

As Passed by the Senate

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Am. S. B. No. 289

Senator Blessing

**Cosponsors: Senators Schuring, Antonio, Craig, Dolan, Fedor, Gavarone,
Manning, Rulli, Schaffer, Sykes, Thomas, Wilson, Yuko**

A BILL

To amend sections 349.01, 5311.05, 5311.08, 1
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 2
5312.03, 5312.06, 5312.07, and 5312.11 and to 3
enact sections 5311.192 and 5312.16 of the 4
Revised Code regarding condominiums and planned 5
community properties and to make changes to the 6
New Community Law. 7

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

Section 1. That sections 349.01, 5311.05, 5311.08, 8
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 5312.06, 9
5312.07, and 5312.11 be amended and sections 5311.192 and 10
5312.16 of the Revised Code be enacted to read as follows: 11

Sec. 349.01. As used in this chapter: 12

(A) "New community" means a community or development of 13
property in relation to an existing community planned so that 14
the resulting community includes facilities for the conduct of 15
industrial, commercial, residential, cultural, educational, and 16
recreational activities, and designed in accordance with 17
planning concepts for the placement of utility, open space, and 18

other supportive facilities. 19

(B) "New community development program" means a program 20
for the development of a new community characterized by well- 21
balanced and diversified land use patterns and which includes 22
land acquisition and land development, the acquisition, 23
construction, operation, and maintenance of community 24
facilities, and the provision of services authorized in this 25
chapter. 26

A new community development program may take into account 27
any existing community in relation to which a new community is 28
developed for purposes of being characterized by well-balanced 29
and diversified land use patterns. 30

(C) "New community district" means the area of land 31
described by the developer in the petition as set forth in 32
division (A) of section 349.03 of the Revised Code for 33
development as a new community and any lands added to the 34
district by amendment of the resolution establishing the 35
community authority. 36

(D) "New community authority" means a body corporate and 37
politic in this state, established pursuant to section 349.03 of 38
the Revised Code and governed by a board of trustees as provided 39
in section 349.04 of the Revised Code. 40

(E) "Developer" means any person, organized for carrying 41
out a new community development program who owns or controls, 42
through leases of at least seventy-five years' duration, 43
options, or contracts to purchase, the land within a new 44
community district, or any municipal corporation, county, or 45
port authority that owns the land within a new community 46
district, or has the ability to acquire such land, either by 47

voluntary acquisition or condemnation in order to eliminate 48
slum, blighted, and deteriorated or deteriorating areas and to 49
prevent the recurrence thereof. "Developer" may also mean a 50
person, municipal corporation, county, or port authority that 51
controls land within a new community district through leases of 52
at least seventy-five years' duration. "Developer" includes a 53
lessor that continues to own and control land for purposes of 54
this chapter pursuant to leases with a ninety-nine-year 55
renewable term, so long as all of the following apply: 56

(1) The developer's community consists of at least five 57
hundred of such leases; 58

(2) The leases are subject to forfeiture for all of the 59
following: 60

(a) Failing to pay taxes and assessments; 61

(b) Failing to pay up to a one per cent annual fee for 62
sanitary purposes and improvements of streets; 63

(c) Failing to keep premises as required by sanitary and 64
police regulations of the developer; 65

(3) The new community authority is established no later 66
than December 31, 2021. 67

(F) "Organizational board of commissioners" means the 68
following: 69

(1) For a new community district that is located in only 70
one county, the board of county commissioners of that county; 71

(2) For a new community district that is located in more 72
than one county, a board consisting of the members of the board 73
of county commissioners of each of the counties in which the 74
district is located, provided that action of the board shall 75

require a majority vote of the members of each separate board of 76
county commissioners; or 77

(3) For a new community district that is located entirely 78
within the boundaries of a municipal corporation or for a new 79
community district where more than half of the new community 80
district is located within the boundaries of the most populous 81
municipal corporation of a county, the legislative authority of 82
the municipal corporation. 83

(G) "Land acquisition" means the acquisition of real 84
property and interests in real property as part of a new 85
community development program. 86

(H) "Land development" means the process of clearing and 87
grading land, making, installing, or constructing water 88
distribution systems, sewers, sewage collection systems, steam, 89
gas, and electric lines, roads, streets, curbs, gutters, 90
sidewalks, storm drainage facilities, and other installations or 91
work, whether within or without the new community district, and 92
the construction of community facilities. 93

(I) "Community facilities" means all real property, 94
buildings, structures, or other facilities, including related 95
fixtures, equipment, and furnishings, to be owned, operated, 96
financed, constructed, and maintained under this chapter or in 97
furtherance of community activities, whether within or without 98
the new community district, including public, community, 99
village, neighborhood, or town buildings, centers and plazas, 100
auditoriums, day care centers, recreation halls, educational 101
facilities, health care facilities including hospital facilities 102
as defined in section 140.01 of the Revised Code, 103
telecommunications facilities, including all facilities 104
necessary to provide telecommunications service as defined in 105

section 4927.01 of the Revised Code, recreational facilities, 106
natural resource facilities, including parks and other open 107
space land, lakes and streams, cultural facilities, community 108
streets and off-street parking facilities, pathway and bikeway 109
systems, pedestrian underpasses and overpasses, lighting 110
facilities, design amenities, or other community facilities, and 111
buildings needed in connection with water supply or sewage 112
disposal installations, or energy facilities including those for 113
renewable or sustainable energy sources, and steam, gas, or 114
electric lines or installation. 115

