

As Passed by the House

134th General Assembly

Regular Session

2021-2022

Sub. S. B. No. 61

Senators Blessing, Antonio

**Cosponsors: Senators Maharath, Cirino, Craig, Fedor, Rulli, Thomas, Yuko
Representatives Hillyer, Skindell, Boggs, Brent, Carruthers, Galonski, Hicks-
Hudson, Ingram, Lanese, Lepore-Hagan, Lightbody, Miller, A., Miller, J., Miranda,
O'Brien, Russo, Seitz, Smith, K., Sobecki, Upchurch, Weinstein, West, Young, T.**

A BILL

To amend sections 317.32, 349.01, 5311.05, 5311.08, 1
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 2
5312.03, 5312.05, 5312.06, 5312.07, and 5312.11 3
and to enact sections 5311.192 and 5312.16 of 4
the Revised Code regarding condominiums, planned 5
community properties, and new communities. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 317.32, 349.01, 5311.05, 5311.08, 7
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 5312.05, 8
5312.06, 5312.07, and 5312.11 be amended and sections 5311.192 9
and 5312.16 of the Revised Code be enacted to read as follows: 10

Sec. 317.32. The county recorder shall charge and collect 11
the following fees, to include, except as otherwise provided in 12
division (A) (2) of this section, base fees for the recorder's 13
services and housing trust fund fees collected pursuant to 14
section 317.36 of the Revised Code: 15

(A) (1) Except as otherwise provided in division (A) (2) of 16

this section, for recording and indexing an instrument if the 17
photocopy or any similar process is employed, a base fee of 18
seventeen dollars for the first two pages and a housing trust 19
fund fee of seventeen dollars, and a base fee of four dollars 20
and a housing trust fund fee of four dollars for each subsequent 21
page, size eight and one-half inches by fourteen inches, or 22
fraction of a page, including the caption page, of such 23
instrument; 24

(2) For recording and indexing an instrument described in 25
division (D) of section 317.08 of the Revised Code if the 26
photocopy or any similar process is employed, a fee of twenty- 27
eight dollars for the first two pages to be deposited as 28
specified elsewhere in this division, and a fee of eight dollars 29
to be deposited in the same manner for each subsequent page, 30
size eight and one-half inches by fourteen inches, or fraction 31
of a page, including the caption page, of that instrument. If 32
the county recorder's technology fund has been established under 33
section 317.321 of the Revised Code, of the twenty-eight 34
dollars, fourteen dollars shall be deposited into the county 35
treasury to the credit of the county recorder's technology fund 36
and fourteen dollars shall be deposited into the county treasury 37
to the credit of the county general fund. If the county 38
recorder's technology fund has not been established, the twenty- 39
eight dollars shall be deposited into the county treasury to the 40
credit of the county general fund. 41

(B) For certifying a copy or electronic record from the 42
record previously recorded, a base fee of one dollar and a 43
housing trust fund fee of one dollar per page, size eight and 44
one-half inches by fourteen inches, or fraction of a page; for 45
each certification if the recorder's seal is required, except as 46
to instruments issued by the armed forces of the United States, 47

a base fee of fifty cents and a housing trust fund fee of fifty cents; 48
49

(C) For entering or indexing any marginal reference, or 50
any reference previously accomplished as a marginal reference 51
now accomplished through electronic means, by separate recorded 52
instrument, a base fee of two dollars and a housing trust fund 53
fee of two dollars for each marginal reference, or reference 54
previously accomplished as a marginal reference now accomplished 55
through electronic means, set out in that instrument, in 56
addition to the fees set forth in division (A) (1) of this 57
section; 58

(D) For indexing in the real estate mortgage records, 59
pursuant to section 1309.519 of the Revised Code, financing 60
statements covering crops growing or to be grown, timber to be 61
cut, minerals or the like, including oil and gas, accounts 62
subject to section 1309.301 of the Revised Code, or fixture 63
filings made pursuant to section 1309.334 of the Revised Code, a 64
base fee of two dollars and a housing trust fund fee of two 65
dollars for each name indexed; 66

(E) For filing zoning resolutions, including text and 67
maps, in the office of the recorder as required under sections 68
303.11 and 519.11 of the Revised Code, a base fee of twenty-five 69
dollars and a housing trust fund fee of twenty-five dollars, 70
regardless of the size or length of the resolutions; 71

(F) For filing zoning amendments, including text and maps, 72
in the office of the recorder as required under sections 303.12 73
and 519.12 of the Revised Code, a base fee of ten dollars and a 74
housing trust fund fee of ten dollars regardless of the size or 75
length of the amendments; 76

(G) For photocopying a document, other than at the time of recording and indexing as provided for in division (A)(1) or (2) of this section, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(H) For local facsimile transmission of a document, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof; for long distance facsimile transmission of a document, a base fee of two dollars and a housing trust fund fee of two dollars per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(I) For recording a declaration executed pursuant to section 2133.02 of the Revised Code or a durable power of attorney for health care executed pursuant to section 1337.12 of the Revised Code, or both a declaration and a durable power of attorney for health care, a base fee of at least fourteen dollars but not more than twenty dollars and a housing trust fund fee of at least fourteen dollars but not more than twenty dollars.

In any county in which the recorder employs the photostatic or any similar process for recording maps, plats, or prints the recorder shall determine, charge, and collect for the recording or rerecording of any map, plat, or print, a base fee of five cents and a housing trust fund fee of five cents per square inch, for each square inch of the map, plat, or print filed for that recording or rerecording, with a minimum base fee of twenty dollars and a minimum housing trust fund fee of twenty dollars; for certifying a copy from the record, a base fee of two cents and a housing trust fund fee of two cents per square

inch of the record, with a minimum base fee of two dollars and a 107
minimum housing trust fund fee of two dollars. 108

The fees provided in this section shall be paid upon the 109
presentation of the instruments for record or upon the 110
application for any certified copy of the record, except that 111
the payment of fees for providing copies of instruments 112
conveying or extinguishing agricultural easements to the office 113
of farmland preservation in the department of agriculture under 114
division (H) of section 5301.691 of the Revised Code shall be 115
governed by that division, and payment of fees for electronic 116
recording may be made by electronic funds transfer, automated 117
clearing house, or other electronic means after presentation. 118

The fees provided for in this section shall not apply to 119
the recording, indexing, or making of a certified copy or to the 120
filing of any instrument by a county land reutilization 121
corporation. 122

The fees provided for in this section shall not apply to 123
the recording, indexing, or making of a certified copy or to the 124
filing of any instrument by a county land reutilization 125
corporation's wholly owned subsidiary or any other electing 126
subdivision as defined in section 5722.01 of the Revised Code if 127
the wholly owned subsidiary or the electing subdivision is 128
acting in capacity consistent with the purpose of the land 129
reutilization program. 130

Sec. 349.01. As used in this chapter: 131

(A) "New community" means a community or development of 132
property in relation to an existing community planned so that 133
the resulting community includes facilities for the conduct of 134
industrial, commercial, residential, cultural, educational, and 135

recreational activities, and designed in accordance with 136
planning concepts for the placement of utility, open space, and 137
other supportive facilities. 138

(B) "New community development program" means a program 139
for the development of a new community characterized by well- 140
balanced and diversified land use patterns and which includes 141
land acquisition and land development, the acquisition, 142
construction, operation, and maintenance of community 143
facilities, and the provision of services authorized in this 144
chapter. 145

A new community development program may take into account 146
any existing community in relation to which a new community is 147
developed for purposes of being characterized by well-balanced 148
and diversified land use patterns. 149

(C) "New community district" means the area of land 150
described by the developer in the petition as set forth in 151
division (A) of section 349.03 of the Revised Code for 152
development as a new community and any lands added to the 153
district by amendment of the resolution establishing the 154
community authority. 155

(D) "New community authority" means a body corporate and 156
politic in this state, established pursuant to section 349.03 of 157
the Revised Code and governed by a board of trustees as provided 158
in section 349.04 of the Revised Code. 159

