



# OHIO TITLE CORP

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Ohio Title Corp. provides a full range of title insurance industry services with specialty in the following areas:

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- REO Title & Settlement
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- Residential Services
- Commercial Services

Our Associates provide unparalleled excellence in all aspects of the industry with a commitment to achieve the highest standard of customer service, whether in a single family purchase, multi-family apartment complex, subdivision development, judicial title or REO transaction.



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## NEW LAW REGARDING HOMEOWNER ASSOCIATIONS

Amended Substitute [Senate Bill 187](#) was signed by Governor Strickland on June 10<sup>th</sup> and is effective September 10, 2010. SB 187 establishes the Ohio Planned Community Law (the "HOA Act") by enacting new [Ohio Revised Code §§5312.01 through 5312.15](#). The purpose of the new law is to establish a uniform framework for the operation and management of planned communities in Ohio and to supplement existing planned community governing documents. The HOA Act applies to all Ohio homeowners' associations, both new and existing ones. Most of the HOA Act's provisions deal with the operation of an association; however, certain provisions impose new obligations on developers of planned communities, attorneys seeking to foreclose liens against lots in planned communities and the board of directors of an owners association. For example, the by-laws of new homeowners' associations are now required to be filed by the developer. In addition, a developer who is also the declarant must establish an owners' association no later than the date on which the first lot in the planned community is conveyed-out.

## RECORDING OF BYLAWS MANDATORY

All homeowners' association's by-laws, whether new or existing, are now required to be recorded. Any existing association whose by-laws are unrecorded must file them for record within 180 days of the HOA Act's effective date, i.e., by March 11, 2011. The law also requires that any future amendment to the by-laws be recorded within 60 days after its adoption. Under the new statute, no amendment to the by-laws or declaration is effective until filed.

## ASSOCIATION LIENS

The HOA Act also provides a statutory basis for the filing of homeowners' association liens. §5312.11 details the items for which a lot owner may be assessed, the owner's right to receive notice of the assessment, and the means by which an owner may contest the assessment, among other things. §5312.12 describes the characteristics of the lien, its priority position and expiration period (five years).

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## **MANDATORY JOINDER OF HOA IN FORECLOSURE/APPOINTMENT OF RECEIVER**

In any foreclosure action, §5312.12(C)(1) requires that the owners association be named as a defendant in the action. Similar to the provision in ORC §5311.18(B)(2) with respect to condominiums, an owners association is entitled to the appointment of a receiver to collect rental payments on the property being foreclosed. Any rents the receiver collects while the foreclosure is pending are to be applied first to the payment of the portion of common expenses attributable to the lot during the foreclosure.

Ohio Title's title examiners are attuned to searching for the declaration and bylaws of a planned community. We are aware that an attorney filing a foreclosure needs a proper address for service of process upon the owners association. If record information is available, it's added "for information only" to the preliminary judicial report we issue.

There are many other provisions included in this new law which are not summarized in this communication. Developers of planned communities, foreclosure attorneys, any member of the board of directors of a homeowners' association, and any real estate professional involved with planned communities need to review this new law's requirements.

Contact us today for more information

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