send notice to a unit owner who has requested to be included in a 246
mailing list, by electronic mail to the unit owner's electronic 247
mail address or by traditional mail to the unit owner's home 248
mailing address, as requested by the unit owner. The board shall 249
make all public materials provided to board members for the 250
meeting available to unit owners upon request. 251

(c) A meeting of the board of directors may be held by any 252
method of communication, including electronic or telephonic 253
communication provided that each member of the board, and each 254
unit owner that participates, can hear, participate, and respond 255
to every other member of the board or unit owner. 256

~~(b) In lieu of conducting a meeting, the~~ (d) The board of 257
~~directors may take action with the unanimous written consent of~~ 258
~~the members of the board. Those written consents shall be filed~~ 259
~~with the minutes of the meetings of the board shall vote on the~~ 260
record. 261

(B) The unit owners association shall be governed by bylaws.	262
No modification of or amendment to the bylaws is valid unless it	263
is set forth in an amendment to the declaration, and the amendment	264
to the declaration is filed for record. Unless otherwise provided	265
by the declaration, the bylaws shall provide for the following:	266
(1)(a) The election of the board of directors of the unit	267
owners association;	268
(b) The number of persons constituting the board;	269
(c) The terms of the directors, with not less than one-fifth	270
to expire annually;	271
(d) The powers and duties of the board;	272
(e) The compensation of the directors;	273
(f) The method of removal of directors from office;	274
(g) The election of officers of the board;	275
(h) Whether or not the services of a manager or managing	276
agent may be engaged.	277
(2) The time and place for holding meetings; the manner of	278
and authority for calling, giving notice of, and conducting	279
meetings; and the requirement, in terms of undivided interests in	280
the common elements, of a quorum for meetings of the unit owners	281
association;	282
(3) By whom and the procedure by which maintenance, repair,	283
and replacement of the common elements may be authorized;	284
(4) The common expenses for which assessments may be made and	285
the manner of collecting from the unit owners their respective	286
shares of the common expenses;	287
(5) The method of distributing the common profits;	288
(6) By whom and the procedure by which administrative rules	289
governing the operation and use of the condominium property or any	290

portion of the property may be adopted and amended. These rules 291
may govern any aspect of the condominium property that is not 292
required to be governed by bylaws and may include standards 293
governing the type and nature of information and documents that 294
are subject to examination and copying by unit owners pursuant to 295
section 5311.091 of the Revised Code, including the times and 296
location at which items may be examined or copied and any required 297
fee for copying the information or documents. 298

(C)(1) The unit owners association shall be established not 299
later than the date that the deed or other evidence of ownership 300
is filed for record following the first sale of a condominium 301
ownership interest in a condominium development. Membership in the 302
unit owners association shall be limited to unit owners, and all 303
unit owners shall be members. Until the unit owners association is 304
established, the developer shall act in all instances in which 305
action of the unit owners association or its officers is 306
authorized or required by law or the declaration. 307

(2)(a) Not later than sixty days after the developer has sold 308
and conveyed condominium ownership interests appertaining to 309
twenty-five per cent of the undivided interests in the common 310
elements in a condominium development, the unit owners association 311
shall meet, and the unit owners other than the developer shall 312
elect not less than one-third of the members of the board of 313
directors. 314

(b) When computing undivided interests in expandable 315
condominium properties for purposes of divisions (C) and (D) of 316
this section, the undivided interests in common elements shall be 317
computed by comparing the number of units sold and conveyed to the 318
maximum number of units that may be created, as stated in the 319
declaration pursuant to division (C)(8) of section 5311.05 of the 320
Revised Code. 321

(D)(1) Except as provided in division (C) of this section, 322

the declaration or bylaws of a condominium development may 323
authorize the developer or persons the developer designates to 324
appoint and remove members of the board of directors of the unit 325
owners association and to exercise the powers and responsibilities 326
otherwise assigned by law, the declaration, or the bylaws to the 327
unit owners association or to the board of directors. The 328
authorization for developer control may extend from the date the 329
unit owners association is established until sixty days after the 330
sale and conveyance to purchasers in good faith for value of 331
condominium ownership interests to which seventy-five per cent of 332
the undivided interests in the common elements appertain, except 333
that in no case may the authorization extend for more than five 334
years after the unit owners association is established if the 335
declaration includes expandable condominium property or more than 336
three years after the unit owners association is established if 337
the declaration does not include expandable condominium property. 338