(E) "Developer" means any person, organized for carrying 160
out a new community development program who owns or controls, 161
through leases of at least seventy-five years' duration, 162
options, or contracts to purchase, the land within a new 163
community district, or any municipal corporation, county, or 164

port authority that owns the land within a new community 165
district, or has the ability to acquire such land, either by 166
voluntary acquisition or condemnation in order to eliminate 167
slum, blighted, and deteriorated or deteriorating areas and to 168
prevent the recurrence thereof. "Developer" may also mean a 169
person, municipal corporation, county, or port authority that 170
controls land within a new community district through leases of 171
at least seventy-five years' duration. "Developer" includes a 172
lessor that continues to own and control land for purposes of 173
this chapter pursuant to leases with a ninety-nine-year 174
renewable term, so long as all of the following apply: 175

(1) The developer's new community district consists of at 176
least five leases described in this section. 177

(2) The leases are subject to forfeiture for all of the 178
following: 179

(a) Failing to pay taxes and assessments; 180

(b) Failing to pay an annual fee of up to one per cent of 181
rent for sanitary purposes and improvements made to streets; 182

(c) Failing to keep the premises as required by sanitary 183
and police regulations of the developer. 184

(3) The new community authority is established on or 185
before December 31, ~~2021~~2024. 186

(F) "Organizational board of commissioners" means the 187
following: 188

(1) For a new community district that is located in only 189
one county, the board of county commissioners of that county; 190

(2) For a new community district that is located in more 191
than one county, a board consisting of the members of the board 192

of county commissioners of each of the counties in which the 193
district is located, provided that action of the board shall 194
require a majority vote of the members of each separate board of 195
county commissioners; or 196

(3) For a new community district that is located entirely 197
within the boundaries of a municipal corporation or for a new 198
community district where more than half of the new community 199
district is located within the boundaries of the most populous 200
municipal corporation of a county, the legislative authority of 201
the municipal corporation. 202

(G) "Land acquisition" means the acquisition of real 203
property and interests in real property as part of a new 204
community development program. 205

(H) "Land development" means the process of clearing and 206
grading land, making, installing, or constructing water 207
distribution systems, sewers, sewage collection systems, steam, 208
gas, and electric lines, roads, streets, curbs, gutters, 209
sidewalks, storm drainage facilities, and other installations or 210
work, whether within or without the new community district, and 211
the construction of community facilities. 212

(I) "Community facilities" means all real property, 213
buildings, structures, or other facilities, including related 214
fixtures, equipment, and furnishings, to be owned, operated, 215
financed, constructed, and maintained under this chapter or in 216
furtherance of community activities, whether within or without 217
the new community district, including public, community, 218
village, neighborhood, or town buildings, centers and plazas, 219
auditoriums, day care centers, recreation halls, educational 220
facilities, health care facilities including hospital facilities 221
as defined in section 140.01 of the Revised Code, 222

telecommunications facilities, including all facilities 223
necessary to provide telecommunications service as defined in 224
section 4927.01 of the Revised Code, recreational facilities, 225
natural resource facilities, including parks and other open 226
space land, lakes and streams, cultural facilities, community 227
streets and off-street parking facilities, pathway and bikeway 228
systems, pedestrian underpasses and overpasses, lighting 229
facilities, design amenities, or other community facilities, and 230
buildings needed in connection with water supply or sewage 231
disposal installations, or energy facilities including those for 232
renewable or sustainable energy sources, and steam, gas, or 233
electric lines or installation. 234

(J) "Cost" as applied to a new community development 235
program means all costs related to land acquisition and land 236
development, the acquisition, construction, maintenance, and 237
operation of community facilities and offices of the community 238
authority, and of providing furnishings and equipment therefor, 239
financing charges including interest prior to and during 240
construction and for the duration of the new community 241
development program, planning expenses, engineering expenses, 242
administrative expenses including working capital, and all other 243
expenses necessary and incident to the carrying forward of the 244
new community development program. 245

(K) "Income source" means any and all sources of income to 246
the community authority, including community development charges 247
of which the new community authority is the beneficiary as 248
provided in section 349.07 of the Revised Code, rentals, user 249
fees and other charges received by the new community authority, 250
any gift or grant received, any moneys received from any funds 251
invested by or on behalf of the new community authority, and 252
proceeds from the sale or lease of land and community 253

facilities.	254
(L) "Community development charge" means:	255
(1) A dollar amount which shall be determined on the basis	256
of the assessed valuation of real property or interests in real	257
property in a new community district, the income of the	258
residents of such property subject to such charge under section	259
349.07 of the Revised Code, if such property is devoted to	260
residential uses or to the profits, gross receipts, or other	261
revenues of any business including, but not limited to, rentals	262
received from leases of real property located in the district, a	263
uniform or other fee on each parcel of such real property in a	264
new community district, or any combination of the foregoing	265
bases.	266
(2) If a new community authority imposes a community	267
development charge determined on the basis of rentals received	268
from leases of real property, improvements of any real property	269
located in the new community district and subject to that charge	270
may not be exempted from taxation under section 5709.40,	271
5709.41, 5709.73, or 5709.78 of the Revised Code.	272
(M) "Proximate city" means the following:	273
(1) For a new community district other than a new	274
community district described in division (M) (2) or (3) of this	275
section, any city that, as of the date of filing of the petition	276
under section 349.03 of the Revised Code, is the city with the	277
greatest population located in the county in which the proposed	278
new community district is located, is the city with the greatest	279
population located in an adjoining county if any portion of such	280
city is within five miles of any part of the boundaries of such	281
district, or exercises extraterritorial subdivision authority	282

under section 711.09 of the Revised Code with respect to any 283
part of such district. 284

(2) A municipal corporation in which, at the time of 285
filing the petition under section 349.03 of the Revised Code, 286
any portion of the proposed new community district is located. 287

(3) For a new community district other than a new 288
community district described in division (M) (2) of this section, 289
if at the time of filing the petition under section 349.03 of 290
the Revised Code, more than one-half of the proposed district is 291
contained within a joint economic development district created 292
under sections 715.70 to 715.83 of the Revised Code, the 293
township containing the greatest portion of the territory of the 294
joint economic development district. 295

(N) "Community activities" means cultural, educational, 296
governmental, recreational, residential, industrial, commercial, 297
distribution and research activities, or any combination thereof 298
that includes residential activities. 299

Sec. 5311.05. (A) A declaration submitting property to the 300
provisions of this chapter shall be signed and acknowledged by 301
the owner before a judge or clerk of a court of record, county 302
auditor, county engineer, notary public, or mayor, who shall 303
certify the acknowledgment and subscribe the certificate of 304
acknowledgment. 305

(B) A declaration shall contain all of the following: 306

(1) A legal description of the land or, for a water slip 307
condominium property, of the land and the land under the water 308
area, submitted to the provisions of this chapter; 309

(2) The name of the condominium property, which shall 310
include the word "condominium"; 311

(3) The purpose of the condominium property, the units and recreational and commercial facilities situated in the condominium property, and any restrictions upon the use of the condominium property;

(4) A general description of buildings submitted to the provisions of this chapter, stating the principal construction materials and the number of stories, basements, and units. The declaration for a water slip property shall also contain a general description of each water slip and of the piers and wharves forming each water slip submitted to the provisions of this chapter;

(5) The unit designation of each unit submitted to the provisions of this chapter and a statement of its location, approximate area, the immediate common element or limited common element to which it has access, and any other information necessary for its proper identification;

(6) A description of the common elements and limited common elements submitted to the provisions of this chapter, the undivided interest in those elements appurtenant to each unit, the basis upon which those appurtenant undivided interests are allocated, and the procedures whereby the undivided interests appertaining to each unit may be altered. The undivided interests, basis, and procedures shall be in accordance with sections 5311.031 to 5311.033 and 5311.04 of the Revised Code;

(7) A statement that each unit owner is a member of a unit owners association established for the administration of the condominium property;

