

# **Table of Contents**

## **PART I. INTRODUCTION TO CONCEPTS**

### **CHAPTER 1. GENERAL CONCEPTS**

- § 1:1 In general
- § 1:2 Documentation

### **CHAPTER 2. LAND AND SUBDIVISION ISSUES**

- § 2:1 Land subject to submission to statute—Fee or 99-year leasehold
- § 2:2 —Must it be contiguous?
- § 2:3 Exemption from R.C. Chapter 711 subdivision requirements
- § 2:4 Application of building regulations

### **CHAPTER 3. UNITS—DEFINITIONS**

- § 3:1 Rooms in a building
- § 3:2 Reasons for definition—Ownership and possession
- § 3:3 —Maintenance responsibilities
- § 3:4 —Insurance
- § 3:5 Specifics and recommendations
- § 3:6 Water slips
- § 3:7 Commercial unit
- § 3:8 Convertible unit
- § 3:9 Relocation of unit boundaries

### **CHAPTER 4. COMMON ELEMENTS**

- § 4:1 Nature
- § 4:2 Definitions
- § 4:3 Limited common elements as part of common area
- § 4:4 Limited common elements—Descriptions and reference to plat
- § 4:5 —Reallocation
- § 4:6 Exclusive use areas
- § 4:7 Allowing building on common elements
- § 4:8 Granting easements across the common elements
- § 4:9 Common elements, including limited common elements—maintenance responsibilities
- § 4:10 Association right to restrict use

### **CHAPTER 5. UNDIVIDED INTEREST IN COMMON ELEMENTS**

- § 5:1 Must allocate all interests among unit owners
- § 5:2 Why does it matter?—Division of assessments
- § 5:3 —Division of common profits

- § 5:4 —Voting
- § 5:5 Fair market value
- § 5:6 Square feet
- § 5:7 Par value
- § 5:8 Equal
- § 5:9 Any consistent method for expandable projects

## **CHAPTER 6. OVERVIEW OF ASSOCIATIONS**

- § 6:1 Type of entity; Tort liability
- § 6:2 Association—Corporate Transparency Act
- § 6:3 Composition
- § 6:4 Voting
- § 6:5 Bylaws; Board; Turnover of control

## **PART II. CREATION**

### **CHAPTER 7. DECLARATION**

- § 7:1 Required contents
- § 7:2 Restrictions—General
- § 7:3 —External appearance
- § 7:4 — —Signs
- § 7:5 —Use
- § 7:6 —Sale
- § 7:7 —Leasing
- § 7:8 —Pets
- § 7:9 Undivided interests
- § 7:10 Association membership
- § 7:11 Amendments
- § 7:12 Restrictions; Amendments; Secondary market
- § 7:13 Creation; Declaration; Secondary market requirements
- § 7:14 “Condominium instruments” requirements

### **CHAPTER 8. BY-LAWS**

- § 8:1 Attached
- § 8:2 Contents

### **CHAPTER 9. DRAWINGS**

- § 9:1 Attached; Purpose to define airspace
- § 9:2 Required information—Completed buildings
- § 9:3 —Show easements
- § 9:4 Certification
- § 9:5 Filing

### **CHAPTER 10. CONVERSIONS**

- § 10:1 Definition
- § 10:2 Notice to tenants
- § 10:3 Tenants’ options
- § 10:4 Special disclosure requirements

## **CHAPTER 11. EXPANDABLE PROJECTS**

- § 11:1 Pre October 1, 1978
- § 11:2 Statutory method
- § 11:3 Curative Act
- § 11:4 Provisions in declaration—Explicit reservations
- § 11:5 —Timing limitations
- § 11:6 —Identification of additional property
- § 11:7 —Number of units
- § 11:8 —Restrictions on non-residential use
- § 11:9 —Compatibility of improvements
- § 11:10 —Supplemental drawings
- § 11:11 —Non-liability of successor who is not an affiliate
- § 11:12 Access to easement
- § 11:13 Successor developers; Rights

## **CHAPTER 12. LEASEHOLD CONDOMINIUMS**

- § 12:1 In general

## **PART III. SALES**

### **CHAPTER 13. DEVELOPER—IDENTITY**

- § 13:1 Definitional problems
- § 13:2 Developer—Successor developers—Declarant's rights
- § 13:3 Successor developers—Liabilities—Expansion of project
- § 13:4 — —Creation of new project
- § 13:5 — —Purchase of units in bulk

### **CHAPTER 14. DEVELOPER—OBLIGATIONS**

- § 14:1 Obligation to establish association
- § 14:2 Obligation to pay assessments for unsold units
- § 14:3 Obligation to turn over control of association
- § 14:4 Restrictions on amendments of declaration
- § 14:5 Restrictions on retaining interest in common elements
- § 14:6 Restrictions on contracts surviving
- § 14:7 Obligation to turn over materials to association
- § 14:8 Obligations: Restatement of servitudes

