



Ohio Revised Code

Section 5311.04 Common areas and facilities.

Effective: July 20, 2004

Legislation: House Bill 135 - 125th General Assembly

(A) The common elements of a condominium property are owned by the unit owners as tenants in common, and the ownership shall remain undivided. No action for partition of any part of the common elements may be commenced, except as provided in section 5311.14 of the Revised Code, and no unit owner otherwise may waive or release any rights in the common elements.

(B) The declaration shall set forth the undivided interest in the common elements appurtenant to each unit.

(1) For units in condominium properties other than expandable condominium properties, the undivided interest in the common elements shall be computed in the proportion that the fair market value of the unit bears to the aggregate fair market value of all units on the date that the declaration is originally filed for record, shall be based on the size or par value of the unit, or shall be computed on an equal basis.

(2) Except as provided in division (D) of this section, the interest in the common elements appurtenant to units in expandable condominium properties may be computed in any proportion or on any basis that is the same for units submitted by the declaration as originally filed and those submitted later by the addition of additional property and that uniformly reallocates undivided interests of units previously submitted when additional property is submitted.

(C) If a par value is assigned to any unit, a par value shall be assigned to every unit. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground or having substantially different views, amenities, or other characteristics that might result in differences in fair market value may be considered substantially identical. If par value is stated in terms of dollars, it need not reflect or relate in any way to the sale price or fair market value of any unit, and no opinion, appraisal, or market transaction at a different figure affects the par value of any unit.



(D) The declaration for an expandable condominium property shall not allocate interest in the common elements on the basis of par value, unless the declaration as originally filed does either of the following:

(1) Requires that all units created on any additional property that is added to the condominium property be substantially identical to the units created on the condominium property previously submitted;

(2) Describes the types of units that may be created on any additional property and states the par value that will be assigned to every unit that is created.

(E) Except as provided in sections 5311.031 to 5311.033 and 5311.051 of the Revised Code, the undivided interest in the common elements of each unit as expressed in the original declaration shall not be altered except by an amendment to the declaration unanimously approved by all unit owners affected. The undivided interest in the common elements shall not be separated from the unit to which it appertains and is deemed conveyed or encumbered with the unit even though that interest is not expressly mentioned or described in the deed, mortgage, lease, or other instrument of conveyance or encumbrance.

(F) Each unit owner may use the common elements in accordance with the purposes for which they are intended. No unit owner may hinder or encroach upon the lawful rights of the other unit owners in the common elements.

(G) Subject to rules the board of directors adopts pursuant to division (B)(5) of section 5311.081 of the Revised Code, the board may authorize the use of limited common elements, as distinguished from the common elements and exclusive use areas, for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements provided that the improvements are maintained and insured by the owner of the unit to which the limited common area is appurtenant. The construction of an addition to or an expansion of a unit into limited common elements or common elements may not be authorized without the consent of all unit owners.

(H)(1) Subject to the bylaws and the declaration, the unit owners association may purchase, hold title to, and sell real property that is not declared to be part of the condominium property.



(2) Any transaction pursuant to division (H)(1) of this section that takes place prior to the date that the unit owners other than the developer assume control of the unit owners association requires the approval of the developer, the approval of the unit owners other than the developer who exercise not less than seventy-five per cent of the voting power of the unit owners association, and the authorization of the board of directors.

(3) Any transaction pursuant to division (H)(1) of this section that takes place after the unit owners assume control of the unit owners association requires the approval of the unit owners who exercise not less than seventy-five per cent of the voting power of the unit owners association and the authorization of the board of directors.

(4) Expenses incurred in connection with any transaction pursuant to division (H)(1) of this section are common expenses.