(8) The name of a person to receive service of process for the unit owners association, together with the person's

residence or place of business located in this state;	341
(9) A statement of any membership requirement if the unit owners association or any unit owners are required to be members of a not-for-profit organization that provides facilities or recreation, education, or social services to owners of property other than the condominium property;	342 343 344 345 346
(10) The method by which the declaration may be amended, which, except as provided in division (E) of this section, division (E) of section 5311.04, division (B) of section 5311.041, and sections 5311.031 to 5311.033 and 5311.051 of the Revised Code, requires the affirmative vote of unit owners exercising not less than seventy-five per cent of the voting power;	347 348 349 350 351 352 353
(11) Any further provisions deemed desirable.	354
(C) The declaration for an expandable condominium property shall contain all of the following in addition to the requirements of division (B) of this section:	355 356 357
(1) The explicit reservation of the declarant's option to expand the condominium property;	358 359
(2) A statement of any limitations on that option to expand, including a statement as to whether the consent of any unit owner is required, and how that consent is to be ascertained; or a statement that there are no limitations on the option to expand;	360 361 362 363 364
(3) (a) The time at which the option to expand the condominium development expires, which shall not exceed seven years from the date the declaration is filed for record;	365 366 367
(b) A statement that the declarant may, during the six	368

months prior to the time that the option expires, extend the 369
option for an additional seven years with the consent of the 370
holders of a majority of the voting power of the unit owners 371
other than the declarant; 372

(c) A statement of any circumstances that will terminate 373
the option to expand prior to the time established pursuant to 374
division (C) (3) (a) or (b) of this section. 375

(4) A legal description of all additional property that, 376
through exercise of the option, may be submitted to the 377
provisions of this chapter and added to the condominium 378
property; 379

(5) A statement that specifies all of the following: 380

(a) Whether the addition of all or a particular portion of 381
the additional property is mandatory; 382

(b) If the addition of additional property is not 383
mandatory, whether all or a particular portion of the additional 384
property must be added if any other additional property is 385
added; 386

(c) Whether or not there are any limitations on portions 387
of additional property that may be added. 388

(6) A statement of whether portions of the additional 389
property may be added at different times and a statement that 390
sets forth any limitations on the addition of additional 391
property at different times, including the legal descriptions of 392
the boundaries of portions that may be added and specifications 393
on the order in which those portions may be added to the 394
condominium property or a statement that there are no 395
limitations on the addition of additional property; 396

(7) A statement of any limitations on the location of any improvements that may be made on any portion of the additional property added to the condominium property, or a statement that there are no limitations of that kind;

(8) A statement of the maximum number of units that may be created on the additional property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units that may be created on each portion added to the condominium property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are not fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units per acre that may be created on any portion added to the condominium property.

(9) Except when the original condominium property contained no units restricted to residential use, a statement of the maximum percentage of the aggregate land area and the maximum percentage of aggregate floor area that may be devoted to units not restricted to residential use on any additional property added to the condominium property;

(10) A statement of the extent to which any structures erected on any portion of the additional property added to the condominium property will be compatible with structures on the submitted property in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that the structures need not be compatible in those respects;

(11) With respect to all improvements to any portion of

additional property added to the condominium property, other 427
than structures, a statement setting forth both of the 428
following: 429

(a) A description of the improvements that must be made or 430
a statement that no other improvements must be made; 431

(b) Any restrictions or limitations on the improvements 432
that may be made or a statement that there are no restrictions 433
or limitations on improvements. 434

(12) With respect to all units created on any portion of 435
additional property added to the condominium property, a 436
statement setting forth both of the following: 437

(a) Whether all units of that kind must be substantially 438
identical to units on previously submitted property; 439

(b) Any limitations on the types of units that may be 440
created on the additional property or a statement that there are 441
no limitations of that kind. 442

(13) A description of any reserved right of the declarant 443
to create limited common elements within any portion of the 444
additional property added to the condominium property or to 445
designate common elements within each portion. The description 446
shall specify the types, sizes, and maximum number of limited 447
common elements in each portion that may subsequently be 448
assigned to units; 449

(14) Drawings and plans that the declarant considers 450
appropriate in supplementing the requirements of division (C) of 451
this section; 452

(15) A statement that a successor owner of the condominium 453
property or of additional property added to the condominium 454

property who is not an affiliate of the developer and who is a 455
bona fide purchaser of the property for value, or a purchaser 456
who acquires the property at a sheriff's sale or by deed in lieu 457
of a foreclosure, is not liable in damages for harm caused by an 458
action or omission of the developer or a breach of an obligation 459
by the developer. 460

(D) The declaration for a leasehold condominium 461
development shall contain all of the following in addition to 462
the requirements of division (B) of this section: 463

(1) With respect to any ground lease or other leases, the 464
expiration or termination of which could terminate or reduce the 465
amount of condominium property, a statement setting forth the 466
county in which the lease is recorded and the volume and page of 467
the record; 468

(2) A statement setting forth the date upon which each 469
lease referred to in division (D)(1) of this section expires; 470

(3) (a) A statement of whether the unit owners own any land 471
or improvements of the condominium property in fee simple, and 472
if so, a description of the improvements and a legal description 473
of the land; 474

(b) A statement of any rights the unit owners have to 475
remove any improvements within a reasonable time after the 476
expiration or termination of any ninety-nine year lease, or a 477
statement that they have no rights of that nature. 478

(4) A statement of the rights that the unit owners have to 479
redeem the reversion or any of the reversions, or a statement 480
that they have no rights of that nature; 481

(5) A statement that, subsequent to the recording of the 482
declaration, no lessor who executed it and no successor in 483

interest to that lessor has any right or power to terminate any 484
part of the leasehold interest of any unit owner who makes 485
timely payment of the unit owner's share of the rent to the 486
person designated in the declaration for the receipt of that 487
rent and who otherwise complies with all covenants that, if 488
violated, entitle the lessor to terminate the lease. 489

(E) (1) Without a vote of the unit owners, the board of 490
directors may amend the declaration in any manner necessary for 491
any of the following purposes: 492

(a) To meet the requirements of institutional mortgagees, 493
guarantors and insurers of first mortgage loans, the federal 494
national mortgage association, the federal home loan mortgage 495
corporation, the federal housing administration, the veterans 496
administration, and similar institutions; 497

(b) To meet the requirements of insurance underwriters; 498

(c) To bring the declaration into compliance with this 499
chapter; 500

(d) To correct clerical or typographical errors or obvious 501
factual errors in the declaration or an exhibit to the 502
declaration; 503

(e) To designate a successor to the person named to 504
receive service of process for the unit owners association. If 505
the association is incorporated in this state, this may be 506
accomplished by filing with the secretary of state an 507
appropriate change of statutory agent designation; 508

(f) To permit notices to owners, as required by the 509
declaration or bylaws, to be sent by electronic mail and, if 510
returned undeliverable, by regular mail, provided the 511
association has received the prior, written authorization from 512

<u>the owner;</u>	513
<u>(g) To delete as void, any provision within the</u>	514
<u>declaration or bylaws, or in any applicable restriction or</u>	515
<u>covenant, that prohibits or limits the conveyance, encumbrance,</u>	516
<u>rental, occupancy, or use of property subject to this chapter on</u>	517
<u>the basis of race, color, national origin, sex, religion, or</u>	518
<u>familial status.</u>	519
(2) Division (E) (1) of this section applies to condominium	520
properties submitted to this chapter prior to, on, or after the	521
effective date of this amendment <u>July 20, 2004.</u>	522
(3) Any unit owner who is aggrieved by an amendment to the	523
declaration that the board of directors makes pursuant to	524
division (E) (1) of this section may commence a declaratory	525
judgment action to have the amendment declared invalid as	526
violative of division (E) (1) of this section. Any action filed	527
pursuant to division (E) (3) of this section shall be filed in	528
the appropriate court of common pleas within one year from the	529
date of the recordation of the amendment.	530
Sec. 5311.08. (A) (1) Every condominium property shall be	531
administered by a unit owners association. All power and	532
authority of the unit owners association shall be exercised by a	533
board of directors, which the unit owners shall elect from among	534
the unit owners or the spouses of unit owners. If a unit owner	535
is not an individual, that unit owner may nominate for the board	536
of directors any principal, member of a limited liability	537
company, partner, director, officer, or employee of that unit	538
owner. <u>The majority of the board shall not consist of unit</u>	539
<u>owners or representatives from the same unit unless authorized</u>	540
<u>by a resolution adopted by the board of directors prior to the</u>	541
<u>board majority being comprised of owners or representatives from</u>	542

the same unit. 543

(2) The board of directors shall elect a president, 544
secretary, treasurer, and other officers that the board may 545
desire. 546