(J) "Cost" as applied to a new community development 116
program means all costs related to land acquisition and land 117
development, the acquisition, construction, maintenance, and 118
operation of community facilities and offices of the community 119
authority, and of providing furnishings and equipment therefor, 120
financing charges including interest prior to and during 121
construction and for the duration of the new community 122
development program, planning expenses, engineering expenses, 123
administrative expenses including working capital, and all other 124
expenses necessary and incident to the carrying forward of the 125
new community development program. 126

(K) "Income source" means any and all sources of income to 127
the community authority, including community development charges 128
of which the new community authority is the beneficiary as 129
provided in section 349.07 of the Revised Code, rentals, user 130
fees and other charges received by the new community authority, 131
any gift or grant received, any moneys received from any funds 132
invested by or on behalf of the new community authority, and 133
proceeds from the sale or lease of land and community 134
facilities. 135

(L) "Community development charge" means: 136

(1) A dollar amount which shall be determined on the basis 137
of the assessed valuation of real property or interests in real 138
property in a new community district, the income of the 139
residents of such property subject to such charge under section 140
349.07 of the Revised Code, if such property is devoted to 141
residential uses or to the profits, gross receipts, or other 142
revenues of any business including, but not limited to, rentals 143
received from leases of real property located in the district, a 144
uniform or other fee on each parcel of such real property in a 145
new community district, or any combination of the foregoing 146
bases. 147

(2) If a new community authority imposes a community 148
development charge determined on the basis of rentals received 149
from leases of real property, improvements of any real property 150
located in the new community district and subject to that charge 151
may not be exempted from taxation under section 5709.40, 152
5709.41, 5709.73, or 5709.78 of the Revised Code. 153

(M) "Proximate city" means the following: 154

(1) For a new community district other than a new 155
community district described in division (M)(2) or (3) of this 156
section, any city that, as of the date of filing of the petition 157
under section 349.03 of the Revised Code, is the city with the 158
greatest population located in the county in which the proposed 159
new community district is located, is the city with the greatest 160
population located in an adjoining county if any portion of such 161
city is within five miles of any part of the boundaries of such 162
district, or exercises extraterritorial subdivision authority 163
under section 711.09 of the Revised Code with respect to any 164
part of such district. 165

(2) A municipal corporation in which, at the time of 166
filing the petition under section 349.03 of the Revised Code, 167
any portion of the proposed new community district is located. 168

(3) For a new community district other than a new 169
community district described in division (M)(2) of this section, 170
if at the time of filing the petition under section 349.03 of 171
the Revised Code, more than one-half of the proposed district is 172
contained within a joint economic development district created 173
under sections 715.70 to 715.83 of the Revised Code, the 174
township containing the greatest portion of the territory of the 175
joint economic development district. 176

(N) "Community activities" means cultural, educational, 177
governmental, recreational, residential, industrial, commercial, 178
distribution and research activities, or any combination thereof 179
that includes residential activities. 180

Sec. 5311.05. (A) A declaration submitting property to the 181
provisions of this chapter shall be signed and acknowledged by 182
the owner before a judge or clerk of a court of record, county 183
auditor, county engineer, notary public, or mayor, who shall 184
certify the acknowledgment and subscribe the certificate of 185
acknowledgment. 186

(B) A declaration shall contain all of the following: 187

(1) A legal description of the land or, for a water slip 188
condominium property, of the land and the land under the water 189
area, submitted to the provisions of this chapter; 190

(2) The name of the condominium property, which shall 191
include the word "condominium"; 192

(3) The purpose of the condominium property, the units and 193
recreational and commercial facilities situated in the 194

condominium property, and any restrictions upon the use of the	195
condominium property;	196
(4) A general description of buildings submitted to the	197
provisions of this chapter, stating the principal construction	198
materials and the number of stories, basements, and units. The	199
declaration for a water slip property shall also contain a	200
general description of each water slip and of the piers and	201
wharves forming each water slip submitted to the provisions of	202
this chapter;	203
(5) The unit designation of each unit submitted to the	204
provisions of this chapter and a statement of its location,	205
approximate area, the immediate common element or limited common	206
element to which it has access, and any other information	207
necessary for its proper identification;	208
(6) A description of the common elements and limited	209
common elements submitted to the provisions of this chapter, the	210
undivided interest in those elements appurtenant to each unit,	211
the basis upon which those appurtenant undivided interests are	212
allocated, and the procedures whereby the undivided interests	213
appertaining to each unit may be altered. The undivided	214
interests, basis, and procedures shall be in accordance with	215
sections 5311.031 to 5311.033 and 5311.04 of the Revised Code;	216
(7) A statement that each unit owner is a member of a unit	217
owners association established for the administration of the	218
condominium property;	219
(8) The name of a person to receive service of process for	220
the unit owners association, together with the person's	221
residence or place of business located in this state;	222
(9) A statement of any membership requirement if the unit	223

owners association or any unit owners are required to be members 224
of a not-for-profit organization that provides facilities or 225
recreation, education, or social services to owners of property 226
other than the condominium property; 227