(2) If there is a unit owner other than the developer, the 339
declaration of a condominium development shall not be amended to 340
increase the scope or the period of the developer's control. 341

(3) Within sixty days after the expiration of the period 342
during which the developer has control pursuant to division (D)(1) 343
of this section, the unit owners association shall meet and elect 344
all members of the board of directors of the association. The 345
persons elected shall take office at the end of the meeting during 346
which they are elected and shall, as soon as reasonably possible, 347
appoint officers. 348

(E) The board of directors, or the developer while in control 349
of the association, may take any measures necessary to incorporate 350
the unit owners association as a not-for-profit corporation. 351

(F) If the services of a manager or managing agent are 352
engaged, the manager or managing agent shall comply with section 353
5311.15 of the Revised Code. 354

Sec. 5311.081. (A) Unless otherwise provided in the 355
declaration or bylaws, the unit owners association, through the 356
board of directors, shall do both of the following: 357

(1) Adopt and amend budgets for revenues, expenditures, and 358
reserves in an amount adequate to repair and replace major capital 359
items in the normal course of operations without the necessity of 360
special assessments, provided that the amount set aside annually 361
for reserves shall not be less than ten per cent of the budget for 362
that year unless the reserve requirement is waived annually by the 363
unit owners exercising not less than a majority of the voting 364
power of the unit owners association; 365

(2) Collect assessments for common expenses from unit owners. 366

(B) Unless otherwise provided in the declaration, the unit 367
owners association, through the board of directors, may exercise 368
all powers of the association, including the power to do the 369
following: 370

(1) ~~Hire~~ Subject to section 5311.15 of the Revised Code, hire 371
and fire managing agents, attorneys, accountants, and other 372
independent contractors and employees that the board determines 373
are necessary or desirable in the management of the condominium 374
property and the association; 375

(2) Commence, defend, intervene in, settle, or compromise any 376
civil, criminal, or administrative action or proceeding that is in 377
the name of, or threatened against, the unit owners association, 378
the board of directors, or the condominium property, or that 379
involves two or more unit owners and relates to matters affecting 380
the condominium property; 381

(3) Enter into contracts and incur liabilities relating to 382
the operation of the condominium property; 383

(4) Regulate the use, maintenance, repair, replacement, 384

modification, and appearance of the condominium property;	385
(5) Adopt rules that regulate the use or occupancy of units,	386
the maintenance, repair, replacement, modification, and appearance	387
of units, common elements, and limited common elements when the	388
actions regulated by those rules affect common elements or other	389
units;	390
(6) Cause additional improvements to be made as part of the	391
common elements;	392
(7) Purchase, encumber, and convey units, and, subject to any	393
restrictions in the declaration or bylaws and with the approvals	394
required by division (H)(2) or (3) of section 5311.04 of the	395
Revised Code, acquire an interest in other real property and	396
encumber or convey that interest. All expenses incurred in	397
connection with the acquisition, encumbrance, use, and operation	398
of that interest are common expenses.	399
(8) Acquire, encumber, and convey or otherwise transfer	400
personal property;	401
(9) Hold in the name of the unit owners association the real	402
property and personal property acquired pursuant to divisions	403
(B)(7) and (8) of this section;	404
(10) Grant easements, leases, licenses, and concessions	405
through or over the common elements;	406
(11) Impose and collect fees or other charges for the use,	407
rental, or operation of the common elements or for services	408
provided to unit owners;	409
(12) Impose interest and late charges for the late payment of	410
assessments; impose returned check charges; and, pursuant to	411
division (C) of this section, impose reasonable enforcement	412
assessments for violations of the declaration, the bylaws, and the	413
rules of the unit owners association, and reasonable charges for	414

damage to the common elements or other property;	415
(13) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;	416 417 418
(14) Subject to applicable laws, adopt and amend rules that regulate the termination of utility or other service to a commercial unit if the unit owner is delinquent in the payment of an assessment that pays, in whole or in part, the cost of that service;	419 420 421 422 423
(15) Impose reasonable charges for preparing, recording, or copying amendments to the declaration, resale certificates, or statements of unpaid assessments;	424 425 426
(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;	427 428 429 430
(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;	431 432 433 434
(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;	435 436 437
(19) Purchase insurance and fidelity bonds the directors consider appropriate or necessary;	438 439
(20) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;	440 441
(21) Exercise powers that are:	442
(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	443 444

(b) Necessary to incorporate the unit owners association as a not-for-profit corporation; 445
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(c) Permitted to be exercised in this state by a not-for-profit corporation; 447
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(d) Necessary and proper for the government and operation of the unit owners association. 449
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(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: 451
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(a) A description of the property damage or violation; 455

(b) The amount of the proposed charge or assessment; 456

(c) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment; 457
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459

(d) A statement setting forth the procedures to request a hearing pursuant to division (C)(2) of this section; 460
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(e) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment. 462
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(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. 464
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(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. 471
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(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.