(3) Unless otherwise provided in the declaration or the 547
bylaws, all meetings of the unit owners association are open to 548
the unit owners, and those present in person or by proxy when 549
action is taken during a meeting of the unit owners association 550
constitute a sufficient quorum. 551

(4) (a) A meeting of the board of directors may be held by 552
any method of communication, including electronic or telephonic 553
communication provided that each member of the board can hear, 554
participate, and respond to every other member of the board. 555

(b) In lieu of conducting a meeting, the board of 556
directors may take action with the unanimous written consent of 557
the members of the board. Those written consents shall be filed 558
with the minutes of the meetings of the board. 559

(B) ~~The~~ Except as provided in division (A)(1) of this 560
section, the unit owners association shall be governed by 561
bylaws. No modification of or amendment to the bylaws is valid 562
unless it is set forth in an amendment to the declaration, and 563
the amendment to the declaration is filed for record. Unless 564
otherwise provided by the declaration, the bylaws shall provide 565
for the following: 566

(1) (a) The election of the board of directors of the unit 567
owners association; 568

(b) The number of persons constituting the board; 569

(c) The terms of the directors, with not less than one- 570

fifth to expire annually;	571
(d) The powers and duties of the board;	572
(e) The compensation of the directors;	573
(f) The method of removal of directors from office;	574
(g) The election of officers of the board;	575
(h) Whether or not the services of a manager or managing agent may be engaged.	576 577
(2) The time and place for holding meetings; the manner of and authority for calling, giving notice of, and conducting meetings; and the requirement, in terms of undivided interests in the common elements, of a quorum for meetings of the unit owners association;	578 579 580 581 582
(3) By whom and the procedure by which maintenance, repair, and replacement of the common elements may be authorized;	583 584 585
(4) The common expenses for which assessments may be made and the manner of collecting from the unit owners their respective shares of the common expenses;	586 587 588
(5) The method of distributing the common profits;	589
(6) By whom and the procedure by which administrative rules governing the operation and use of the condominium property or any portion of the property may be adopted and amended. These rules may govern any aspect of the condominium property that is not required to be governed by bylaws and may include standards governing the type and nature of information and documents that are subject to examination and copying by unit owners pursuant to section 5311.091 of the Revised Code,	590 591 592 593 594 595 596 597

including the times and location at which items may be examined 598
or copied and any required fee for copying the information or 599
documents. 600

(C) (1) The unit owners association shall be established 601
not later than the date that the deed or other evidence of 602
ownership is filed for record following the first sale of a 603
condominium ownership interest in a condominium development. 604
Membership in the unit owners association shall be limited to 605
unit owners, and all unit owners shall be members. Until the 606
unit owners association is established, the developer shall act 607
in all instances in which action of the unit owners association 608
or its officers is authorized or required by law or the 609
declaration. 610

(2) (a) Not later than sixty days after the developer has 611
sold and conveyed condominium ownership interests appertaining 612
to twenty-five per cent of the undivided interests in the common 613
elements in a condominium development, the unit owners 614
association shall meet, and the unit owners other than the 615
developer shall elect not less than one-third of the members of 616
the board of directors. 617

(b) When computing undivided interests in expandable 618
condominium properties for purposes of divisions (C) and (D) of 619
this section, the undivided interests in common elements shall 620
be computed by comparing the number of units sold and conveyed 621
to the maximum number of units that may be created, as stated in 622
the declaration pursuant to division (C) (8) of section 5311.05 623
of the Revised Code. 624

(D) (1) Except as provided in division (C) of this section, 625
the declaration or bylaws of a condominium development may 626
authorize the developer or persons the developer designates to 627

appoint and remove members of the board of directors of the unit owners association and to exercise the powers and responsibilities otherwise assigned by law, the declaration, or the bylaws to the unit owners association or to the board of directors. The authorization for developer control may extend from the date the unit owners association is established until sixty days after the sale and conveyance to purchasers in good faith for value of condominium ownership interests to which seventy-five per cent of the undivided interests in the common elements appertain, except that in no case may the authorization extend for more than five years after the unit owners association is established if the declaration includes expandable condominium property or more than three years after the unit owners association is established if the declaration does not include expandable condominium property.

(2) If there is a unit owner other than the developer, the declaration of a condominium development shall not be amended to increase the scope or the period of the developer's control.

(3) Within sixty days after the expiration of the period during which the developer has control pursuant to division (D) (1) of this section, the unit owners association shall meet and elect all members of the board of directors of the association. The persons elected shall take office at the end of the meeting during which they are elected and shall, as soon as reasonably possible, appoint officers.

(E) The board of directors, or the developer while in control of the association, may take any measures necessary to incorporate the unit owners association as a not-for-profit corporation.

Sec. 5311.081. (A) ~~Unless otherwise provided in the~~

~~declaration or bylaws, the~~ The unit owners association, through 658
the board of directors, shall do both of the following: 659

(1) ~~Adopt Annually, adopt and amend budgets an estimated~~ 660
~~budget for revenues, and expenditures, and. The budget shall~~ 661
include reserves in an amount adequate to repair and replace 662
major capital items in the normal course of operations without 663
the necessity of special assessments, ~~provided that the amount~~ 664
~~set aside annually for reserves shall not be less than ten per-~~ 665
~~cent of the budget for that year unless the reserve requirement~~ 666
~~is waived annually by the~~ either of the following applies: 667

(a) The declaration or bylaws include language limiting 668
the ability of the board of directors to increase assessments 669
for common expenses without a vote of the unit owners; 670

(b) The unit owners, exercising not less than a majority 671
of the voting power of the unit owners association, waive the 672
reserve requirement in writing annually. 673

(2) Collect assessments for common expenses from unit 674
owners. 675

(B) Unless otherwise provided in the declaration, the unit 676
owners association, through the board of directors, may exercise 677
all powers of the association, including the power to do the 678
following: 679

(1) Hire and fire managing agents, attorneys, accountants, 680
and other independent contractors and employees that the board 681
determines are necessary or desirable in the management of the 682
condominium property and the association; 683

(2) Commence, defend, intervene in, settle, or compromise 684
any civil, criminal, land use planning, or administrative action 685
or proceeding that is in the name of, or threatened against, the 686

unit owners association, the board of directors, or the 687
condominium property, or that involves two or more unit owners 688
~~and, impacts zoning, or otherwise~~ relates to matters affecting 689
the condominium property; 690

(3) Enter into contracts and incur liabilities relating to 691
the operation of the condominium property; 692

(4) Regulate the use, maintenance, repair, replacement, 693
modification, and appearance of the condominium property; 694

(5) Adopt rules that regulate the use or occupancy of 695
units, the maintenance, repair, replacement, modification, and 696
appearance of units, common elements, and limited common 697
elements when the actions regulated by those rules affect common 698
elements or other units; 699

(6) Cause additional improvements to be made as part of 700
the common elements; 701

(7) Purchase, encumber, and convey units, and, subject to 702
any restrictions in the declaration or bylaws and with the 703
approvals required by division (H) (2) or (3) of section 5311.04 704
of the Revised Code, acquire an interest in other real property 705
and encumber or convey that interest. All expenses incurred in 706
connection with the acquisition, encumbrance, use, and operation 707
of that interest are common expenses. 708