(10) The method by which the declaration may be amended, 228
which, except as provided in division (E) of this section, 229
division (E) of section 5311.04, division (B) of section 230
5311.041, and sections 5311.031 to 5311.033 and 5311.051 of the 231
Revised Code, requires the affirmative vote of unit owners 232
exercising not less than seventy-five per cent of the voting 233
power; 234

(11) Any further provisions deemed desirable. 235

(C) The declaration for an expandable condominium property 236
shall contain all of the following in addition to the 237
requirements of division (B) of this section: 238

(1) The explicit reservation of the declarant's option to 239
expand the condominium property; 240

(2) A statement of any limitations on that option to 241
expand, including a statement as to whether the consent of any 242
unit owner is required, and how that consent is to be 243
ascertained; or a statement that there are no limitations on the 244
option to expand; 245

(3) (a) The time at which the option to expand the 246
condominium development expires, which shall not exceed seven 247
years from the date the declaration is filed for record; 248

(b) A statement that the declarant may, during the six 249
months prior to the time that the option expires, extend the 250
option for an additional seven years with the consent of the 251
holders of a majority of the voting power of the unit owners 252

other than the declarant;	253
(c) A statement of any circumstances that will terminate	254
the option to expand prior to the time established pursuant to	255
division (C) (3) (a) or (b) of this section.	256
(4) A legal description of all additional property that,	257
through exercise of the option, may be submitted to the	258
provisions of this chapter and added to the condominium	259
property;	260
(5) A statement that specifies all of the following:	261
(a) Whether the addition of all or a particular portion of	262
the additional property is mandatory;	263
(b) If the addition of additional property is not	264
mandatory, whether all or a particular portion of the additional	265
property must be added if any other additional property is	266
added;	267
(c) Whether or not there are any limitations on portions	268
of additional property that may be added.	269
(6) A statement of whether portions of the additional	270
property may be added at different times and a statement that	271
sets forth any limitations on the addition of additional	272
property at different times, including the legal descriptions of	273
the boundaries of portions that may be added and specifications	274
on the order in which those portions may be added to the	275
condominium property or a statement that there are no	276
limitations on the addition of additional property;	277
(7) A statement of any limitations on the location of any	278
improvements that may be made on any portion of the additional	279
property added to the condominium property, or a statement that	280

there are no limitations of that kind; 281

(8) A statement of the maximum number of units that may be 282
created on the additional property. If portions of the 283
additional property may be added to the condominium property and 284
the boundaries of those portions are fixed in accordance with 285
division (C) (6) of this section, the declaration also shall 286
state the maximum number of units that may be created on each 287
portion added to the condominium property. If portions of the 288
additional property may be added to the condominium property and 289
the boundaries of those portions are not fixed in accordance 290
with division (C) (6) of this section, the declaration also shall 291
state the maximum number of units per acre that may be created 292
on any portion added to the condominium property. 293

(9) Except when the original condominium property 294
contained no units restricted to residential use, a statement of 295
the maximum percentage of the aggregate land area and the 296
maximum percentage of aggregate floor area that may be devoted 297
to units not restricted to residential use on any additional 298
property added to the condominium property; 299

(10) A statement of the extent to which any structures 300
erected on any portion of the additional property added to the 301
condominium property will be compatible with structures on the 302
submitted property in terms of quality of construction, the 303
principal materials to be used, and architectural style, or a 304
statement that the structures need not be compatible in those 305
respects; 306

(11) With respect to all improvements to any portion of 307
additional property added to the condominium property, other 308
than structures, a statement setting forth both of the 309
following: 310

(a) A description of the improvements that must be made or	311
a statement that no other improvements must be made;	312
(b) Any restrictions or limitations on the improvements	313
that may be made or a statement that there are no restrictions	314
or limitations on improvements.	315
(12) With respect to all units created on any portion of	316
additional property added to the condominium property, a	317
statement setting forth both of the following:	318
(a) Whether all units of that kind must be substantially	319
identical to units on previously submitted property;	320
(b) Any limitations on the types of units that may be	321
created on the additional property or a statement that there are	322
no limitations of that kind.	323
(13) A description of any reserved right of the declarant	324
to create limited common elements within any portion of the	325
additional property added to the condominium property or to	326
designate common elements within each portion. The description	327
shall specify the types, sizes, and maximum number of limited	328
common elements in each portion that may subsequently be	329
assigned to units;	330
(14) Drawings and plans that the declarant considers	331
appropriate in supplementing the requirements of division (C) of	332
this section;	333
(15) A statement that a successor owner of the condominium	334
property or of additional property added to the condominium	335
property who is not an affiliate of the developer and who is a	336
bona fide purchaser of the property for value, or a purchaser	337
who acquires the property at a sheriff's sale or by deed in lieu	338
of a foreclosure, is not liable in damages for harm caused by an	339

