

5311.25 Required provisions for condominium instruments.

(A)

(1) Except as provided in division (A)(2) of this section, any deposit or down payment made in connection with the sale of a condominium ownership interest shall be held in trust or escrow until delivered at settlement, returned to or otherwise credited to the purchaser, or forfeited to the developer . If a deposit or down payment of more than two thousand dollars is held for more than ninety days and is not withdrawn pursuant to division (A)(2) of this section, interest at a rate equal to the prevailing rate payable by federally insured financial institutions in the county of the condominium property on daily interest accounts for any period exceeding ninety days shall be credited to the purchaser at settlement or upon return or other credit made to the purchaser or added to any forfeiture to the developer . Interest is payable only on the amount of the deposit or down payment that exceeds two thousand dollars.

(2)

(a) If a contract for the sale of a condominium ownership interest contains the legend described in division (A)(2)(b) of this section, a developer may, in accordance with the contractual provisions, withdraw a deposit or down payment from trust or escrow upon the commencement of construction of the structure of the condominium property in which the purchaser's unit will be located and use the moneys in the actual construction and development of the condominium property. The developer shall not use the moneys for advertising purposes or for the salaries, commissions, or expenses of agents.

(b) A contract that permits withdrawals of a deposit or down payment for the purposes described in division (A)(2)(a) of this section shall include the following legend conspicuously printed or stamped in boldface type on the contract's first page and immediately above the signature of the purchaser: "Purchaser acknowledges that, pursuant to this contract, the developer may withdraw and then use for construction and development of the condominium property any deposit or down payment that the purchaser makes prior to closing."

(3) Deposits and down payments held in trust or escrow in accordance with division (A)(1) of this section are not subject to attachment, garnishment, or other legal process by creditors of the developer, agents, or the purchaser of the condominium ownership interest.

(B) Except in the capacity as a unit owner of unsold condominium ownership interests, the developer or agent shall not retain a property interest in any of the common elements after unit owners other than the developer assume control of the unit owners association except as follows:

(1) In a leasehold condominium development, the developer or agent may retain the same interest in the common elements as the developer or agent retains in the entire condominium development.

(2) In an expandable condominium property, the developer may retain an interest consistent with the declaration and necessary to ensure both of the following, whether or not the condominium property is expanded to include the additional property:

(a) Ingress and egress over the common elements for the benefit of the additional property;

(b) The availability of utilities from and to the common elements for the benefit of the additional property.

(3) The developer may retain the right to enter upon the condominium property to fulfill any warranty obligations to the unit owners association or to unit owners.

(C) The owners of condominium ownership interests that have been sold by the developer or an agent shall assume control of the common elements and of the unit owners association as prescribed in divisions (C) and (D) of section [5311.08](#) of the Revised Code .

(D) Unless a contract or other agreement is renewed by a vote of the unit owners exercising a majority of the voting power of the unit owners association, neither the unit owners association nor the unit owners shall be subject to either of the following:

(1) For more than ninety days subsequent to the date that the unit owners other than the developer assume control of the unit owners association, any management contract executed prior to that assumption of control;

(2) For more than one year subsequent to an assumption of control, any other contract executed prior to that assumption of control, except for contracts for necessary utility services.

(E)

(1) Except as provided in division (E)(4) of this section, the developer shall furnish both of the following:

(a) A minimum of a two-year warranty covering the full cost of labor and materials for any repair or replacement of roof and structural components, and mechanical, electrical, plumbing, and common service elements serving the condominium property or additional property as a whole, occasioned or necessitated by a defect in material or workmanship;

(b) A one-year warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements pertaining to each unit occasioned or necessitated by a defect in material or workmanship.

(2) The two-year warranty shall commence as follows:

(a) For a condominium development other than an expandable condominium development, on the date the deed or other evidence of ownership is filed for record following the sale of the first condominium ownership interest in the development to a purchaser in good faith for value ;

(b)

(i) For an expandable condominium development, for property submitted by the original declaration, on the date the deed or other evidence of ownership is filed for record following the sale of the first condominium ownership interest in the property to a purchaser in good faith for value;

(ii) For an expandable condominium development, for any additional property submitted by amendment to the declaration, on the date the deed or other evidence of ownership is filed for record following the sale of the first condominium ownership interest in the additional property to a purchaser in good faith for value.

(3) The one-year warranty for each unit shall commence on the date the deed or other evidence of ownership is filed for record following the developer's sale and conveyance of the condominium ownership interest in the unit to a purchaser in good faith for value.

(4) The valid assignment by the developer of the express and implied warranty of the manufacturer satisfies the developer's obligation under this section with respect to ranges, refrigerators, washing machines, clothes dryers, hot water heaters, and other similar appliances installed and furnished as part of the unit by the developer . The developer's warranty under division (E)(1) of this section is limited to the installation of the appliances.

(5) All warranties made to the developer that exceed time periods specified in division (E)(1) of this section with respect to any part of a unit shall be assigned to the purchaser of that unit and warranties with respect to any part of the common elements shall be assigned to the unit owners association.

(F) The developer shall assume the rights and obligations of a unit owner in the developer's capacity as owner of condominium ownership interests not yet sold, including the obligation to pay common expenses attaching to those interests, from the date the declaration is filed for record even if the construction of the units and the appurtenant common elements subject to the condominium ownership interests has not started or is not complete.

(G) In a conversion condominium development, the developer shall offer each tenant an option, exercisable within not less than ninety days after notice, to purchase a condominium ownership interest in the development that the tenant occupies and at a price that is not greater than the price at which the unit will be offered to the general public for the subsequent one hundred eighty-day period. The developer shall give each tenant written notice of not less than one hundred twenty days prior to the conversion or intended conversion, during which time the tenant may not be evicted to accommodate or facilitate the sale of any unit if the tenant is not in default under the tenant's terms of tenancy. The ninety-day and one hundred twenty-day notice periods may run concurrently and may be waived in writing by a tenant. If two or more tenants occupy a unit in a conversion condominium development, the option to purchase shall be given jointly to those tenants.

(H) Except as provided in section [5311.24](#) of the Revised Code, no developer or agent, directly or indirectly, shall sell or offer to sell a condominium ownership interest in a condominium development unless the condominium instruments include a statement that sets forth the requirements of this section and sections [5311.26](#) and [5311.27](#) of the Revised Code.

Cite as R.C. § 5311.25

History. Effective Date: 07-20-2004