(8) Acquire, encumber, and convey or otherwise transfer 709
personal property; 710

(9) Hold in the name of the unit owners association the 711
real property and personal property acquired pursuant to 712
divisions (B) (7) and (8) of this section; 713

(10) Grant easements, leases, licenses, and concessions 714

through or over the common elements;	715
(11) Impose and collect fees or other charges for <u>all of</u>	716
the <u>following:</u>	717
<u>(a) The use, rental, or operation of the common elements</u>	718
or for services;	719
<u>(b) Services provided to unit owners;</u>	720
<u>(c) To the extent provided in the declaration or bylaws,</u>	721
<u>social activities or charitable contributions on behalf of the</u>	722
<u>owners association;</u>	723
(12) Impose interest and late charges for the late payment	724
of assessments; impose returned check charges; and, pursuant to	725
division (C) of this section, impose reasonable enforcement	726
assessments for violations of the declaration, the bylaws, and	727
the rules of the unit owners association, and reasonable charges	728
for damage to the common elements or other property;	729
(13) Adopt and amend rules that regulate the collection of	730
delinquent assessments and the application of payments of	731
delinquent assessments;	732
(14) Subject to applicable laws, adopt and amend rules	733
that regulate the termination of utility or other service to a	734
commercial unit if the unit owner is delinquent in the payment	735
of an assessment that pays, in whole or in part, the cost of	736
that service;	737
(15) Impose reasonable charges for preparing, recording,	738
or copying amendments to the declaration, resale certificates,	739
or statements of unpaid assessments;	740
(16) Enter a unit for bona fide purposes when conditions	741
exist that involve an imminent risk of damage or harm to common	742

elements, another unit, or to the health or safety of the	743
occupants of that unit or another unit;	744
(17) To the extent provided in the declaration or bylaws,	745
assign the unit owners association's rights to common	746
assessments, or other future income, to a lender as security for	747
a loan to the unit owners association;	748
(18) Suspend the voting privileges and use of recreational	749
facilities of a unit owner who is delinquent in the payment of	750
assessments for more than thirty days;	751
(19) Purchase insurance and fidelity bonds the directors	752
consider appropriate or necessary;	753
(20) Invest excess funds in investments that meet	754
standards for fiduciary investments under Ohio law;	755
(21) Exercise powers that are:	756
(a) Conferred by the declaration or the bylaws of the unit	757
owners association or the board of directors;	758
(b) Necessary to incorporate the unit owners association	759
as a not-for-profit corporation;	760
(c) Permitted to be exercised in this state by a not-for-	761
profit corporation;	762
(d) Necessary and proper for the government and operation	763
of the unit owners association.	764
(C) (1) Prior to imposing a charge for damages or an	765
enforcement assessment pursuant to division (B) (12) of this	766
section, the board of directors shall give the unit owner a	767
written notice, <u>which may be in the form of electronic mail to</u>	768
<u>an electronic mail address previously provided by the owner in</u>	769

writing, that includes all of the following: 770

(a) A description of the property damage or violation; 771

(b) The amount of the proposed charge or assessment; 772

(c) A statement that the owner has a right to a hearing 773
before the board of directors to contest the proposed charge or 774
assessment; 775

(d) A statement setting forth the procedures to request a 776
hearing pursuant to division (C) (2) of this section; 777

(e) A reasonable date by which the unit owner must cure 778
the violation to avoid the proposed charge or assessment. 779

(2) (a) To request a hearing, the owner shall deliver a 780
written notice to the board of directors not later than the 781
tenth day after receiving the notice required by division (C) (1) 782
of this section. If the owner fails to make a timely request for 783
a hearing, the right to that hearing is waived, and the board 784
may immediately impose a charge for damages or an enforcement 785
assessment pursuant to division (C) of this section. 786

(b) If a unit owner requests a hearing, at least seven 787
days prior to the hearing the board of directors shall provide 788
the unit owner with a written notice that includes the date, 789
time, and location of the hearing. 790

(3) The board of directors shall not levy a charge or 791
assessment before holding any hearing requested pursuant to 792
division (C) (2) of this section. 793

(4) The unit owners, through the board of directors, may 794
allow a reasonable time to cure a violation described in 795
division (B) (12) of this section before imposing a charge or 796
assessment. 797

(5) Within thirty days following a hearing at which the board of directors imposes a charge or assessment, the unit owners association shall deliver a written notice of the charge or assessment to the unit owner.

(6) Any written notice that division (C) of this section requires shall be delivered to the unit owner or any occupant of the unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

Sec. 5311.091. (A) Except as otherwise prohibited by this section, any member of a unit owners association may examine and copy the books, records, and minutes described in division (A) of section 5311.09 of the Revised Code pursuant to reasonable standards set forth in the declaration, bylaws, or rules the board promulgates, which may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents.

~~(B) The unit owners association is not required to permit the examination and copying of any of the following from Unless approved by the board of directors, a unit owner may not examine or copy any books, records, and or minutes that meet either of the following conditions:~~

~~(1) Date back more than five years prior to the date of the request;~~

~~(2) Contain any of the following:~~

~~(a) Information that pertains to condominium property-related personnel matters;~~

~~(2) (b) Communications with legal counsel or attorney work~~

product pertaining to pending litigation or other condominium 827
property-related matters; 828

~~(3)~~ (c) Information that pertains to contracts or 829
transactions currently under negotiation, or information that is 830
contained in a contract or other agreement containing 831
confidentiality requirements and that is subject to those 832
requirements; 833

~~(4)~~ (d) Information that relates to the enforcement of the 834
declaration, bylaws, or rules of the unit owners association 835
against unit owners; 836

~~(5)~~ (e) Information the disclosure of which is prohibited 837
by state or federal law. 838

Sec. 5311.16. Unless otherwise provided by the declaration 839
or bylaws, the board of directors shall ~~insure~~ maintain, with 840
the cost to be a common expense, all of the following: 841

(A) Liability insurance for all unit owners, their 842
tenants, and all persons lawfully in possession or control of 843
any part of the condominium property ~~for the~~ in an amount that 844
it determines ~~against liability~~ for personal injury or property 845
damage arising from or relating to the common elements ~~and shall~~ 846
~~obtain for;~~ 847

(B) For the benefit of all unit owners, fire and extended 848
coverage insurance on all buildings and structures of the 849
condominium property in an amount not less than ~~eighty-ninety~~ 850
per cent of the ~~fair market value. The cost of the insurance is~~ 851
~~a common expense.~~ replacement cost; 852

(C) (1) Blanket fidelity, crime, or dishonesty insurance 853
coverage for any person who controls or disburses association 854
funds. As used in division (C) (1) of this section, "person who 855

controls or disburses association funds" means any individual 856
with authority or access to sign checks, conduct electronic 857
transfers, or otherwise withdraw funds from any association 858
account or deposit, including the following: 859

(a) A management company's principals and employees; 860

(b) A bookkeeper; 861

(c) The president, secretary, treasurer, any other board 862
member, or employee of the unit owners association. 863

(2) All of the following apply to the insurance coverage 864
required under division (C)(1) of this section: 865

(a) Coverage shall be for the maximum amount of funds that 866
will be in the custody of the association or its designated 867
agent at any one time plus three months of operating expenses. 868

(b) The insurance shall be the property of and for the 869
sole benefit of the association and shall protect against theft, 870
embezzlement, misappropriation, or any other unauthorized taking 871
or loss of association funds. 872

(c) The policy shall include in its definition of 873
"employee" the manager and the managing agent of the 874
association's funds or provide for this inclusion by an 875
endorsement to the policy. 876

(d) The policy shall name the association as the insured 877
party and shall include a provision requiring the issuer of the 878
policy to provide a ten-day written notice to the association's 879
president or manager in the event of cancellation or substantial 880
modification of the policy. The manager or managing agent, if 881
any, of the association shall be the designated agent on the 882
policy. 883

