



## Ohio Revised Code

### Section 5311.01 Condominium property definitions.

Effective: July 20, 2004

Legislation: House Bill 135 - 125th General Assembly

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As used in this chapter, except as otherwise provided:

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

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

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

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

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

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

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

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

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



- (a) The developer is a general partner, member, manager, officer, director, or employer of the person.
  - (b) The developer owns, controls, holds with power to vote, or holds proxies representing more than twenty per cent of the voting interest in the person, doing so either directly or indirectly, acting in concert with one or more other persons, or through one or more subsidiaries.
  - (c) The developer controls, in any manner, the election of a majority of the person's directors.
  - (d) The developer has contributed more than twenty per cent of the person's capital.
- (3) "Control" does not exist for purposes of division (C)(1) or (2) of this section if a person or developer holds any power described in either of those divisions solely as security for an obligation and that power is not exercised.
- (D) "Body of water" means a stream, lake, pond, marsh, river, or other body of natural or artificial surface water.
- (E) "Common assessments" means assessments that are charged proportionately against all units for common purposes.
- (F) "Common elements" means, unless otherwise provided in the declaration, the following parts of the condominium property:
- (1) The land described in the declaration;
  - (2) All other areas, facilities, places, and structures that are not part of a unit, including, but not limited to, the following:
    - (a) Foundations, columns, girders, beams, supports, supporting walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of buildings;



- (b) Basements, yards, gardens, parking areas, garages, and storage spaces;
  - (c) Premises for the lodging of janitors or persons in charge of the property;
  - (d) Installations of central services, including, but not limited to, power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;
  - (e) Elevators, tanks, pumps, motors, fans, compressors, ducts, and, in general, all apparatus and installations existing for common use;
  - (f) Community and commercial facilities that are not listed in division (F)(2)(a), (b), (c), (d), or (e) of this section but provided for in the declaration;
  - (g) All parts of the condominium property that are not listed in division (F)(2)(a), (b), (c), (d), (e), or (f) of this section that are necessary or convenient to its existence, maintenance, and safety, that are normally in common use, or that have been designated as common elements in the declaration or drawings.
- (G) "Common expenses" means expenses designated as common expenses in this chapter or in the declaration.
- (H) "Common losses" means the amount by which the common expenses during any period of time exceeds the common assessments and common profits during that period.
- (I) "Common profits" means the amount by which the total income received from any of the following exceeds expenses allocable to the particular income, rental, fee, or charge:
- (1) Assessments charged for special benefits to specific units;
  - (2) Rents received from the rental of equipment or space in common elements;
  - (3) Any other fee, charge, or income other than common assessments.



(J) "Common surplus" means the amount by which common assessments collected during any period exceed common expenses.

(K) "Condominium" means a form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to this chapter and under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.

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

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

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

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

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



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

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

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

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

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

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

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

(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 the mooring of watercraft.

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

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

(DD) "Unit owners association" means the organization that administers the condominium property and that consists of all the owners of units in a condominium property.

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

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