action or omission of the developer or a breach of an obligation	340
by the developer.	341
(D) The declaration for a leasehold condominium	342
development shall contain all of the following in addition to	343
the requirements of division (B) of this section:	344
(1) With respect to any ground lease or other leases, the	345
expiration or termination of which could terminate or reduce the	346
amount of condominium property, a statement setting forth the	347
county in which the lease is recorded and the volume and page of	348
the record;	349
(2) A statement setting forth the date upon which each	350
lease referred to in division (D) (1) of this section expires;	351
(3) (a) A statement of whether the unit owners own any land	352
or improvements of the condominium property in fee simple, and	353
if so, a description of the improvements and a legal description	354
of the land;	355
(b) A statement of any rights the unit owners have to	356
remove any improvements within a reasonable time after the	357
expiration or termination of any ninety-nine year lease, or a	358
statement that they have no rights of that nature.	359
(4) A statement of the rights that the unit owners have to	360
redeem the reversion or any of the reversions, or a statement	361
that they have no rights of that nature;	362
(5) A statement that, subsequent to the recording of the	363
declaration, no lessor who executed it and no successor in	364
interest to that lessor has any right or power to terminate any	365
part of the leasehold interest of any unit owner who makes	366
timely payment of the unit owner's share of the rent to the	367
person designated in the declaration for the receipt of that	368

rent and who otherwise complies with all covenants that, if 369
violated, entitle the lessor to terminate the lease. 370

(E) (1) Without a vote of the unit owners, the board of 371
directors may amend the declaration in any manner necessary for 372
any of the following purposes: 373

(a) To meet the requirements of institutional mortgagees, 374
guarantors and insurers of first mortgage loans, the federal 375
national mortgage association, the federal home loan mortgage 376
corporation, the federal housing administration, the veterans 377
administration, and similar institutions; 378

(b) To meet the requirements of insurance underwriters; 379

(c) To bring the declaration into compliance with this 380
chapter; 381

(d) To correct clerical or typographical errors or obvious 382
factual errors in the declaration or an exhibit to the 383
declaration; 384

(e) To designate a successor to the person named to 385
receive service of process for the unit owners association. If 386
the association is incorporated in this state, this may be 387
accomplished by filing with the secretary of state an 388
appropriate change of statutory agent designation; 389

(f) To permit notices to owners, as required by the 390
declaration or bylaws, to be sent by electronic mail and, if 391
returned undeliverable, by regular mail, provided the 392
association has received the prior, written authorization from 393
the owner. 394

(2) Division (E) (1) of this section applies to condominium 395
properties submitted to this chapter prior to, on, or after ~~the~~ 396

~~effective date of this amendment July 20, 2004.~~ 397

(3) Any unit owner who is aggrieved by an amendment to the 398
declaration that the board of directors makes pursuant to 399
division (E)(1) of this section may commence a declaratory 400
judgment action to have the amendment declared invalid as 401
violative of division (E)(1) of this section. Any action filed 402
pursuant to division (E)(3) of this section shall be filed in 403
the appropriate court of common pleas within one year from the 404
date of the recordation of the amendment. 405

Sec. 5311.08. (A)(1) Every condominium property shall be 406
administered by a unit owners association. All power and 407
authority of the unit owners association shall be exercised by a 408
board of directors, which the unit owners shall elect from among 409
the unit owners or the spouses of unit owners. If a unit owner 410
is not an individual, that unit owner may nominate for the board 411
of directors any principal, member of a limited liability 412
company, partner, director, officer, or employee of that unit 413
owner. The majority of the board shall not consist of unit 414
owners or representatives from the same unit. 415

(2) The board of directors shall elect a president, 416
secretary, treasurer, and other officers that the board may 417
desire. 418

(3) Unless otherwise provided in the declaration or the 419
bylaws, all meetings of the unit owners association are open to 420
the unit owners, and those present in person or by proxy when 421
action is taken during a meeting of the unit owners association 422
constitute a sufficient quorum. 423

(4) (a) A meeting of the board of directors may be held by 424
any method of communication, including electronic or telephonic 425

communication provided that each member of the board can hear, 426
participate, and respond to every other member of the board. 427

(b) In lieu of conducting a meeting, the board of 428
directors may take action with the unanimous written consent of 429
the members of the board. Those written consents shall be filed 430
with the minutes of the meetings of the board. 431

(B) The unit owners association shall be governed by 432
bylaws. No modification of or amendment to the bylaws is valid 433
unless it is set forth in an amendment to the declaration, and 434
the amendment to the declaration is filed for record. Unless 435
otherwise provided by the declaration, the bylaws shall provide 436
for the following: 437

(1) (a) The election of the board of directors of the unit 438
owners association; 439

(b) The number of persons constituting the board; 440

(c) The terms of the directors, with not less than one- 441
fifth to expire annually; 442

