



## **Data Refuting FHFA's Claims on LL-2026-03: Ohio-Specific Summary**

### **Why Ohio Presents a Distinctive and Underappreciated Case**

Ohio is not a coastal state with dramatic structural collapses or a Sun Belt market with explosive HOA fee growth. Its condo associations are often modest in size, serving first-time buyers, retirees, and working families in cities where housing affordability is already stretched. That context makes FHFA's claims particularly indefensible here. Ohio's reserve framework -- which permits annual majority votes to waive reserve requirements entirely -- has produced a documented statewide history of catastrophic special assessments. Ohio community association attorneys, appellate courts, and the Ohio legislature itself have all acknowledged this problem. The associations now facing LL-2026-03 compliance are the very associations whose current funding levels were shaped, legally, by a state framework that permitted and facilitated them. FHFA's claim that only a small number of associations would struggle does not hold in a state where the law actively invites underfunding every year.

---

### **Claim #1: Fewer than 10,000 Associations Would Struggle**

#### **Ohio Law Explicitly Permits Annual Majority Votes to Waive Reserve Requirements Entirely**

This is the foundational legal fact that makes Ohio a particularly powerful case against FHFA's claims. Unlike states that simply lack a reserve study mandate, Ohio provides an affirmative statutory mechanism for associations to vote each year to waive the reserve requirement completely.

Under S.B. 61, enacted in 2022, Ohio Condominium Act Section 5311.081 now requires associations to "annually adopt an estimated budget for revenues and expenditures that includes reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments unless either of the following applies: (a) the Declaration or Bylaws include language limiting the ability of the Board to increase assessments without a vote of the unit owners; or (b) the unit owners, exercising not less than a majority of the voting power of the unit owners association waive the reserve requirement in writing annually." ([ottesq.com/articles/senate-bill-61](https://ottesq.com/articles/senate-bill-61))

The Ohio Planned Community Act (ORC 5312.06) contains an analogous provision: any HOA budget shall include reserves adequate to repair and replace major capital items without special assessments, unless the owners, exercising not less than a majority of the voting power of the owners association, waive the reserve requirement in writing annually. ([codes.ohio.gov/ohio-revised-code/section-5312.06](https://codes.ohio.gov/ohio-revised-code/section-5312.06))

This annual waiver mechanism is not a theoretical loophole. It is documented as a widely exercised practice. The history of Ohio condominiums and homeowner associations has been plagued by special assessments. Pressure on boards to keep maintenance fees low too often resulted in bare bones budgets with only basic necessities being paid. Many associations failed to build up savings for large future expenses such as roof, siding, or roadway replacement. Because the costs of long-term replacement projects were not included in association budgets, condominiums across Ohio experienced devastating budget shortfalls. Boards were left with no choice but to levy special assessments, often fully payable within a month or two, in amounts from the thousands to tens of thousands of dollars. In many instances, the amount of the special assessment exceeded twenty percent of the unit's value. ([communityassociations.law](https://communityassociations.law))

Ohio's waiver mechanism is the functional equivalent of the Florida reserve waiver system that produced the systemic underfunding preceding the Surfside collapse. Florida prohibited association waiver of reserves effective December 31, 2024, precisely because decades of waivers left the state's condo inventory catastrophically underfunded. Ohio retains its waiver mechanism today. Every Ohio association that has been using annual waivers to avoid reserve contributions is state-law compliant and LL-2026-03 non-compliant -- and FHFA's survey almost certainly did not accurately capture the volume of Ohio associations in this category.

### **A Documented Ohio Case: \$27,000 Assessment on a \$170,000 Condo**

The abstract problem of underfunded reserves has concrete Ohio case history. In one documented Ohio case, a homeowner was presented with a \$27,000 roofing special assessment five months after purchasing a \$170,000 condo because the HOA did not have the reserves necessary to cover the expense. This type of occurrence became common enough in the state that Ohio subsequently passed legislation addressing reserve funding obligations. In the event that homeowners cannot pay these assessments, it can have a detrimental result on home values in the community, and some homeowners caught off guard by the expense can lose their homes entirely for non-payment. ([kdisonline.com/why-every-homeowners-association-needs-reserve-funds](https://kdisonline.com/why-every-homeowners-association-needs-reserve-funds))

A \$27,000 special assessment on a \$170,000 property represents 16% of the unit's value -- imposed in five months. That is not the profile of an association facing a \$15-\$30 monthly reserve contribution adjustment. It is the profile of an association that waived reserves for years until a capital need became unavoidable, then passed the entire deferred cost to the current owner as a lump sum.