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

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

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

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

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

(1) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code to carry out sections 5311.082

and 5311.083 of the Revised Code governing the registration of 505
unit owners associations; 506

(2) Prescribe the form and content of all applications to be 507
used for registration and renewal of registration pursuant to 508
section 5311.083 of the Revised Code; 509

(3) Review applications for registration and issue 510
registration certificates to unit owners associations that meet 511
the requirements for registration pursuant to section 5311.083 of 512
the Revised Code; 513

(4) Collect all fees related to the registration and renewal 514
of registration certificates for unit owners associations; 515

(5) Maintain a written record of each unit owners association 516
registered with the division, which shall include such 517
documentation as required by the division. The record shall be 518
available for inspection by the public through the web site and 519
copies shall be made available pursuant to division (B) of section 520
149.43 of the Revised Code. 521

(6) Hire all division personnel necessary to implement 522
sections 5311.082 and 5311.083 of the Revised Code. 523

Sec. 5311.083. (A)(1) The board of directors of a unit owners 524
association shall apply to the division of real estate and 525
professional licensing in the department of commerce to register 526
the association on forms prescribed by the division. With the 527
application, the applicant shall submit any information required 528
by the division and a registration fee as specified in rules 529
adopted by the Ohio condominium dispute resolution commission 530
pursuant to division (A)(2) of section 5311.31 of the Revised 531
Code. In no event shall the registration fee exceed three dollars 532
for each unit. 533

(2) The director of commerce, by rule adopted in accordance 534

with Chapter 119. of the Revised Code, may reduce the amount of 535
the registration fee required by this section in any year if the 536
director determines that the total amount of funds the fee is 537
generating at the amount specified in the rules adopted by the 538
commission exceeds the amount of funds the division and the 539
commission need to carry out their powers and duties under this 540
chapter. If the director so reduces the amount of the registration 541
fee, the director shall reduce it for all owners or other persons 542
required to pay the fee under division (A)(1) of this section. If 543
the director has reduced the fee under division (A)(2) of this 544
section, the director may later raise it up to the amounts 545
permitted under division (A)(1) of this section if, in any year, 546
the director determines that the total amount of funds the fee is 547
generating at the reduced amount is insufficient for the division 548
and the commission to carry out their powers and duties under this 549
chapter. 550

(B) Upon receipt of the completed application form, 551
documentation, and registration fee, the division shall issue a 552
certificate of registration to the unit owners association. The 553
board of directors of the unit owners association shall display 554
the certificate in a conspicuous place on the premises of the 555
condominium property for which the registration was obtained. If 556
no appropriate place for displaying the certificate exists on the 557
premises, the board of directors shall keep the certificate of 558
registration on file and available for public inspection at the 559
board's office or at the office of the unit association's managing 560
agent. 561

(C)(1) Except as otherwise provided in this division, each 562
registration issued pursuant to this section shall expire annually 563
on the thirty-first day of August and may be renewed. The renewal 564
fee shall be the same as the initial registration fee prescribed 565
under division (A) of this section. 566

(2) The board of directors of a unit owners association that 567
fails to timely file its renewal with the division also shall be 568
required to pay a late penalty fee in an amount equal to fifty per 569
cent of the renewal fee prescribed under division (C)(1) of this 570
section. 571

(D) All registration and renewal fees collected pursuant to 572
this section shall be paid into the state treasury to the credit 573
of the division to be used by the division to carry out its powers 574
and duties under this chapter and by the commission. 575

Sec. 5311.09. (A)(1) The unit owners association shall keep 576
all of the following: 577

(a) Correct and complete books and records of account that 578
specify the receipts and expenditures relating to the common 579
elements and other common receipts and expenses; 580

(b) Records showing the allocation, distribution, and 581
collection of the common profits, losses, and expenses among and 582
from the unit owners; 583

(c) Minutes of the meetings of the association and the board 584
of directors; 585

(d) Records of the names and addresses of the unit owners and 586
their respective undivided interests in the common elements; 587