(d) The powers and duties of the board; 443

(e) The compensation of the directors; 444

(f) The method of removal of directors from office; 445

(g) The election of officers of the board; 446

(h) Whether or not the services of a manager or managing 447
agent may be engaged. 448

(2) The time and place for holding meetings; the manner of 449
and authority for calling, giving notice of, and conducting 450
meetings; and the requirement, in terms of undivided interests 451
in the common elements, of a quorum for meetings of the unit 452

owners association;	453
(3) By whom and the procedure by which maintenance,	454
repair, and replacement of the common elements may be	455
authorized;	456
(4) The common expenses for which assessments may be made	457
and the manner of collecting from the unit owners their	458
respective shares of the common expenses;	459
(5) The method of distributing the common profits;	460
(6) By whom and the procedure by which administrative	461
rules governing the operation and use of the condominium	462
property or any portion of the property may be adopted and	463
amended. These rules may govern any aspect of the condominium	464
property that is not required to be governed by bylaws and may	465
include standards governing the type and nature of information	466
and documents that are subject to examination and copying by	467
unit owners pursuant to section 5311.091 of the Revised Code,	468
including the times and location at which items may be examined	469
or copied and any required fee for copying the information or	470
documents.	471
(C) (1) The unit owners association shall be established	472
not later than the date that the deed or other evidence of	473
ownership is filed for record following the first sale of a	474
condominium ownership interest in a condominium development.	475
Membership in the unit owners association shall be limited to	476
unit owners, and all unit owners shall be members. Until the	477
unit owners association is established, the developer shall act	478
in all instances in which action of the unit owners association	479
or its officers is authorized or required by law or the	480
declaration.	481

(2) (a) Not later than sixty days after the developer has 482
sold and conveyed condominium ownership interests appertaining 483
to twenty-five per cent of the undivided interests in the common 484
elements in a condominium development, the unit owners 485
association shall meet, and the unit owners other than the 486
developer shall elect not less than one-third of the members of 487
the board of directors. 488

(b) When computing undivided interests in expandable 489
condominium properties for purposes of divisions (C) and (D) of 490
this section, the undivided interests in common elements shall 491
be computed by comparing the number of units sold and conveyed 492
to the maximum number of units that may be created, as stated in 493
the declaration pursuant to division (C) (8) of section 5311.05 494
of the Revised Code. 495

(D) (1) Except as provided in division (C) of this section, 496
the declaration or bylaws of a condominium development may 497
authorize the developer or persons the developer designates to 498
appoint and remove members of the board of directors of the unit 499
owners association and to exercise the powers and 500
responsibilities otherwise assigned by law, the declaration, or 501
the bylaws to the unit owners association or to the board of 502
directors. The authorization for developer control may extend 503
from the date the unit owners association is established until 504
sixty days after the sale and conveyance to purchasers in good 505
faith for value of condominium ownership interests to which 506
seventy-five per cent of the undivided interests in the common 507
elements appertain, except that in no case may the authorization 508
extend for more than five years after the unit owners 509
association is established if the declaration includes 510
expandable condominium property or more than three years after 511
the unit owners association is established if the declaration 512

does not include expandable condominium property. 513

(2) If there is a unit owner other than the developer, the 514
declaration of a condominium development shall not be amended to 515
increase the scope or the period of the developer's control. 516

(3) Within sixty days after the expiration of the period 517
during which the developer has control pursuant to division (D) 518
(1) of this section, the unit owners association shall meet and 519
elect all members of the board of directors of the association. 520
The persons elected shall take office at the end of the meeting 521
during which they are elected and shall, as soon as reasonably 522
possible, appoint officers. 523

(E) The board of directors, or the developer while in 524
control of the association, may take any measures necessary to 525
incorporate the unit owners association as a not-for-profit 526
corporation. 527

Sec. 5311.081. (A) ~~Unless otherwise provided in the~~ 528
~~declaration or bylaws, the~~ The unit owners association, through 529
the board of directors, shall do both of the following: 530

(1) ~~Adopt~~ Annually, adopt and amend ~~budgets~~ an estimated 531
budget for revenues, and expenditures, and. The budget shall 532
include reserves in an amount adequate to repair and replace 533
major capital items in the normal course of operations without 534
the necessity of special assessments, ~~provided that the amount~~ 535
~~set aside annually for reserves shall not be less than ten per-~~ 536
~~cent of the budget for that year unless the reserve requirement~~ 537
~~is waived annually by the~~ either of the following applies: 538

(a) The declaration or bylaws include language limiting 539
the ability of the board of directors to increase assessments 540
for common expenses without a vote of the unit owners; 541

(b) The unit owners, exercising not less than a majority 542
of the voting power of the unit owners association~~+~~, waive the 543
reserve requirement in writing annually. 544

(2) Collect assessments for common expenses from unit 545
owners. 546

(B) Unless otherwise provided in the declaration, the unit 547
owners association, through the board of directors, may exercise 548
all powers of the association, including the power to do the 549
following: 550