(e) If there is a change in the manager or the managing agent of the association, then within ten days of the effective start date, the new manager or managing agent shall notify the insurer of such change. 884
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Sec. 5311.18. (A) (1) Unless otherwise provided by the declaration or the bylaws, the unit owners association has a continuing lien upon the estate or interest of the owner in any unit and the appurtenant undivided interest in the common elements for the payment of any of the following expenses that are chargeable against the unit and that remain unpaid for ten days after any portion has become due and payable: 888
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(a) The portion of the common expenses chargeable against the unit; 895
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(b) Interest, administrative late fees, enforcement assessments, and collection costs, attorney's fees, and paralegal fees the association incurs if authorized by the declaration, the bylaws, or the rules of the unit owners association and if chargeable against the unit. 897
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(2) Unless otherwise provided by the declaration, the bylaws, or the rules of the unit owners association, the association shall credit payments made by a unit owner for the expenses described in divisions (A) (1) (a) and (b) of this section in the following order of priority: 902
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(a) First, to interest owed to the association; 907

(b) Second, to administrative late fees owed to the association; 908
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(c) Third, to collection costs, attorney's fees, and paralegal fees incurred by the association; 910
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(d) Fourth, to the principal amounts the unit owner owes 912
to the association for the common expenses or penalty 913
assessments chargeable against the unit. 914

(3) The lien described in division (A) (1) of this section 915
is effective on the date that a certificate of lien in the form 916
described in division (A) (3) of this section is filed for record 917
in the office of the recorder of the county or counties in which 918
the condominium property is situated pursuant to an 919
authorization given by the board of directors of the unit owners 920
association. The certificate shall contain a description of the 921
unit, the name of the record owner of the unit, and the amount 922
of the unpaid portion of the common expenses and, subject to 923
subsequent adjustments, any unpaid interest, administrative late 924
fees, enforcement assessments, collection costs, attorney's 925
fees, and paralegal fees. The certificate shall be subscribed by 926
the president or other designated representative of the 927
association. 928

(4) The lien described in division (A) (1) of this section 929
is valid for a period of five years from the date of filing, 930
unless it is sooner released or satisfied in the same manner 931
provided by law for the release and satisfaction of mortgages on 932
real property or unless it is discharged by the final judgment 933
or order of a court in an action brought to discharge the lien 934
as provided in division (C) of this section. 935

(B) (1) The lien described in division (A) (1) of this 936
section is prior to any lien or encumbrance subsequently arising 937
or created except liens for real estate taxes and assessments of 938
political subdivisions and liens of first mortgages that have 939
been filed for record and may be foreclosed in the same manner 940
as a mortgage on real property in an action brought on behalf of 941

the unit owners association ~~by the president or other chief-~~ 942
~~officer of the association pursuant to authority given to that-~~ 943
~~individual as authorized by~~ the board of directors. 944

(2) In a foreclosure action a unit owners association 945
commences pursuant to division (B)(1) of this section or a 946
foreclosure action the holder of a first mortgage or other lien 947
on a unit commences, the owner of the unit, as the defendant in 948
the action, shall be required to pay a reasonable rental for the 949
unit during the pendency of the action. The unit owners 950
association or the holder of the lien is entitled to the 951
appointment of a receiver to collect the rental. Each rental 952
payment a receiver collects during the pendency of the 953
foreclosure action shall be applied first to the payment of the 954
portion of the common expenses chargeable to the unit during the 955
foreclosure action. 956

(3) In a foreclosure action the holder of a lien on a unit 957
commences, the holder of that lien shall name the unit owners 958
association as a defendant in the action. 959

(4) Unless prohibited by the declaration or the bylaws, 960
following a foreclosure action a unit owners association 961
commences pursuant to division (B)(1) of this section or a 962
foreclosure action the holder of a lien on a unit commences, the 963
association or its agent duly authorized by action of the board 964
of directors, is entitled to become a purchaser at the 965
foreclosure sale. 966

(5) A mortgage on a unit may contain a provision that 967
secures the mortgagee's advances for the payment of the portion 968
of the common expenses chargeable against the unit upon which 969
the mortgagee holds the mortgage. 970

(6) In any foreclosure action, it is not a defense, set off, counterclaim, or crossclaim that the unit owners association has failed to provide the unit owner with any service, goods, work, or material, or failed in any other duty.

(C) A unit owner who believes that the portion of the common expenses chargeable to the unit, for which the unit owners association files a certificate of lien pursuant to division (A) of this section, has been improperly charged may commence an action for the discharge of the lien in the court of common pleas of the county in which all or a part of the condominium property is situated. In the action, if it is finally determined that the portion of the common expenses was improperly charged to the unit owner or the unit, the court shall enter an order that it determines to be just, which may provide for a discharge of record of all or a portion of the lien.

Sec. 5311.192. (A) Unless specifically prohibited in the declaration, any owner of a solar appropriate unit may install a solar energy collection device on the roof of that unit if either of the following conditions apply:

(1) The unit, as defined by the declaration, includes the roof, for which the cost to insure, maintain, repair, and replace is not a common expense and is instead the owner's responsibility.

(2) The declaration specifically allows for and regulates the types and installation of solar energy collection devices in the common or limited common elements and establishes responsibility for the cost to insure, maintain, repair, and replace such devices.

(B) Notwithstanding division (A) of this section, a unit owners association may establish reasonable restrictions concerning the size, place, and manner of placement of solar energy collection devices. 1000
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(C) As used in this section: 1004

(1) "Solar appropriate unit" means a condominium unit that does not have any other condominium units directly above or below it. 1005
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(2) "Solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus. 1008
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Sec. 5312.02. (A) Any planned community in this state is subject to this chapter. No person shall establish a planned community unless that person files and records a declaration and bylaws for that planned community in the office of the recorder of the county or counties in which the planned community is located. 1013
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(B) Any declaration for a planned community shall be accompanied by bylaws that provide for the operation of the planned community. ~~The~~ Except as provided in division (A) (1) of section 5312.03 of the Revised Code, the declaration and bylaws shall provide for all of the following: 1019
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(1) The election of the board of directors of the owners association; 1024
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(2) The number of persons constituting the board; 1026

(3) The terms of the directors, with not less than one- 1027

fifth to expire annually;	1028
(4) The powers and duties of the board;	1029
(5) The method of removal of directors from office;	1030
(6) Whether the services of a manager or managing agent may be engaged;	1031 1032
(7) The method of amending the declaration and bylaws;	1033
(8) The time and place for holding meetings and the manner of and authority for calling, giving notice of, and meetings, conducting meetings, <u>and giving notice of meetings, which notice</u> <u>may be sent by electronic mail, provided the association has</u> <u>received the prior, written authorization from the owner;</u>	1034 1035 1036 1037 1038
(9) The common expenses for which assessments may be made and the manner of collecting from the owners their respective shares of the common expenses;	1039 1040 1041
(10) Any other matters the original declarant or the owners association deem necessary and appropriate.	1042 1043
(C) Nothing in this chapter invalidates any provision of a document that governs a planned community if that provision was in the document at the time the document was recorded and the document was recorded prior to the original effective date of this chapter, <u>September 10, 2010.</u>	1044 1045 1046 1047 1048
(D) (1) The board of directors of the owners association of any planned community that is in existence on the original effective date of this chapter, <u>September 10, 2010,</u> shall file and record the bylaws of that planned community that are in effect on that effective date in the office of the recorder of the county or counties in which the planned community is located within one hundred eighty days after that effective date.	1049 1050 1051 1052 1053 1054 1055

(2) The board of directors of the owners association of 1056
any planned community that is in existence on the original 1057
effective date of this chapter, September 10, 2010, shall file 1058
and record the bylaws that are adopted by the owners association 1059
on or after that effective date in the office of the recorder of 1060
the county or counties in which the planned community is located 1061
within ninety days after the date of adoption of the bylaws. 1062