(e) Records showing the names and addresses of the members of 588
the board of directors and association officers; 589

(f) Records of all actions taken without a meeting of the 590
board of directors; 591

(g) The original or restated documents described in division 592
(B)(1)(b) of this section; 593

(h) All financial statements and tax returns, which shall be 594
kept for a minimum of three years; 595

(i) All current contracts into which the condominium development has entered; 596
597

(j) Records of approvals or denials for requests for design or architectural approval from the board of directors or the unit owners association; 598
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(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. 601
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(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: 604
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(a) The home address, home and business mailing addresses, and the home and business telephone numbers of the unit owner and all occupants of the unit; 608
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(b) The name, business address, and business telephone number of any person who manages the owner's unit as an agent of that owner and, if that person is required to be licensed under section 4735.02 of the Revised Code, a copy of that person's license as a real estate broker or salesperson. 611
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(3) Within thirty days after a change in any information that division (A)(2) of this section requires, a unit owner shall notify the association, through the board of directors, in writing of the change. When the board of directors requests, a unit owner shall verify or update the information. 616
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(B)(1) When elected members of a board of directors of a unit owners association take control of the association, the declarant or developer shall deliver to the board correct and complete copies of all of the following: 621
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(a) The books, records, and minutes referred to in division 625

(A) of this section; 626

(b) The declaration, the bylaws, the drawings prepared 627
pursuant to section 5311.07 of the Revised Code, as recorded, and 628
any articles of incorporation of the unit owners association, as 629
recorded; 630

(c) Except in the case of a conversion condominium, 631
documents, information, and sources of information concerning the 632
location of underground utility lines, and plans and 633
specifications that are not proprietary or copyrighted, of the 634
buildings, other improvements, and structures of the condominium 635
property that are reasonably available to the developer, but only 636
in connection with condominium developments declared on or after 637
~~the effective date of this amendment~~ July 20, 2004, and 638
condominium developments that are declared prior to that date but 639
originally built or constructed on or after that date. 640

(2) The board of directors may commence a civil action on 641
behalf of the unit owners association in the court of common pleas 642
of the county in which the condominium property is located to 643
obtain injunctive relief or recover damages for harm resulting 644
from the declarant's or developer's failure to comply with 645
division (B)(1) of this section. 646

Sec. 5311.091. (A)(1) Except as otherwise prohibited by this 647
section, any member of a unit owners association or any manager or 648
managing agent of the condominium property may examine and copy 649
the ~~books, records, and minutes~~ information described in division 650
(A) of section 5311.09 of the Revised Code pursuant to reasonable 651
standards set forth in the declaration, bylaws, or rules the board 652
promulgates, which may include, ~~but are not limited to, standards~~ 653
~~governing the type of documents that are subject to examination~~ 654
~~and copying~~, the times and locations at which those documents may 655
be examined or copied, and the specification of a reasonable fee 656

for copying the documents or the supervision of examination. A 657
member of the unit owners association, manager, or managing agent 658
desiring to examine or copy the information shall submit a notice 659
five days in advance of the date of examination. 660

(2) Unless otherwise provided in the declaration or bylaws 661
pursuant to division (B)(6) of section 5311.08 of the Revised 662
Code, the board of directors may establish a policy requiring a 663
unit owner, manager, or managing agent that requests records in 664
accordance with division (A)(1) of this section to pay a 665
reasonable charge for copies of the records or supervision for 666
examination of the records. 667

(B) The unit owners association is not required to permit the 668
examination and copying of any of the following from books, 669
records, and minutes: 670

(1) Information that pertains to condominium property-related 671
personnel matters; 672

(2) Communications with legal counsel or attorney work 673
product pertaining to pending litigation or other condominium 674
property-related matters; 675

(3) Information that pertains to contracts or transactions 676
currently under negotiation, or information that is contained in a 677
contract or other agreement containing confidentiality 678
requirements and that is subject to those requirements; 679

(4) Information that relates to the enforcement of the 680
declaration, bylaws, or rules of the unit owners association 681
against unit owners; 682

(5) Information the disclosure of which is prohibited by 683
state or federal law. 684

Sec. 5311.15. (A) No manager or managing agent of a 685
condominium development containing more than ten units shall 686

manage or be hired by a unit owners association pursuant to 687
sections 5311.08 and 5311.081 of the Revised Code unless the 688
manager or managing agent holds an active real estate broker's 689
license or real estate salesperson's license issued under Chapter 690
4735. of the Revised Code. 691