(1) Hire and fire managing agents, attorneys, accountants, 551
and other independent contractors and employees that the board 552
determines are necessary or desirable in the management of the 553
condominium property and the association; 554

(2) Commence, defend, intervene in, settle, or compromise 555
any civil, criminal, land use planning, or administrative action 556
or proceeding that is in the name of, or threatened against, the 557
unit owners association, the board of directors, or the 558
condominium property, or that involves two or more unit owners 559
~~and,~~ impacts zoning, or otherwise relates to matters affecting 560
the condominium property or adjacent property; 561

(3) Enter into contracts and incur liabilities relating to 562
the operation of the condominium property; 563

(4) Regulate the use, maintenance, repair, replacement, 564
modification, and appearance of the condominium property; 565

(5) Adopt rules that regulate the use or occupancy of 566
units, the maintenance, repair, replacement, modification, and 567
appearance of units, common elements, and limited common 568
elements when the actions regulated by those rules affect common 569
elements or other units; 570

(6) Cause additional improvements to be made as part of the common elements;	571 572
(7) Purchase, encumber, and convey units, and, subject to any restrictions in the declaration or bylaws and with the approvals required by division (H) (2) or (3) of section 5311.04 of the Revised Code, acquire an interest in other real property and encumber or convey that interest. All expenses incurred in connection with the acquisition, encumbrance, use, and operation of that interest are common expenses.	573 574 575 576 577 578 579
(8) Acquire, encumber, and convey or otherwise transfer personal property;	580 581
(9) Hold in the name of the unit owners association the real property and personal property acquired pursuant to divisions (B) (7) and (8) of this section;	582 583 584
(10) Grant easements, leases, licenses, and concessions through or over the common elements;	585 586
(11) Impose and collect fees or other charges for <u>all of</u> <u>the following:</u>	587 588
<u>(a) The use, rental, or operation of the common elements</u> <u>or for services;</u>	589 590
<u>(b) Services provided to unit owners;</u>	591
<u>(c) To the extent provided in the declaration or bylaws,</u> <u>social activities or charitable contributions on behalf of the</u> <u>owners association;</u>	592 593 594
(12) Impose interest and late charges for the late payment of assessments; impose returned check charges; and, pursuant to division (C) of this section, impose reasonable enforcement assessments for violations of the declaration, the bylaws, and	595 596 597 598

the rules of the unit owners association, and reasonable charges 599
for damage to the common elements or other property; 600

(13) Adopt and amend rules that regulate the collection of 601
delinquent assessments and the application of payments of 602
delinquent assessments; 603

(14) Subject to applicable laws, adopt and amend rules 604
that regulate the termination of utility or other service to a 605
commercial unit if the unit owner is delinquent in the payment 606
of an assessment that pays, in whole or in part, the cost of 607
that service; 608

(15) Impose reasonable charges for preparing, recording, 609
or copying amendments to the declaration, resale certificates, 610
or statements of unpaid assessments; 611

(16) Enter a unit for bona fide purposes when conditions 612
exist that involve an imminent risk of damage or harm to common 613
elements, another unit, or to the health or safety of the 614
occupants of that unit or another unit; 615

(17) To the extent provided in the declaration or bylaws, 616
assign the unit owners association's rights to common 617
assessments, or other future income, to a lender as security for 618
a loan to the unit owners association; 619

(18) Suspend the voting privileges and use of recreational 620
facilities of a unit owner who is delinquent in the payment of 621
assessments for more than thirty days; 622

(19) Purchase insurance and fidelity bonds the directors 623
consider appropriate or necessary; 624

(20) Invest excess funds in investments that meet 625
standards for fiduciary investments under Ohio law; 626

(21) Exercise powers that are:	627
(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	628 629
(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;	630 631
(c) Permitted to be exercised in this state by a not-for-profit corporation;	632 633
(d) Necessary and proper for the government and operation of the unit owners association.	634 635
(C) (1) Prior to imposing a charge for damages or an enforcement assessment pursuant to division (B) (12) of this section, the board of directors shall give the unit owner a written notice, <u>which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing</u> , that includes all of the following:	636 637 638 639 640 641
(a) A description of the property damage or violation;	642
(b) The amount of the proposed charge or assessment;	643
(c) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment;	644 645 646
(d) A statement setting forth the procedures to request a hearing pursuant to division (C) (2) of this section;	647 648
(e) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment.	649 650
(2) (a) To request a hearing, the owner shall deliver a written notice to the board of directors not later than the tenth day after receiving the notice required by division (C) (1)	651 652 653

of this section. If the owner fails to make a timely request for a hearing, the right to that hearing is waived, and the board may immediately impose a charge for damages or an enforcement assessment pursuant to division (C) of this section.