(3) The board of directors of the owners association of 1063
any planned community that adopts an amendment to the bylaws of 1064
that planned community shall file and record the amendment in 1065
the office of the recorder of the county or counties in which 1066
the planned community is located within sixty days after the 1067
date of adoption of the amendment. 1068

(4) Nothing in division (D)(1) or (2) of this section 1069
shall require the board of directors or owners association of 1070
any planned community that is in existence on the original 1071
effective date of this chapter, September 10, 2010, to adopt 1072
bylaws of that planned community. 1073

(5) No board of directors of the owners association of a 1074
planned community that is in existence on the original effective 1075
date of this chapter, September 10, 2010, shall pursue any civil 1076
action against any person based upon any provision of the bylaws 1077
of that planned community or upon any amendments to the bylaws 1078
until the bylaws or amendments are filed and recorded under 1079
division (D)(1), (2), or (3) of this section. 1080

Sec. 5312.03. (A)(1) An owners association shall 1081
administer a planned community, and a board of directors the 1082
owners elect from among the owners and their spouses shall 1083
exercise all power and authority of the owners association. If 1084
an owner is not an individual, any principal, member of a 1085

limited liability company, partner, director, officer, trustee, 1086
or employee of the owner may be elected to the board. The 1087
majority of the board shall not consist of owners or 1088
representatives from the same lot unless authorized by a 1089
resolution adopted by the board of directors prior to the board 1090
majority being comprised of owners or representatives from the 1091
same lot. 1092

(2) Unless otherwise provided, a board of directors may 1093
carry out any action this chapter requires or allows an owners 1094
association to take, subject to any vote required of the owners. 1095

(B) A declarant shall establish an owners association not 1096
later than the date upon which the first lot in the planned 1097
community is conveyed to a bona fide purchaser for value. The 1098
owners association shall be organized as a nonprofit corporation 1099
pursuant to Chapter 1702. of the Revised Code. 1100

(C) (1) If provided in the declaration, a declarant may 1101
control the owners association for the period of time the 1102
declaration specifies. During the time of declarant control, the 1103
declarant or the declarant's designee may appoint and remove the 1104
members of the board. The period of declarant control shall 1105
terminate not later than the time at which all of the lots have 1106
been transferred to owners. 1107

(2) Not later than the termination of any period of 1108
declarant control, the owners shall elect a board of directors 1109
comprised of the number of members the declaration or bylaws 1110
specify. 1111

Sec. 5312.05. (A) Unless otherwise specified in division 1112
(C) of this section or the declaration or bylaws, the owners may 1113
amend the declaration and bylaws by the consent of seventy-five 1114

per cent of the owners, either in writing or in a meeting called 1115
for that purpose. No amendment to the declaration or bylaws is 1116
effective until filed in the office of the county recorder. 1117

(B) A vote to terminate the applicability of the 1118
declaration and to dissolve the planned community requires the 1119
unanimous consent of owners. 1120

(C) A vote to delete as void, any provision within the 1121
declaration or bylaws, or any applicable restriction or 1122
covenant, that limits the occupancy or use of property subject 1123
to this chapter on the basis of race, color, national origin, 1124
religion, sex, or familial status, requires only a majority vote 1125
of the board of directors of the owners association. 1126

Sec. 5312.06. (A) ~~Unless otherwise provided in the~~ 1127
~~declaration or bylaws, the~~ The owners association, through its 1128
board of directors, shall do both of the following: 1129

(1) Annually adopt and amend an estimated budget for 1130
revenues and expenditures. Any budget shall include reserves in 1131
an amount adequate to repair and replace major capital items in 1132
the normal course of operations without the necessity of special 1133
assessments, unless the owners, exercising not less than a 1134
majority of the voting power of the owners association, waive 1135
the reserve requirement in writing annually. 1136

(2) Collect assessments for common expenses from owners in 1137
accordance with section 5312.10 of the Revised Code. 1138

(B) Commencing not later than the time of the first 1139
conveyance of a lot to a person other than a declarant, the 1140
owners association shall maintain all of the following to the 1141
extent reasonably available and applicable: 1142

(1) Property insurance on the common elements; 1143

(2) Liability insurance pertaining to the common elements;	1144
(3) Directors and officers liability insurance;	1145
<u>(4) (a) Blanket fidelity, crime, or dishonesty insurance</u>	1146
<u>coverage for any person who controls or disburses association</u>	1147
<u>funds. As used in division (B) (4) (a) of this section, "person</u>	1148
<u>who controls or disburses association funds" means any</u>	1149
<u>individual with authority or access to sign checks, conduct</u>	1150
<u>electronic transfers, or otherwise withdraw funds from any</u>	1151
<u>association account or deposit, including the following:</u>	1152
<u>(i) A management company's principals and employees;</u>	1153
<u>(ii) A bookkeeper;</u>	1154
<u>(iii) The president, secretary, treasurer, any other board</u>	1155
<u>member, or employee of the owners association.</u>	1156
<u>(b) All of the following apply to the insurance coverage</u>	1157
<u>required under division (B) (4) (a) of this section:</u>	1158
<u>(i) Coverage shall be for the maximum amount of funds that</u>	1159
<u>will be in the custody of the association or its designated</u>	1160
<u>agent at any one time plus three months of operating expenses.</u>	1161
<u>(ii) The insurance shall be the property of and for the</u>	1162
<u>sole benefit of the association and shall protect against theft,</u>	1163
<u>embezzlement, misappropriation, or any other unauthorized taking</u>	1164
<u>or loss of association funds.</u>	1165
<u>(iii) The policy shall include in its definition of</u>	1166
<u>"employee" the manager and the managing agent of the</u>	1167
<u>association's funds or provide for this inclusion by an</u>	1168
<u>endorsement to the policy.</u>	1169
<u>(iv) The policy shall name the association as the insured</u>	1170

party and shall include a provision requiring the issuer of the 1171
policy to provide a ten-day written notice to the association's 1172
president or manager in the event of cancellation or substantial 1173
modification of the policy. The manager or managing agent, if 1174
any, of the association shall be the designated agent on the 1175
policy. 1176

(v) If there is a change in the manager or the managing 1177
agent of the association, then within ten days of the effective 1178
start date, the new manager or managing agent shall notify the 1179
insurer of such change. 1180

(C) The owners association shall keep all of the 1181
following: 1182

(1) Correct and complete books and records of account that 1183
specify the receipts and expenditures relating to the common 1184
elements and other common receipts and expenses; 1185

(2) Records showing the collection of the common expenses 1186
from the owners; 1187

(3) Minutes of the meetings of the association and the 1188
board of directors; 1189

(4) Records of the names and addresses of the owners. 1190

(D) An owners association, through its board of directors, 1191
may do any of the following: 1192

(1) Hire and fire managing agents, attorneys, accountants, 1193
and other independent professionals and employees that the board 1194
determines are necessary or desirable in the management of the 1195
property and the association; 1196

(2) Commence, defend, intervene in, settle, or compromise 1197
any civil, criminal, land use planning, or administrative action 1198

or proceeding that is in the name of, or threatened against, the	1199
association, the board of directors, or the property, or that	1200
involves two or more owners— and, impacts zoning, or otherwise	1201
relates to matters affecting the property;	1202
(3) Enter into contracts and incur liabilities relating to	1203
the operation of the property;	1204
(4) Enforce all provisions of the declaration, bylaws,	1205
covenants, conditions, restrictions, and articles of	1206
incorporation governing the lots, common elements, and limited	1207
common elements;	1208
(5) Adopt and enforce rules that regulate the maintenance,	1209
repair, replacement, modification, and appearance of common	1210
elements, and any other rules as the declaration provides;	1211
(6) Acquire, encumber, and convey or otherwise transfer	1212
real and personal property, subject to section 5312.10 of the	1213
Revised Code;	1214
(7) Hold in the name of the owners association the real	1215
property and personal property;	1216
(8) Grant easements, leases, licenses, and concessions	1217
through or over the common elements;	1218
(9) Levy and collect fees or other charges for the use,	1219
rental, or operation of the common elements or for services	1220
provided to owners;	1221
(10) Pursuant to section 5312.11 of the Revised Code, levy	1222
the following charges and assessments:	1223
(a) Interest and charges for the late payment of	1224
assessments;	1225