(B) A real estate salesperson may not perform the duties of a 692
manager or managing agent pursuant to division (A) of this section 693
unless the salesperson is affiliated with a broker who has 694
executed a management agreement with the unit owner's association. 695

Sec. 5311.22. (A) Unless otherwise provided in the 696
declaration or bylaws, each unit owner may exercise that 697
percentage of the total voting power of all unit owners on any 698
question for which the vote of unit owners is permitted or 699
required that is equivalent to the undivided interest in the 700
common elements appurtenant to the owner's unit. 701

(B) Fiduciaries who are owners of record of a unit or units 702
may vote their respective interests as unit owners. Unless 703
otherwise provided in the declaration or bylaws, if two or more 704
persons, whether fiduciaries, tenants in common, or otherwise, own 705
undivided interests in a unit, each person may exercise the 706
proportion of the voting power of all of the owners of the unit 707
that is equivalent to the person's proportionate undivided 708
interest in the unit. 709

(C) A fiduciary for a unit owner or of the estate of a unit 710
owner may vote as though the fiduciary were the unit owner when 711
the fiduciary has furnished to the unit owners association proof, 712
satisfactory to it, of the fiduciary's appointment and 713
qualification as an executor under the last will of a deceased 714
unit owner, an administrator of the estate of a deceased unit 715
owner, a guardian, committee, or conservator of the estate of a 716

minor or incompetent who is a unit owner, a trustee in bankruptcy 717
of a unit owner, a statutory or judicial receiver or liquidator of 718
the estate or affairs of a unit owner, or an assignee for the 719
benefit of creditors of a unit owner. 720

(D) When any fiduciary or representative of a unit owner who 721
is not described in division (C) of this section has furnished the 722
unit owners association with satisfactory proof of authority, that 723
person may vote as though a unit owner. 724

(E) Unless otherwise provided in the declaration or bylaws, 725
votes allocated to a unit may be cast by a directed or undirected 726
proxy executed by a unit owner, provided that a person shall not 727
cast votes representing more than fifteen per cent of the votes in 728
the unit owners association pursuant to undirected proxies. 729

Sec. 5311.28. (A) There is hereby created the Ohio 730
condominium dispute resolution commission, consisting of the 731
following seven members, who shall be appointed by the governor, 732
with the advice and consent of the senate: 733

(1) Two members shall be unit owners and members of a unit 734
owners association, but not members of a unit owners association 735
board of directors. One of these members shall be from a small 736
association and one shall be from a large association. 737

(2) Two members shall be members of a unit association board 738
of directors. One of these members shall be from a small 739
association and one shall be from a large association. 740

(3) One member shall be a certified public accountant. 741

(4) One member shall be a real estate attorney. 742

(5) One member shall represent the public and be a 743
noncondominium property homeowner. 744

(B)(1) Within a reasonable time, the governor shall make 745
initial appointments to the commission. The initial members of the 746

commission shall serve staggered terms ending on the thirtieth day 747
of June one, two, three, four, or five years after appointment, as 748
determined by the governor. Thereafter, terms of office shall be 749
for five years, commencing on the first day of July and ending on 750
the thirtieth day of June. Each member shall hold office from the 751
date of appointment until the end of the term for which appointed. 752
No more than four members shall be members of any one political 753
party. No member of the Ohio condominium dispute resolution 754
commission shall serve concurrently as a member of the Ohio real 755
estate commission or the Ohio real estate appraiser board. Each 756
member, before entering upon the duties of office, shall subscribe 757
to and file with the secretary of state the constitutional oath of 758
office. The governor may remove any member for misconduct, neglect 759
of duty, incapacity, or malfeasance in accordance with section 760
3.04 of the Revised Code. All vacancies that occur shall be filled 761
in the manner prescribed for the regular appointments to the Ohio 762
condominium dispute resolution commission. Any member appointed to 763
fill a vacancy occurring prior to the expiration of the term for 764
which the member's predecessor was appointed shall hold office for 765
the remainder of such term. Any member shall continue in office 766
subsequent to the expiration date of the member's term until the 767
member's successor takes office, or until a period of sixty days 768
has elapsed, whichever occurs first. No member shall hold office 769
for more than two consecutive full terms. 770

(2) Annually, upon the qualification of the member appointed 771
in such year, the Ohio condominium dispute resolution commission 772
shall organize by selecting from its members a chairperson and 773
vice-chairperson and shall do all things necessary and proper to 774
carry out and enforce this chapter. 775