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

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

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

(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 683
examination and copying, the times and locations at which those 684
documents may be examined or copied, and the specification of a 685
reasonable fee for copying the documents. 686

~~(B) The unit owners association is not required to permit-~~ 687
~~the examination and copying of any of the following from~~ 688
~~Unless~~
~~approved by the board of directors, a unit owner may not examine~~ 689
~~or copy any books, records, and or minutes that meet either of~~ 690
~~the following conditions:~~ 691

(1) Date back more than five years prior to the date of 692
the request; 693

(2) Contain any of the following: 694

(a) Information that pertains to condominium property- 695
related personnel matters; 696

~~(2)-(b) Communications with legal counsel or attorney work~~ 697
product pertaining to pending litigation or other condominium 698
property-related matters; 699

~~(3)-(c) Information that pertains to contracts or~~ 700
transactions currently under negotiation, or information that is 701
contained in a contract or other agreement containing 702
confidentiality requirements and that is subject to those 703
requirements; 704

~~(4)-(d) Information that relates to the enforcement of the~~ 705
declaration, bylaws, or rules of the unit owners association 706
against unit owners; 707

~~(5)-(e) Information the disclosure of which is prohibited~~ 708
by state or federal law. 709

Sec. 5311.16. Unless otherwise provided by the declaration 710

or bylaws, the board of directors shall ~~insure~~ maintain, with 711
the cost to be a common expense, all of the following: 712

(A) Liability insurance for all unit owners, their 713
tenants, and all persons lawfully in possession or control of 714
any part of the condominium property ~~for the~~ in an amount that 715
it determines ~~against liability~~ for personal injury or property 716
damage arising from or relating to the common elements ~~and shall~~
~~obtain for;~~ 717 718

(B) For the benefit of all unit owners, fire and extended 719
coverage insurance on all buildings and structures of the 720
condominium property in an amount not less than ~~eighty-ninety~~ 721
per cent of the ~~fair market value. The cost of the insurance is~~
~~a common expense.~~ replacement cost; 722 723

(C) (1) Blanket fidelity, crime, or dishonesty insurance 724
coverage for any person who controls or disburses association 725
funds. As used in division (C) (1) of this section, "person who 726
controls or disburses association funds" means any individual 727
with authority or access to sign checks, conduct electronic 728
transfers, or otherwise withdraw funds from any association 729
account or deposit, including the following: 730

(a) A management company's principals and employees; 731

(b) A bookkeeper; 732

(c) The president, secretary, treasurer, any other board 733
member, or employee of the unit owners association. 734

(2) All of the following apply to the insurance coverage 735
required under division (C) (1) of this section: 736

(a) Coverage shall be for the maximum amount of funds that 737
will be in the custody of the association or its designated 738

agent at any one time plus three months of operating expenses. 739

(b) The insurance shall be the property of and for the 740
sole benefit of the association and shall protect against theft, 741
embezzlement, misappropriation, or any other unauthorized taking 742
or loss of association funds. 743

(c) The policy shall include in its definition of 744
"employee" the manager and the managing agent of the 745
association's funds or provide for this inclusion by an 746
endorsement to the policy. 747

(d) The policy shall name the association as the insured 748
party and shall include a provision requiring the issuer of the 749
policy to provide a ten-day written notice to the association's 750
president or manager in the event of cancellation or substantial 751
modification of the policy. The manager or managing agent, if 752
any, of the association shall be the designated agent on the 753
policy. 754

(e) If there is a change in the manager or the managing 755
agent of the association, then within ten days of the effective 756
start date, the new manager or managing agent shall notify the 757
insurer of such change. 758

Sec. 5311.18. (A) (1) Unless otherwise provided by the 759
declaration or the bylaws, the unit owners association has a 760
continuing lien upon the estate or interest of the owner in any 761
unit and the appurtenant undivided interest in the common 762
elements for the payment of any of the following expenses that 763
are chargeable against the unit and that remain unpaid for ten 764
days after any portion has become due and payable: 765

(a) The portion of the common expenses chargeable against 766
the unit; 767

(b) Interest, administrative late fees, enforcement 768
assessments, and collection costs, attorney's fees, and 769
paralegal fees the association incurs if authorized by the 770
declaration, the bylaws, or the rules of the unit owners 771
association and if chargeable against the unit. 772

(2) Unless otherwise provided by the declaration, the 773
bylaws, or the rules of the unit owners association, the 774
association shall credit payments made by a unit owner for the 775
expenses described in divisions (A) (1) (a) and (b) of this 776
section in the following order of priority: 777

(a) First, to interest owed to the association; 778

(b) Second, to administrative late fees owed to the 779
association; 780

(c) Third, to collection costs, attorney's fees, and 781
paralegal fees incurred by the association; 782

(d) Fourth, to the principal amounts the unit owner owes 783
to the association for the common expenses or penalty 784
assessments chargeable against the unit. 785

(3) The lien described in division (A) (1) of this section 786
is effective on the date that a certificate of lien in the form 787
described in division (A) (3) of this section is filed for record 788
in the office of the recorder of the county or counties in which 789
the condominium property is situated pursuant to an 790
authorization given by the board of directors of the unit owners 791
association. The certificate shall contain a description of the 792
unit, the name of the record owner of the unit, and the amount 793
of the unpaid portion of the common expenses and, subject to 794
subsequent adjustments, any unpaid interest, administrative late 795
fees, enforcement assessments, collection costs, attorney's 796

fees, and paralegal fees. The certificate shall be subscribed by 797
the president or other designated representative of the 798
association. 799

