



Ohio Revised Code

Section 5311.05 Condominium declaration.

Effective: July 20, 2004

Legislation: House Bill 135 - 125th General Assembly

(A) A declaration submitting property to the provisions of this chapter shall be signed and acknowledged by the owner before a judge or clerk of a court of record, county auditor, county engineer, notary public, or mayor, who shall certify the acknowledgment and subscribe the certificate of acknowledgment.

(B) A declaration shall contain all of the following:

(1) A legal description of the land or, for a water slip condominium property, of the land and the land under the water area, submitted to the provisions of this chapter;

(2) The name of the condominium property, which shall include the word "condominium";

(3) The purpose of the condominium property, the units and recreational and commercial facilities situated in the condominium property, and any restrictions upon the use of the condominium property;

(4) A general description of buildings submitted to the provisions of this chapter, stating the principal construction materials and the number of stories, basements, and units. The declaration for a water slip property shall also contain a general description of each water slip and of the piers and wharves forming each water slip submitted to the provisions of this chapter;

(5) The unit designation of each unit submitted to the provisions of this chapter and a statement of its location, approximate area, the immediate common element or limited common element to which it has access, and any other information necessary for its proper identification;

(6) A description of the common elements and limited common elements submitted to the provisions of this chapter, the undivided interest in those elements appurtenant to each unit, the basis upon which those appurtenant undivided interests are allocated, and the procedures whereby



the undivided interests appertaining to each unit may be altered. The undivided interests, basis, and procedures shall be in accordance with sections 5311.031 to 5311.033 and 5311.04 of the Revised Code;

(7) A statement that each unit owner is a member of a unit owners association established for the administration of the condominium property;

(8) The name of a person to receive service of process for the unit owners association, together with the person's residence or place of business located in this state;

(9) A statement of any membership requirement if the unit owners association or any unit owners are required to be members of a not-for-profit organization that provides facilities or recreation, education, or social services to owners of property other than the condominium property;

(10) The method by which the declaration may be amended, which, except as provided in division (E) of this section, division (E) of section 5311.04, division (B) of section 5311.041, and sections 5311.031 to 5311.033 and 5311.051 of the Revised Code, requires the affirmative vote of unit owners exercising not less than seventy-five per cent of the voting power;

(11) Any further provisions deemed desirable.

(C) The declaration for an expandable condominium property shall contain all of the following in addition to the requirements of division (B) of this section:

(1) The explicit reservation of the declarant's option to expand the condominium property;

(2) A statement of any limitations on that option to expand, including a statement as to whether the consent of any unit owner is required, and how that consent is to be ascertained; or a statement that there are no limitations on the option to expand;

(3)(a) The time at which the option to expand the condominium development expires, which shall not exceed seven years from the date the declaration is filed for record;



- (b) A statement that the declarant may, during the six months prior to the time that the option expires, extend the option for an additional seven years with the consent of the holders of a majority of the voting power of the unit owners other than the declarant;
- (c) A statement of any circumstances that will terminate the option to expand prior to the time established pursuant to division (C)(3)(a) or (b) of this section.
- (4) A legal description of all additional property that, through exercise of the option, may be submitted to the provisions of this chapter and added to the condominium property;
- (5) A statement that specifies all of the following:
- (a) Whether the addition of all or a particular portion of the additional property is mandatory;
 - (b) If the addition of additional property is not mandatory, whether all or a particular portion of the additional property must be added if any other additional property is added;
 - (c) Whether or not there are any limitations on portions of additional property that may be added.
- (6) A statement of whether portions of the additional property may be added at different times and a statement that sets forth any limitations on the addition of additional property at different times, including the legal descriptions of the boundaries of portions that may be added and specifications on the order in which those portions may be added to the condominium property or a statement that there are no limitations on the addition of additional property;
- (7) A statement of any limitations on the location of any improvements that may be made on any portion of the additional property added to the condominium property, or a statement that there are no limitations of that kind;
- (8) A statement of the maximum number of units that may be created on the additional property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units that may be created on each portion added to the condominium



property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are not fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units per acre that may be created on any portion added to the condominium property.