The Ohio condominium dispute resolution commission may do all 776
of the following: 777

(a) Administer oaths; 778

<u>(b) Issue subpoenas;</u>	779
<u>(c) Summon witnesses;</u>	780
<u>(d) Compel the production of books, papers, records, and other forms of evidence;</u>	781 782
<u>(e) Fix the time and place for hearing any matter related to compliance with sections 5311.08, 5311.081, 5311.083, 5311.09, and 5311.091 of the Revised Code.</u>	783 784 785
<u>(3) The Ohio condominium dispute resolution commission shall meet at least once each calendar quarter to conduct the business of the commission.</u>	786 787 788
<u>(4) A majority of the members of the commission shall constitute a quorum.</u>	789 790
<u>(5) Members of the Ohio condominium dispute resolution commission shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their duties.</u>	791 792 793 794
<u>(C) The division of real estate and professional licensing in the department of commerce shall provide the Ohio condominium dispute resolution commission with meeting space, staff services, and other technical assistance required by the commission in carrying out its duties pursuant to sections 5311.29 to 5311.33 of the Revised Code.</u>	795 796 797 798 799 800
<u>(D) As used in this section:</u>	801
<u>(1) "Small association" means a condominium development with fifty units or less;</u>	802 803
<u>(2) "Large association" means a condominium development with more than fifty units.</u>	804 805
<u>Sec. 5311.29. The Ohio condominium dispute resolution commission or the superintendent of real estate and professional</u>	806 807

licensing may compel, by order or subpoena, the production of any 808
book, paper, or document in relation to any matter over which the 809
commission or superintendent has jurisdiction and which is the 810
subject of inquiry and investigation by the commission or 811
superintendent. The commission or the superintendent also may 812
compel, by order or subpoena, the attendance of witnesses to 813
testify in a hearing held pursuant to section 5311.32 of the 814
Revised Code. For those purposes, the commission or superintendent 815
shall have the same power as judges of courts of common pleas to 816
administer oaths, compel the attendance of witnesses, and compel 817
the production of any book, paper, or document. Service of the 818
subpoena may be made by sheriffs or constables, or by certified 819
mail, return receipt requested, and the subpoena shall be deemed 820
served on the date delivery is made or the date the person refused 821
to accept delivery. Witnesses shall receive, after their 822
appearance before the commission or superintendent, the fees and 823
mileage provided for under section 119.094 of the Revised Code. If 824
two or more witnesses travel together in the same vehicle, the 825
mileage fee shall be paid to only one of those witnesses, but the 826
witnesses may agree to divide the fee among themselves in any 827
manner. 828

In addition to the powers granted to the commission and 829
superintendent under this section, in case any person fails to 830
file any statement or report, obey any subpoena, give testimony, 831
answer questions, or produce any books, records, or papers as 832
required by the commission or superintendent under this chapter, 833
the court of common pleas of any county in the state, upon 834
application made to it by the commission or superintendent setting 835
forth such failure, may make an order awarding process of subpoena 836
or subpoena duces tecum for the person to appear and testify 837
before the commission or superintendent, and may order any person 838
to give testimony and answer questions, and to produce books, 839
records, or papers, as required by the commission or 840

superintendent. Upon the filing of such order in the office of the 841
clerk of the court of common pleas, the clerk, under the seal of 842
the court, shall issue process of subpoena for the person to 843
appear before the commission or superintendent at a time and place 844
named in the subpoena, and each day thereafter until the 845
examination of such person is completed. The subpoena may contain 846
a direction that the witness bring with the witness to the 847
examination any books, records, or papers mentioned in the 848
subpoena. The clerk shall also issue, under the seal of the court, 849
such other orders, in reference to the examination, appearance, 850
and production of books, records, or papers, as the court directs. 851
If any person so summoned by subpoena fails to obey the subpoena, 852
to give testimony, to answer questions as required, or to obey an 853
order of the court, the court, on motion supported by proof, may 854
order an attachment for contempt to be issued against the person 855
charged with disobedience of any order or injunction issued by the 856
court under this chapter. If the person is brought before the 857
court by virtue of the attachment, and if upon a hearing the 858
disobedience appears, the court may order the offender to be 859
committed and kept in close custody. 860

Sec. 5311.30. (A) The Ohio condominium dispute resolution 861
commission is a part of the department of commerce for 862
administrative purposes. The director of commerce is ex officio 863
the executive officer of the commission, or the director may 864
appoint the superintendent of real estate and professional 865
licensing to act as executive officer of the commission. 866