### **CHAPTER 15. SALES—SELECTED ISSUES**

- § 15:1 Deposits
- § 15:2 Warranty
- § 15:3 Title insurance endorsements
- § 15:4 Buyer's condominium checklist
- § 15:5 The Interstate Land Sales Full Disclosure Act

### **CHAPTER 16. SELLER DISCLOSURE**

- § 16:1 Who
- § 16:2 Exclusions
- § 16:3 When; Reservations

- § 16:4 What
- § 16:5 Identity of developer and developer manager
- § 16:6 Types of units and prices
- § 16:7 Status of construction
- § 16:8 Financing offered by or through developer
- § 16:9 Statement of warranties
- § 16:10 Budget
- § 16:11 Special disclosure for conversions
- § 16:12 Information regarding the association
- § 16:13 Management and other agreements
- § 16:14 Buyer's rights in conspicuous boldface type
- § 16:15 Reserve funds
- § 16:16 Title matters
- § 16:17 Escrow of deposits
- § 16:18 Restrictions on sale or leasing
- § 16:19 Current litigation
- § 16:20 Penalties—Voiding contract
- § 16:21 —Damages; acceptability check
- § 16:22 —Action by attorney general

## **CHAPTER 17. REQUIREMENT FOR PAYMENT OF LIENS AT CONVEYANCE**

- § 17:1 Conveyances; Requirement for payment of all liens

## **PART IV. ASSOCIATION OBLIGATIONS**

### **CHAPTER 18. COMMON EXPENSES**

- § 18:1 What are common expenses?
- § 18:2 Authority to divide some expenses per-capita
- § 18:3 Budget
- § 18:4 Reserves

### **CHAPTER 19. ENFORCEMENT OF ASSESSMENTS**

- § 19:1 Interest, late charges, enforcement assessments; Attorneys' fees
- § 19:2 Due process
- § 19:3 Enforcement generally
- § 19:4 Application of payments
- § 19:5 Lien
- § 19:6 Liens; Foreclosure; Receivers

### **CHAPTER 20. ENFORCEMENT OF RULES**

- § 20:1 Enforcement of rules
- § 20:2 —Power to evict tenants

### **CHAPTER 21. LITIGATION**

- § 21:1 Authority to sue or be sued; Notices of zoning or annexation

## **CHAPTER 22. REPAIR OF COMMON AREAS**

- § 22:1 Obligation to repair common areas
- § 22:2 Failure to repair damage or destruction
- § 22:3 Lessons from the collapse of Champlain Towers South in Surfside, Florida

## **CHAPTER 23. AUTHORITY TO BUY, BORROW, AND PLEDGE**

- § 23:1 Authority to purchase and sell real estate
- § 23:2 Authority to borrow and pledge assets

## **CHAPTER 24. RESTRICTIONS ON LEASING**

- § 24:1 Restrictions on leasing and use restrictions on units

## **CHAPTER 25. INSURANCE**

- § 25:1 Insurance

## **CHAPTER 26. STANDARDS AND DUTIES**

- § 26:1 Duty of association to members
- § 26:2 Duty of directors; During developer's control
- § 26:3 Duty of directors and self-dealing

## **CHAPTER 27. RECORDS AND MEETINGS**

- § 27:1 Records and access
- § 27:2 Meetings of members and board

## **CHAPTER 28. LIENS**

- § 28:1 Liens

## **CHAPTER 29. TERMINATION**

- § 29:1 Termination of condominium regime; Conveyances of part of the common elements

## **CHAPTER 30. AMENDMENTS BY BOARD; RETROACTIVITY**

- § 30:1 Authority to amend declaration
- § 30:2 Retroactive effect of 2004 amendment to condominium statute
- § 30:3 Solar energy collection devices

## **PART V. CONDOMINIUM ASSOCIATION PRACTICE AND LITIGATION**

## **CHAPTER 31. DAILY OPERATIONAL ISSUES OF ASSOCIATIONS**

- § 31:1 Introduction

- § 31:2 Litigation; Statutory background
- § 31:3 Late fees
- § 31:4 Smoking in condominium units and common elements
- § 31:5 Snow and ice removal

## **CHAPTER 32. LIENS AND LIEN FORECLOSURES**

- § 32:1 In general
- § 32:2 Defenses and counterclaims
- § 32:3 Sales subject to first mortgage and first mortgage lien rights
- § 32:4 Attorney fees
- § 32:5 Bankruptcy

