



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 371 of the 130th G.A.

**Date:** January 28, 2014

**Status:** As Introduced

**Sponsor:** Reps. Grossman and Perales

**Local Impact Statement Procedure Required:** No

**Contents:** Requires condominium unit owners associations to register with the Department of Commerce and makes other changes

### State Fiscal Highlights

- **Condominium unit owners association registration.** Preliminary research suggests that there may be between 1,500 and 2,000 associations statewide that would be required to register annually with the Division of Real Estate and Professional Licensing. The bill provides for a registration and renewal fee to cover the Division's responsibilities under the bill that may be adjusted to cover oversight costs, up to a maximum of \$3 per unit per year.
- **Ohio Condominium Dispute Resolution Commission.** The Commission created by the bill will incur staffing expenses and administrative costs for investigating and hearing cases dealing with condominium disputes. This includes potentially hiring two External Auditor 2 positions.
- **Potential additional license revenue.** The bill requires a manager or managing agent of a condominium development containing more than ten units to hold either a real estate broker's license, or under certain conditions, a real estate salesperson's license. As a result, the Division of Real Estate and Professional Licensing might collect some additional annual license revenue from these persons.
- **Division of Real Estate Operating Fund.** The revenue collected under the bill will be deposited into the Division of Real Estate Operating Fund (Fund 5490).

### Local Fiscal Highlights

- **New misdemeanor and felony violations.** The bill establishes new misdemeanor and felony penalties for violating various requirements under the bill. While this may lead to additional court caseloads, presumably many of these situations would be resolved at the Commission level before they are advanced to the courts.

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## Detailed Fiscal Analysis

### Overview

The bill establishes new procedural and recordkeeping requirements applicable to condominium unit owners associations. The bill also creates new oversight responsibilities for the Division of Real Estate and Professional Licensing within the Department of Commerce. Specifically, the bill requires condominium unit owners associations to register with the Division, and creates the Ohio Condominium Dispute Resolution Commission. Finally, the bill requires a manager or managing agent hired by certain unit owners associations to either (1) hold an active real estate broker's license, or (2) hold an active real estate salesperson's license and be affiliated with a broker who has executed a management agreement with the association. As a result of these additional responsibilities, the Division will incur new costs, mainly for personnel to staff the Ohio Condominium Dispute Resolution Commission. Much of the new expense incurred however, will be offset by an annual condominium association registration fee established by the bill, and to a lesser extent, the possibility of some additional real estate broker's or salesperson's license revenue that might be collected. Finally, since the bill creates new misdemeanor and felony violations, county courts of common pleas may see some additional caseloads related to alleged violations of the Ohio Condominium Law if these cases cannot be resolved at the Commission level.

### Condominium unit owners association registration

The bill requires that the Division of Real Estate and Professional Licensing establish and maintain a registry of the names of unit owners associations in the state. As a result, the Division may incur some expense for modifying the Division's current database system to satisfy requirements set out in the bill. Overall, based on preliminary estimates, the Division anticipates between 1,500 and 2,000 condominium owners associations might be required to register under the bill.

Along with the registration requirement, the bill provides for the Division to collect an annual condominium unit owners association registration fee. Under the bill, this fee may be no more than \$3 annually per unit within a condominium association, but may be reduced in any year if the fee is generating more revenue than the Division or Ohio Condominium Dispute Resolution Commission needs to carry out their responsibilities. If a board of directors fails to timely file its renewal, it is required to pay a late penalty fee in an amount equal to 50% of the renewal fee. As with various other types of license and registration revenue collected by the Division, the proceeds from the condominium unit owners association registration fees would be deposited into the Division of Real Estate Operating Fund (Fund 5490).

Based on information from the American Community Survey's public use micro data sample, as of 2012, there were an estimated 162,700 residential condominium units

in the state of Ohio. Thus, if the annual registration fee was set at the maximum of \$3 per condominium unit, the Division of Real Estate and Professional Licensing would potentially see maximum new registration revenue of up to \$486,000 (\$3 multiplied by ±162,000 condominium units) in the first year of collection. It is important to recall, however, that if the amount of registration fees collected in a year exceeds the cost of oversight under the bill, then the annual registration may be reduced to a level sufficient to cover the actual cost of operating the registration program and the Ohio Condominium Dispute Resolution Commission. Based on the anticipated registration workload, the Division expects to hire an Administrative Professional or Program Administrator to help assist with these duties. According to the December 29, 2013 update to the state's Pay Range Classification Booklet, starting pay for both positions begins at \$19.19 per hour, up to a maximum of \$23.76 per hour. Adding 30% for fringe costs, this would bring the total payroll costs to between approximately \$52,000 and \$64,000 annually.

### **Ohio Condominium Dispute Resolution Commission**

This bill creates the seven-member Ohio Condominium Dispute Resolution Commission. The members appointed to the Commission would not receive compensation, but may be reimbursed for their actual and necessary expenses incurred in the discharge of their duties. Under the bill, the Commission is to maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries related to condominium-related disputes. To carry out these responsibilities, the Division of Real Estate and Professional Licensing anticipates that it may have to hire one or two persons (External Auditor 2) to handle the caseload. According to the December 29, 2013 update to the state's Pay Range Classification Booklet, starting pay for an External Auditor 2 begins at \$21.77 per hour, up to a maximum of \$31.86 per hour. Adding 30% for fringe costs, this would bring the total payroll costs to between \$59,000 and \$86,000 annually per auditor hired.

The bill provides the Commission with the authority to compel the attendance of witnesses to testify at hearings where complaints are to be adjudicated. Witnesses would receive reimbursement for attending hearings and mileage as provided for adjudication hearings of these types under current law. If any person fails to comply with these requirements, the Commission may file with the relevant county court of common pleas compelling the person to appear and testify before the Commission. As a result, county prosecutors and courts could incur expenses for handling these situations, although they are likely to be rare. In any event, court costs, which are paid into the county treasury, could potentially offset any additional expense incurred.

In addition, the bill requires the Commission to submit, at least annually by the 31st day of March, a report on the Commission's activities of the immediately preceding calendar year to the Governor and the minority and majority leadership of the General Assembly. As a result, the Commission may incur some small administrative cost for preparing this report.

## **Licensing requirements for managers and managing agents**

Under the bill, a manager or managing agent of a condominium development containing more than ten units is required to hold a real estate broker's license or, under certain conditions, a real estate salesperson's license. If this leads to an increase in license applications and annual renewals, the fees would be deposited into Fund 5490.

## **New felony and misdemeanor violations**

The bill provides for a third degree misdemeanor penalty for situations where a board of directors of a unit owners association fails to register the association or renew the association's registration with the Division. In addition, every condominium property is required to be administered by a unit owners association with an elected board of directors. The unit owners association is required to keep correct and complete books and records of all receipts and expenditures, minutes of association and board of directors meetings, financial statements and tax returns, and other documents pertaining to the official business of the association and board of directors. Anyone in violation of these requirements is guilty of a misdemeanor of the first degree under the bill.

In addition to these misdemeanor penalties, the bill provides for a felony penalty in cases where a condominium unit owners association fails to comply with specified responsibilities. In addition to existing responsibilities under current law, the bill provides that, within 30 days after adopting a budget, the board of directors must provide all unit owners a summary of the budget. If any of these requirements are not followed, an association is subject to a fifth degree felony penalty. Beyond the cash fine that applies under this felony, the court can impose an additional fine of no more than \$2,500. Overall, it may be that the misdemeanors and felony under the bill lead to some additional court caseload, although many of these cases would probably be resolved at the Commission level before advancing to court.