(B) The commission or the superintendent, except as otherwise 867
provided, shall do all of the following: 868

(1) Hear and investigate all of the following: 869

(a) General complaints and disputes between a unit owner and 870
a unit owners association or board of directors; 871

(b) Requests by a majority of unit owners in a unit owners association or upon a motion of the board of directors of a unit owners association to audit the elections of the unit owners association; 872
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(c) Disputes over access to records of a unit owners association or board of directors. 876
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(2) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the commission or superintendent are appropriate. The investigators or auditors have the right to review and audit the records described in division (A)(1) of section 5311.09 of the Revised Code during normal business hours. 878
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(C) The commission or superintendent may, in connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 5311.29 of the Revised Code. 885
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(D) All information that is obtained by the commission, superintendent, investigators, and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B) of this section and all reports, documents, and other work products that arise from that information and that are prepared by the commission, investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent or commission, the investigators and auditors, and other personnel of the department. 889
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Sec. 5311.31. The Ohio condominium dispute resolution commission shall perform all of the following duties: 899
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(A) Adopt, amend, and rescind such rules in accordance with 901

Chapter 119. of the Revised Code as are necessary in carrying out 902
sections 5311.29 to 5311.33 of the Revised Code, including rules 903
relative to the following: 904

(1) Transacting the commission's business and managing its 905
affairs; 906

(2) Establishing registration and renewal fees pursuant to 907
section 5311.083 of the Revised Code; 908

(3) Establishing procedures for receiving, reviewing, and 909
responding to complaints filed pursuant to section 5311.32 of the 910
Revised Code; 911

(4) Conducting investigations in response to complaints filed 912
pursuant to division (A) of section 5311.32 of the Revised Code; 913

(5) Auditing elections pursuant to division (B) of section 914
5311.30 of the Revised Code or as part of an investigation in 915
response to complaints filed pursuant to division (A) of section 916
5311.32 of the Revised Code; 917

(6) Conducting audits pursuant to division (B) of section 918
5311.30 of the Revised Code; 919

(7) Resolving complaints by using informal techniques of 920
mediation, conciliation, and persuasion, including requiring the 921
parties involved in a complaint to be given prompt notice of any 922
offers to resolve disputes and responses thereto; 923

(8) Advising all parties making a complaint, or who are the 924
subject of a complaint, of any recommendations or findings of fact 925
made by the commission with respect to the complaint; 926

(9) Requesting the party who has filed a complaint or is the 927
subject of a complaint, and is affected by recommendations of the 928
commission made with respect to the complaint, to notify the 929
commission within a time specified by the commission of any action 930
the party has taken in response to the commission's 931

<u>recommendations;</u>	932
<u>(10) Conducting nonpublic hearings and maintaining commission</u>	933
<u>proceedings and records as confidential, notwithstanding sections</u>	934
<u>121.22 and 149.43 of the Revised Code when the commission</u>	935
<u>determines that the nature of the complaints merits that action;</u>	936
<u>(11) Determining the method to be used in serving notices as</u>	937
<u>required by section 5311.32 of the Revised Code.</u>	938
<u>(B) Publicize information concerning the existence and duties</u>	939
<u>of the commission and the procedure for filing complaints pursuant</u>	940
<u>to section 5311.32 of the Revised Code;</u>	941
<u>(C) Conduct hearings on complaints pursuant to section</u>	942
<u>5311.32 of the Revised Code;</u>	943
<u>(D) Submit at least annually by the thirty-first day of March</u>	944
<u>a report on the commission's activities of the immediately</u>	945
<u>preceding calendar year to the governor and the majority and</u>	946
<u>minority leaders of the senate and house of representatives. The</u>	947
<u>report shall indicate the total number of complaints received,</u>	948
<u>initiated, and investigated under sections 5311.32 and 5311.33 of</u>	949
<u>the Revised Code; the total number of complaints for which</u>	950
<u>hearings were held; and the total number of referrals made to</u>	951
<u>prosecuting attorneys pursuant to section 5311.33 of the Revised</u>	952
<u>Code.</u>	953
<u>(E) Review, at least once each year, all actions taken by the</u>	954
<u>prosecuting attorneys in response to referrals made to them by the</u>	955
<u>commission or the superintendent of real estate and professional</u>	956
<u>licensing. The commission shall include in the report required in</u>	957
<u>division (D) of this section information regarding the nature of</u>	958
<u>the inappropriate conduct alleged in each referral and the status</u>	959
<u>or disposition made of each referral occurring during the</u>	960
<u>preceding two years.</u>	961
<u>(F) Perform all functions as are necessary in administering</u>	962