## **CHAPTER 33. LITIGATION AND COVENANT ENFORCEMENT—PRINCIPLES OF CONSTRUCTION**

- § 33:1 Litigation
- § 33:2 Mandatory arbitration
- § 33:3 Leasing restrictions
- § 33:4 Fiduciary duty and the business judgment rule; the duty of loyalty
- § 33:5 Proxies and electronic signatures
- § 33:6 Delay in enforcement
- § 33:7 Changing exclusive use
- § 33:8 State action; Is the condominium board a government agency?
- § 33:9 Architectural enforcement
- § 33:10 Pets
- § 33:11 Dangerous and vicious dogs
- § 33:12 Parking and private tow away zones
- § 33:13 Aesthetics
- § 33:14 Satellite dish antennas
- § 33:15 Conceal carry
- § 33:16 Sex offenders
- § 33:17 Bingo
- § 33:18 Flags

## **CHAPTER 34. LITIGATION AGAINST DEVELOPER**

- § 34:1 Authority of unit owner to sue developer and class actions
- § 34:2 Construction defects
- § 34:3 Under funding reserves
- § 34:4 Turnover of developer control

## **CHAPTER 35. FAIR HOUSING AMENDMENT ACT**

- § 35:1 Reasonable accommodation

## TABLE OF CONTENTS

§ 35:2 55 and older communities

## PART VI. FORMS

### CHAPTER 36. OHIO CONDOMINIUM FORMS

- § 36:1 Creation; Declaration and by-laws
- § 36:2 Sales—Condominium development statement
- § 36:3 —Notice to tenants
- § 36:4 —Waiver of option to purchase and notice
- § 36:5 —Purchase agreement
- § 36:6 —Warranty deed
- § 36:7 Condominiums—Management—Condominium association  
directors' meeting minutes
- § 36:8 Management—Condominium management agreement
- § 36:9 —Certificate of lien
- § 36:10 Rule regarding construction of improvements in limited  
common elements
- § 36:11 Agreement for future maintenance and insurance of  
improvements made to limited common elements
- § 36:12 Form of 10 day notice to unit owner for eviction of tenant  
pursuant to OR.C. 5311.19(B)
- § 36:13 Amendment to declaration of condominium to permit  
extension of time period for addition of units
- § 36:14 Order for appointment of association manager as receiver  
during pendency of foreclosure action

## PART VII OHIO REVISED CODE—CHAPTER 5311—CONDOMINIUM PROPERTY

### PRELIMINARY PROVISIONS

- 5311.01 Definitions
- 5311.02 Application of chapter
- 5311.03 Units deemed real property
- 5311.031 Relocation of boundaries between adjoining units and  
reallocation of undivided interests in common elements
- 5311.032 Reallocation of rights to use of limited common elements
- 5311.033 Conversion of convertible unit into units or common elements
- 5311.04 Interests in common elements; reallocation on submission of  
additional property; par value; amendments; improvements;  
purchase or sale; approval; common expenses
- 5311.041 Common expenses

### DECLARATION

- 5311.05 Declaration and information required; expandable condominium  
declarations; leasehold condominium development;  
amendments
- 5311.051 Procedures for adding property to expandable condominium
- 5311.052 Time limit for filing action to contest change in percentage  
interests in common areas

5311.06 Recording of declaration

## **GENERAL PROVISIONS**

- 5311.07 Drawings; contents
- 5311.08 Unit owners association; when to be established; board of directors; control during development period
- 5311.081 Unit owners association; powers and duties; damages; assessments; notice; hearing
- 5311.09 Records of account; unit owner to provide information to association; duties of developers; damages may be recovered
- 5311.091 Inspection and copying of books and records
- 5311.10 Description of units in deeds, mortgages, leases, and liens
- 5311.11 Unit for tax purposes
- 5311.12 Limitation on conveyance
- 5311.13 Liens; enforcement
- 5311.14 Damage to property; sale
- 5311.15 Rehabilitation of condominium; purchase of unit of dissenting owner—Repealed
- 5311.16 Insurance
- 5311.17 Removal of property from provisions of condominium law
- 5311.18 Lien for common expenses; appeal procedure for unfair assessment
- 5311.19 Deed restrictions; eviction proceedings
- 5311.191 Prohibition against placement of flagpole or display of certain flags unenforceable
- 5311.192 Solar energy collection devices
- 5311.20 Actions by or against unit owners association; service of summons
- 5311.21 Distribution of common expenses and profits
- 5311.22 Voting privileges of unit owner, fiduciary, executor, administrator, guardian, conservator, or trustee
- 5311.23 Liability for noncompliance with condominium instruments; declaratory judgment; class actions

## **SALES AND MANAGEMENT CONTRACTS**

- 5311.24 Transactions excluded
- 5311.241 Applicability of act to property submitted to chapter by declaration or amendment of declaration after effective date of act—Repealed
- 5311.25 Down payment; withdrawal; change of control; management contracts; warranties; limits on sales contracts of developers
- 5311.26 Disclosure of material circumstances affecting development
- 5311.27 Contracts voidable for violations; damages; rights of attorney general

## **Table of Laws and Rules**

## **Table of Cases**

## **Index**