This game of "condominium roulette" -- where purchasers put virtually 100% of their savings into a down payment and then were hit by a surprise special assessment -- resulted in the filing of innumerable lawsuits against sellers, real estate agents, and associations alleging failures to disclose. Ohio's legislature enacted reserve funding requirements specifically in response to this documented pattern. The waiver mechanism then preserved a path back to the same outcome.

### **Ohio's Legislature Has Considered But Not Passed Mandatory Reserve Studies**

The clearest acknowledgment that Ohio's current framework is insufficient comes from the Ohio legislature itself. Ohio legislators have revisited the idea of mandatory reserve studies for HOAs and condo associations. The proposal would make reserve studies a statewide requirement -- a change advocates say would standardize reserve planning across Ohio communities and reduce the risk of deferred maintenance and surprise special assessments. Current law allows associations to waive reserve contributions annually, and enacting a mandatory study requirement would represent a significant departure from that framework. ([hoaexplore.com/ohio-hoa-laws-update](http://hoaexplore.com/ohio-hoa-laws-update))

The fact that mandatory reserve studies remain a legislative proposal rather than current law means Ohio associations are entering LL-2026-03's compliance window without any professional reserve analysis in many cases, and without any state-mandated baseline from which to calculate the "highest recommended allocation" Fannie Mae now requires.

### **Ohio's "Adequate" Standard Creates Unverifiable Compliance**

Even for associations that have not used the waiver mechanism and do maintain some level of reserve contribution, Ohio's standard is so undefined that compliance with state law provides no assurance of compliance with LL-2026-03. Ohio Revised Code 5311.081(A) attempts to fill a void when there is no guidance from the governing documents and provides for an arbitrary minimum contribution when funding reserves. Board members for condominium associations have since had to navigate vague and confusing language concerning the annual reserve requirement. One possible interpretation is that as long as the association sets aside at least 10% of the annual operating budget, it meets the requirement. Another interpretation is that the association must be funding reserves pursuant to a reserve study that outlines future costs. It may be that both interpretations

are correct, and until the statutory language is revised, the courts will have to provide guidance. ([issuu.com/columbusbarlawyersquarterly/docs/cblqspring2020](http://issuu.com/columbusbarlawyersquarterly/docs/cblqspring2020))

The Tenth District Court of Appeals held in *Olentangy Condominium Association v. Lusk* that ORC 5311.081(A)(1) did not prohibit an association from levying a special assessment without owner approval, while the Eighth District reached a different conclusion in *Attar v. Marine Towers East Condominium Owners' Association* -- producing conflicting appellate guidance on what the statute requires that has not been resolved by the Ohio Supreme Court.

An Ohio board operating in good faith under one court's interpretation may be funding reserves at a level that fails Fannie Mae's "highest recommended allocation" standard. The ambiguity in Ohio's own statute is not FHFA's creation, but its 15% floor and "highest recommended allocation" standard offer no resolution path for boards whose obligations under Ohio law remain genuinely contested.

---

## **Refuting Claim #2: Monthly Dues Would Only Increase \$15-\$30**

### **Reserve Study Professionals Describe "Dramatic" Gaps When Ohio Associations First Get Studies**

FHFA's \$15-\$30 estimate assumes associations are transitioning from an adequately funded 10% baseline to a 15% level. Ohio's reality is different. Often, when associations obtain reserve studies, they find out that their reserves are underfunded and assessments need to be increased to improve reserve funding. This can be a daunting challenge for boards who may face a dramatic increase in assessments to make up that gap. ([williams-strohm.com/insights/special-assessments-and-how-to-avoid-them](http://williams-strohm.com/insights/special-assessments-and-how-to-avoid-them))

Ohio practitioners use the word "dramatic" -- not "modest." That word choice reflects what actually happens when Ohio associations operating on waiver-sustained minimal contributions first encounter a professional reserve study. The gap is not the difference between 10% and 15% of budget. It is the gap between years of waived contributions and the level a study recommends, plus the accumulated deferred maintenance the waiver period allowed to develop.