(9) Except when the original condominium property contained no units restricted to residential use, a statement of the maximum percentage of the aggregate land area and the maximum percentage of aggregate floor area that may be devoted to units not restricted to residential use on any additional property added to the condominium property;

(10) A statement of the extent to which any structures erected on any portion of the additional property added to the condominium property will be compatible with structures on the submitted property in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that the structures need not be compatible in those respects;

(11) With respect to all improvements to any portion of additional property added to the condominium property, other than structures, a statement setting forth both of the following:

(a) A description of the improvements that must be made or a statement that no other improvements must be made;

(b) Any restrictions or limitations on the improvements that may be made or a statement that there are no restrictions or limitations on improvements.

(12) With respect to all units created on any portion of additional property added to the condominium property, a statement setting forth both of the following:

(a) Whether all units of that kind must be substantially identical to units on previously submitted property;

(b) Any limitations on the types of units that may be created on the additional property or a statement that there are no limitations of that kind.



(13) A description of any reserved right of the declarant to create limited common elements within any portion of the additional property added to the condominium property or to designate common elements within each portion. The description shall specify the types, sizes, and maximum number of limited common elements in each portion that may subsequently be assigned to units;

(14) Drawings and plans that the declarant considers appropriate in supplementing the requirements of division (C) of this section;

(15) A statement that a successor owner of the condominium property or of additional property added to the condominium property who is not an affiliate of the developer and who is a bona fide purchaser of the property for value, or a purchaser who acquires the property at a sheriff's sale or by deed in lieu of a foreclosure, is not liable in damages for harm caused by an action or omission of the developer or a breach of an obligation by the developer.

(D) The declaration for a leasehold condominium development shall contain all of the following in addition to the requirements of division (B) of this section:

(1) With respect to any ground lease or other leases, the expiration or termination of which could terminate or reduce the amount of condominium property, a statement setting forth the county in which the lease is recorded and the volume and page of the record;

(2) A statement setting forth the date upon which each lease referred to in division (D)(1) of this section expires;

(3)(a) A statement of whether the unit owners own any land or improvements of the condominium property in fee simple, and if so, a description of the improvements and a legal description of the land;

(b) A statement of any rights the unit owners have to remove any improvements within a reasonable time after the expiration or termination of any ninety-nine year lease, or a statement that they have no rights of that nature.

(4) A statement of the rights that the unit owners have to redeem the reversion or any of the



reversions, or a statement that they have no rights of that nature;

(5) A statement that, subsequent to the recording of the declaration, no lessor who executed it and no successor in interest to that lessor has any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of the unit owner's share of the rent to the person designated in the declaration for the receipt of that rent and who otherwise complies with all covenants that, if violated, entitle the lessor to terminate the lease.

(E)(1) Without a vote of the unit owners, the board of directors may amend the declaration in any manner necessary for any of the following purposes:

(a) To meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, the federal national mortgage association, the federal home loan mortgage corporation, the federal housing administration, the veterans administration, and similar institutions;

(b) To meet the requirements of insurance underwriters;

(c) To bring the declaration into compliance with this chapter;

(d) To correct clerical or typographical errors or obvious factual errors in the declaration or an exhibit to the declaration;

(e) To designate a successor to the person named to receive service of process for the unit owners association. If the association is incorporated in this state, this may be accomplished by filing with the secretary of state an appropriate change of statutory agent designation.

(2) Division (E)(1) of this section applies to condominium properties submitted to this chapter prior to, on, or after the effective date of this amendment.

(3) Any unit owner who is aggrieved by an amendment to the declaration that the board of directors makes pursuant to division (E)(1) of this section may commence a declaratory judgment action to have the amendment declared invalid as violative of division (E)(1) of this section. Any action filed pursuant to division (E)(3) of this section shall be filed in the appropriate court of common pleas



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within one year from the date of the recordation of the amendment.