and enforcing sections 5311.29 to 5311.33 of the Revised Code. 963

Sec. 5311.32. (A) Any person may file a complaint regarding 964
the activity, practice, policy, or procedure of, or regarding an 965
alleged violation of section 5311.08, 5311.081, 5311.09, or 966
5311.091 of the Revised Code by, any board of directors of a unit 967
owners association registered pursuant to section 5311.083 of the 968
Revised Code that adversely affects or may adversely affect the 969
interest of a unit owner. All complaints shall be in writing and 970
submitted to the division of real estate and professional 971
licensing in the department of commerce on forms provided by the 972
division. 973

(B) With respect to complaints filed pursuant to division (A) 974
of this section, the division shall do all of the following: 975

(1) Acknowledge receipt of the complaint by sending written 976
notice to the person who filed the complaint not more than twenty 977
days after receipt of the complaint; 978

(2) Send written notice of the complaint within seven days 979
after receipt of the complaint to the entity that is the subject 980
of the complaint; 981

(3) Before taking further action, allow the entity that is 982
the subject of a complaint thirty days after the date the division 983
sends notice of the complaint to respond to the division with 984
respect to the complaint. 985

(C) The Ohio condominium dispute resolution commission shall 986
hear each complaint filed pursuant to division (A) of this section 987
within one hundred eighty days after its filing, unless it has 988
been resolved by the parties to the complaint. 989

Sec. 5311.33. (A) The superintendent of real estate and 990
professional licensing or the Ohio condominium dispute resolution 991
commission, on the superintendent's or the commission's own motion 992

or as a result of a complaint received pursuant to section 5311.32 993
of the Revised Code and with good cause shown, shall investigate 994
or cause to be investigated alleged violations of sections 995
5311.08, 5311.081, 5311.09, and 5311.091 of the Revised Code. If 996
the commission or the superintendent of real estate and 997
professional licensing believes that a violation has occurred, the 998
commission or superintendent shall do all of the following: 999

(1) Request the prosecuting attorney of the county in which 1000
the alleged violation occurred to initiate such proceedings as are 1001
appropriate; 1002

(2) In accordance with section 5311.30 of the Revised Code, 1003
audit the records of the condominium association named in the 1004
complaint to ensure compliance with this chapter. 1005

(B) The commission or superintendent, at any time, may 1006
dismiss a complaint if the commission or superintendent determines 1007
there is not good cause shown for the complaint. If the commission 1008
or superintendent dismisses a complaint, the commission or 1009
superintendent shall notify the person who filed the complaint 1010
within twenty days of reaching the commission's or 1011
superintendent's decision and identify the reason why the 1012
complaint was dismissed. 1013

(C) When necessary for the division of real estate and 1014
professional licensing in the department of commerce to perform 1015
the duties required by sections 5311.32 and 5311.33 of the Revised 1016
Code, the superintendent may issue subpoenas and compel the 1017
production of books, papers, records, and other forms of evidence. 1018

Sec. 5311.99. (A) Whoever violates section 5311.083 of the 1019
Revised Code is guilty of a misdemeanor of the third degree. 1020

(B) Whoever violates section 5311.08, 5311.09, or 5311.091 of 1021
the Revised Code is guilty of a misdemeanor of the first degree. 1022

(C) Whoever violates section 5311.081 of the Revised Code is 1023
guilty of a felony of the fifth degree, and, notwithstanding 1024
section 2929.18 of the Revised Code, the court may impose upon the 1025
offender an additional fine of not more than two thousand five 1026
hundred dollars. 1027

Section 2. That existing sections 5311.01, 5311.08, 5311.081, 1028
5211.09, 5311.091, and 5311.22 of the Revised Code are hereby 1029
repealed. 1030

Section 3. Sections 5311.082, 5311.083, and 5311.15 of the 1031
Revised Code, as enacted by this act, shall take effect one 1032
hundred twenty days after the effective date of this act. During 1033
that period, the Superintendent of Real Estate and Professional 1034
Licensing shall collect and process applications for unit owners 1035
association registration and shall issue certificates of 1036
registration. During that time, no association is required to have 1037
a certificate of registration. 1038