### **Industry Standards Place the Reserve Contribution Range at 15-40% of Budget**

On average, HOAs should be setting aside 15% to 40% of their total assessments toward reserves. This percentage holds true for all types of associations. ([propfusion.com/hoa-reserve-study/hoa-reserves-rule-of-thumb-everything-you-need-to-know](http://propfusion.com/hoa-reserve-study/hoa-reserves-rule-of-thumb-everything-you-need-to-know))

For associations whose reserve study places the recommended allocation at 25%, 30%, or higher -- common for older buildings with aging roofs, parking structures, elevators, or mechanical systems -- the requirement is not the 15% floor. It is whatever the study recommends. FHFA's \$15-\$30 monthly estimate accounts only for the floor, not for the full distribution of what properly conducted reserve studies actually recommend. In Ohio, where many associations have never had a professional reserve study, the "highest recommended allocation" figure is unknown until a study is obtained -- and obtaining it is not a precondition FHFA has waived.

### **Ohio Condo HOA Fees Are Already Rising at 8% Annually**

The median monthly HOA fee for condos in Ohio reached \$368 per month in 2024, with an 8% annual rise. Both condos and single-family HOA communities have seen rapid fee increases, and the median monthly HOA fee for existing condos was \$143 -- up 14% from the prior year across the broader HOA universe. ([ohiobrokerdirect.com/rise-of-hoa-fees-in-ohio-what-homebuyers-need-to-know](https://ohiobrokerdirect.com/rise-of-hoa-fees-in-ohio-what-homebuyers-need-to-know))

In this environment, Ohio condo owners are already absorbing annual fee increases that are running at twice or more the rate of general inflation. Adding a reserve contribution increase on top of that trajectory -- not a marginal \$15-\$30, but potentially a "dramatic" jump as practitioners describe -- is not a manageable adjustment in a state where affordability is already stressed.

### **Ohio's Affordability Profile Makes Cost Impact Proportionally Larger**

The median home price in Ohio in 2024 was \$198,183 -- the highest on record, but well below the national median. Ohio's median home price is 2.6 times the median household income, the largest price-to-income ratio since 2005, making homeownership less affordable for many prospective homebuyers, especially those on fixed incomes. Home sales in Ohio declined 24% from 2019 to 2024, reaching the lowest level since 2014. ([ohiohome.org/hna-25/executivesummary.html](https://ohiohome.org/hna-25/executivesummary.html))

In this affordability environment, Ohio condominiums serve as entry-level housing for buyers who cannot access the single-family market. A mandatory reserve contribution increase that drives monthly HOA fees materially higher is not a rounding error for a first-time buyer in Cleveland or Dayton calculating a debt-to-income ratio. It can be the difference between qualifying for a mortgage and not qualifying -- which, compounded by the loss of GSE-backed financing for non-warrantable buildings, creates a housing access crisis that FHFA's \$15-\$30 estimate does not acknowledge.

---

## **Ohio-Specific Legal Barriers to Timely Compliance**

### **The Annual Waiver Creates a Direct Statutory Conflict with LL-2026-03**

Under Ohio law, an association's owners can vote each year to waive reserve requirements. Under LL-2026-03, those same associations become non-warrantable when the reserve requirement takes effect. A board that convenes its annual meeting in fall 2026, receives a majority vote from owners to waive reserve contributions for 2027 -- exactly as the law permits and as owners have done for years -- will find that every unit in the association is disqualified for conventional financing on January 4, 2027.

There is no provision in Ohio law that suspends the waiver right when federal lending standards conflict with it. Owners' reserve waivers require at least a majority of the association's voting power in writing each year. Boards adopt budgets and assessments unless the declaration or bylaws require owner approval for certain increases. Boards cannot override a lawful majority waiver vote to achieve Fannie Mae compliance without first amending the association's governing documents -- a process that, for HOAs under ORC 5312, requires a 75% supermajority vote.

### **The 75% Declaration Amendment Threshold Is a Hard Ceiling**

Under ORC 5312.05(A), unless otherwise specified, the owners of a planned community may amend the declaration and bylaws by the consent of 75% of the owners, either in writing or in a meeting called for that purpose. No amendment to the declaration or bylaws is effective until filed with the county recorder. ([codes.ohio.gov/ohio-revised-code/section-5312.05](https://codes.ohio.gov/ohio-revised-code/section-5312.05))

An HOA board may not increase any assessment for common expenses when the declaration limits the amount of such assessments unless the owners amend the declaration. Under ORC 5312.10(C)(2) and 5312.05(A), that amendment requires approval from 75% of association members.