(b) Returned check charges;	1226
(c) Enforcement assessments for violations of the declaration, the bylaws, and the rules of the owners association;	1227 1228 1229
(d) Charges for damage to the common elements or other property.	1230 1231
(11) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;	1232 1233 1234
(12) Impose reasonable charges for preparing, recording, or copying the declaration, bylaws, amendments to the declaration and bylaws, resale certificates, or statements of unpaid assessments;	1235 1236 1237 1238
(13) Authorize entry to any portion of the planned community by designated individuals when conditions exist that involve an imminent risk of damage or harm to common elements, another dwelling unit, or to the health or safety of the occupants of that dwelling unit or another dwelling unit;	1239 1240 1241 1242 1243
(14) Subject to division (A) (1) of section 5312.09 of the Revised Code, borrow money and assign the right to common assessments or other future income to a lender as security for a loan to the owners association;	1244 1245 1246 1247
(15) Suspend the voting privileges and use of recreational facilities of an owner who is delinquent in the payment of assessments for more than thirty days;	1248 1249 1250
(16) Purchase insurance and fidelity bonds the directors consider appropriate and necessary;	1251 1252
(17) Invest excess funds in investments that meet	1253

standards for fiduciary investments under the laws of this state;	1254 1255
(18) Exercise powers that are any of the following:	1256
(a) Conferred by the declaration or bylaws;	1257
(b) Necessary to incorporate the owners association as a nonprofit corporation;	1258 1259
(c) Permitted to be exercised in this state by a nonprofit corporation;	1260 1261
(d) Necessary and proper for the government and operation of the owners association.	1262 1263
Sec. 5312.07. (A) Unless otherwise prohibited by this section, any owner may examine and copy the books, records, and minutes of the owners association that division (C) of section 5312.06 of the Revised Code describes, pursuant to reasonable standards set forth in the declaration, bylaws, or rules the board promulgates. The standards may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents.	1264 1265 1266 1267 1268 1269 1270 1271 1272 1273
(B) Unless approved by the board of directors, an owner may not examine or copy any of the following from books, records, and <u>or minutes that meet either of the following conditions:</u>	1274 1275 1276 1277
(1) <u>Date back more than five years prior to the date of the request;</u>	1278 1279
(2) <u>Contain any of the following:</u>	1280

<u>(a)</u> Information that pertains to property-related personnel matters;	1281 1282
(2) <u>(b)</u> Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other property-related matters;	1283 1284 1285
(3) <u>(c)</u> Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;	1286 1287 1288 1289 1290
(4) <u>(d)</u> Information that relates to the enforcement of the declaration, bylaws, or rules of the owners association against other owners;	1291 1292 1293
(5) <u>(e)</u> Information, the disclosure of which is prohibited by state or federal law.	1294 1295
Sec. 5312.11. (A) An owners association may assess an individual lot for any of the following:	1296 1297
(1) Enforcement assessments and individual assessments for utility service that are imposed or levied in accordance with the declaration, as well as expenses the board incurs in collecting those assessments;	1298 1299 1300 1301
(2) Costs of maintenance, repair, or replacement incurred due to the willful or negligent act of an owner or occupant of a lot or their family, tenants, guests, or invitees, including, but not limited to, attorney's fees, court costs, and other expenses;	1302 1303 1304 1305 1306
(3) Costs associated with the enforcement of the declaration or the rules and regulations of the owners	1307 1308

association, including, but not limited to, attorney's fees, 1309
court costs, and other expenses; 1310

(4) Costs or charges the declaration or bylaws permit. 1311

(B) Unless otherwise provided by the declaration, bylaws, 1312
or rules, the owners association shall credit any amount it 1313
receives from a lot owner pursuant to this section in the 1314
following order: 1315

(1) To interest owed to the owners association; 1316

(2) To administrative late fees or enforcement assessments 1317
owed to the owners association; 1318

(3) To collection costs, attorney's fees, and paralegal 1319
fees the owners association incurred in collecting the 1320
assessment; 1321

(4) To the oldest principal amounts the owner owes to the 1322
owners association for the common expenses chargeable against 1323
the dwelling unit or lot. 1324

(C) Prior to imposing a charge for damages or an 1325
enforcement assessment pursuant to this section, the board of 1326
directors shall give the owner a written notice, which may be in 1327
the form of electronic mail to an electronic mail address 1328
previously provided by the owner in writing, that includes all 1329
of the following: 1330

(1) A description of the property damage or violation; 1331

(2) The amount of the proposed charge or assessment; 1332

(3) A statement that the owner has a right to a hearing 1333
before the board to contest the proposed charge or assessment; 1334

(4) A statement setting forth the procedures to request a 1335

hearing; 1336

(5) A reasonable date by which the owner must cure a 1337
continuing violation to avoid the proposed charge or assessment, 1338
if such an opportunity to cure is applicable. 1339

(D) (1) To request a hearing, the owner shall deliver a 1340
written notice to the board not later than the tenth day after 1341
receiving the notice this division requires. If the owner fails 1342
to make a timely request for a hearing, the right to that 1343
hearing is waived, and the board immediately may impose a charge 1344
for damages or an enforcement assessment pursuant to this 1345
section. 1346

(2) If an owner requests a hearing, at least seven days 1347
prior to the hearing the board shall provide the owner with a 1348
written notice that includes the date, time, and location of the 1349
hearing. 1350

(3) The board shall not levy a charge or assessment before 1351
holding any hearing requested pursuant to this section. 1352

(4) Within thirty days following a hearing at which the 1353
board imposes a charge or assessment, the owners association 1354
shall deliver a written notice of the charge or assessment to 1355
the owner. 1356

(5) Any written notice that this section requires shall be 1357
delivered to the owner or any occupant of the dwelling unit by 1358
personal delivery, by certified mail, return receipt requested, 1359
or by regular mail. 1360

Sec. 5312.16. (A) Unless specifically prohibited in the 1361
declaration, any owner may install a solar energy collection 1362
device on the owner's dwelling unit or other location within the 1363
owner's lot if either of the following conditions apply: 1364

(1) The cost to insure, maintain, repair, and replace the 1365
unit's roof or alternative location within the lot is not a 1366
common expense of the owners association and is instead the 1367
owner's responsibility. 1368

(2) The declaration specifically allows for and regulates 1369
the types and installation of solar energy collection devices 1370
within the planned community and establishes responsibility for 1371
the cost to insure, maintain, repair, and replace such devices. 1372

(B) Notwithstanding division (A) of this section, an 1373
owners association may establish reasonable restrictions 1374
concerning the size, place, and manner of placement of solar 1375
energy collection devices. 1376

(C) Prior to imposing a charge for damages or an 1377
enforcement assessment pursuant to this section, the board of 1378
directors shall give the owner a written notice, which may be in 1379
the form of electronic mail to an electronic mail address 1380
previously provided by the owner in writing that includes all of 1381
the following: 1382

(1) A description of the property damage or violation; 1383

(2) The amount of the proposed charge or assessment; 1384

(3) A statement that the owner has a right to a hearing 1385
before the board of directors to contest the proposed charge or 1386
assessment; 1387

(4) A statement setting forth the procedures to request a 1388
hearing; 1389

(5) A reasonable date by which the unit owner must cure 1390
the violation to avoid the proposed charge or assessment. 1391

(D) As used in this section, "solar energy collection 1392

device" has the same meaning as in section 5311.192 of the 1393

Revised Code. 1394

Section 2. That existing sections 317.32, 349.01, 5311.05, 1395

5311.08, 5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 1396

5312.05, 5312.06, 5312.07, and 5312.11 of the Revised Code are 1397

hereby repealed. 1398