For Ohio HOA associations whose declarations impose assessment caps or limits -- a common provision in documents drafted when keeping dues low was an explicit governance goal -- a 75% member vote is required before the board can legally implement the higher reserve contributions LL-2026-03 demands. Achieving a 75% supermajority vote, with proper notice, in a single budget cycle before January 4, 2027 is functionally impossible for most associations that have not already begun the process.

## **No Reserve Study Mandate Means Many Ohio Associations Cannot Assess Their Own Position**

Ohio law does not require reserve studies for either condominiums or HOAs. The statutes speak in terms of "adequate" reserves, budgets, and waiver votes -- they do not prescribe engineering reports or specific study formats. Without a reserve study or equivalent analysis, it is nearly impossible for a board or owners to know whether reserves are adequate or what exactly is being waived. ([propfusion.com/law-guide/ohio-reserve-study-requirements](http://propfusion.com/law-guide/ohio-reserve-study-requirements))

An Ohio association that has never had a professional reserve study cannot determine whether it is at 15% of budget, above 15%, or far below 15%. It cannot identify its "highest recommended allocation" because no professional has recommended an allocation. To assess its LL-2026-03 compliance position, such an association must first commission a reserve study -- a process that takes weeks to procure and complete even under normal market conditions, and that will face compressed timelines as demand spikes statewide.

## **The Condominium Reserve Conundrum Has Not Been Resolved**

Ohio's statutory ambiguity is not a minor interpretive question. It is an active legal problem that Ohio's own community association bar has labeled a "conundrum" and for which two appellate districts have reached inconsistent conclusions. Until there are legislative changes to the annual reserve requirement or Ohio courts have settled the matter as to whether special assessments are permissible given language that may exist in the association's governing documents, board members should take care in funding reserves and be mindful of the responsibility to fund reserves in an amount to avoid special assessments if at all possible.

Boards making good-faith efforts to comply with LL-2026-03 in this environment are doing so without clear state law guidance, without mandatory reserve study infrastructure, and against a timeline that does not accommodate the legislative or judicial clarification Ohio's own practitioners say is needed.

---

## **Ohio Data Points for Congressional Letters**

1. **Ohio law provides an annual majority-vote mechanism to waive reserve requirements entirely**, under both ORC 5311.081 (condominiums) and ORC 5312.06 (planned communities). Every Ohio association that has legally used annual waivers is state-law compliant and LL-2026-03 non-compliant on January 4,

2027. FHFA's survey cannot count what it cannot see in a state where zero-reserve compliance is a legal option.

2. **Ohio's documented history includes special assessments exceeding 20% of unit value** and at least one documented case where the assessment approximated the total value of the units -- outcomes that arose directly from the reserve waiver and underfunding practices that Ohio state law permits. This pattern is what FHFA's \$15-\$30 monthly estimate fails to account for.
3. **A documented Ohio case: a \$27,000 roofing special assessment on a \$170,000 condo**, imposed five months after purchase because the association had waived reserves. This single case represents 16% of the unit's purchase price -- imposed as a lump sum obligation, not as a \$15-\$30 monthly adjustment.
4. **Ohio's reserve standard ("adequate") is contested in two appellate districts** with conflicting decisions that the Ohio Supreme Court has not resolved. Boards trying to comply in good faith with both state law and LL-2026-03 have no clear guidance on what Ohio requires.
5. **Ohio legislators have considered but not passed mandatory reserve study legislation** -- a direct acknowledgment that the current framework does not produce adequate reserves and that standardization is needed. Associations without professional reserve studies cannot determine their "highest recommended allocation" compliance position.
6. **For HOAs under the Ohio Planned Community Act, amending a declaration that limits assessment increases requires 75% of all owners** under ORC 5312.05(A). Associations whose declarations cap dues increases face a supermajority threshold that cannot realistically be achieved before January 4, 2027, particularly for associations that have never before attempted such an amendment.
7. **Ohio condo median HOA fees rose 8% in 2024 to \$368/month** in a market where the median home price is 2.6 times the median household income and home sales are at their lowest level in a decade. Any reserve-driven dues increase in this affordability environment has real consequences for buyer qualification, first-time homeownership access, and household financial stability.