(4) The lien described in division (A) (1) of this section 800
is valid for a period of five years from the date of filing, 801
unless it is sooner released or satisfied in the same manner 802
provided by law for the release and satisfaction of mortgages on 803
real property or unless it is discharged by the final judgment 804
or order of a court in an action brought to discharge the lien 805
as provided in division (C) of this section. 806

(B) (1) The lien described in division (A) (1) of this 807
section is prior to any lien or encumbrance subsequently arising 808
or created except liens for real estate taxes and assessments of 809
political subdivisions and liens of first mortgages that have 810
been filed for record and may be foreclosed in the same manner 811
as a mortgage on real property in an action brought on behalf of 812
the unit owners association ~~by the president or other chief-~~ 813
~~officer of the association pursuant to authority given to that-~~ 814
~~individual as authorized by~~ the board of directors. 815

(2) In a foreclosure action a unit owners association 816
commences pursuant to division (B) (1) of this section or a 817
foreclosure action the holder of a first mortgage or other lien 818
on a unit commences, the owner of the unit, as the defendant in 819
the action, shall be required to pay a reasonable rental for the 820
unit during the pendency of the action. The unit owners 821
association or the holder of the lien is entitled to the 822
appointment of a receiver to collect the rental. Each rental 823
payment a receiver collects during the pendency of the 824
foreclosure action shall be applied first to the payment of the 825
portion of the common expenses chargeable to the unit during the 826

foreclosure action. 827

(3) In a foreclosure action the holder of a lien on a unit 828
commences, the holder of that lien shall name the unit owners 829
association as a defendant in the action. 830

(4) Unless prohibited by the declaration or the bylaws, 831
following a foreclosure action a unit owners association 832
commences pursuant to division (B) (1) of this section or a 833
foreclosure action the holder of a lien on a unit commences, the 834
association or its agent duly authorized by action of the board 835
of directors, is entitled to become a purchaser at the 836
foreclosure sale. 837

(5) A mortgage on a unit may contain a provision that 838
secures the mortgagee's advances for the payment of the portion 839
of the common expenses chargeable against the unit upon which 840
the mortgagee holds the mortgage. 841

(6) In any foreclosure action, it is not a defense, set 842
off, counterclaim, or crossclaim that the unit owners 843
association has failed to provide the unit owner with any 844
service, goods, work, or material, or failed in any other duty. 845

(C) A unit owner who believes that the portion of the 846
common expenses chargeable to the unit, for which the unit 847
owners association files a certificate of lien pursuant to 848
division (A) of this section, has been improperly charged may 849
commence an action for the discharge of the lien in the court of 850
common pleas of the county in which all or a part of the 851
condominium property is situated. In the action, if it is 852
finally determined that the portion of the common expenses was 853
improperly charged to the unit owner or the unit, the court 854
shall enter an order that it determines to be just, which may 855

provide for a discharge of record of all or a portion of the 856
lien. 857

Sec. 5311.192. (A) Unless specifically prohibited in the 858
declaration, any owner of a solar appropriate unit may install a 859
solar energy collection device on the roof of that unit if 860
either of the following conditions apply: 861

(1) The unit, as defined by the declaration, includes the 862
roof, for which the cost to insure, maintain, repair, and 863
replace is not a common expense and is instead the owner's 864
responsibility. 865

(2) The declaration specifically allows for and regulates 866
the types and installation of solar energy collection devices in 867
the common or limited common elements and establishes 868
responsibility for the cost to insure, maintain, repair, and 869
replace such devices. 870

(B) Notwithstanding division (A) of this section, a unit 871
owners association may establish reasonable restrictions 872
concerning the size, place, and manner of placement of solar 873
energy collection devices. 874

(C) As used in this section: 875

(1) "Solar appropriate unit" means a condominium unit that 876
does not have any other condominium units directly above or 877
below it. 878

(2) "Solar energy collection device" means any device 879
manufactured and sold for the sole purpose of facilitating the 880
collection and beneficial use of solar energy, including passive 881
heating panels or building components and solar photovoltaic 882
apparatus. 883

Sec. 5312.02. (A) Any planned community in this state is 884
subject to this chapter. No person shall establish a planned 885
community unless that person files and records a declaration and 886
bylaws for that planned community in the office of the recorder 887
of the county or counties in which the planned community is 888
located. 889

(B) Any declaration for a planned community shall be 890
accompanied by bylaws that provide for the operation of the 891
planned community. The declaration and bylaws shall provide for 892
all of the following: 893

(1) The election of the board of directors of the owners 894
association; 895

(2) The number of persons constituting the board; 896

(3) The terms of the directors, with not less than one- 897
fifth to expire annually; 898

(4) The powers and duties of the board; 899

(5) The method of removal of directors from office; 900

(6) Whether the services of a manager or managing agent 901
may be engaged; 902

(7) The method of amending the declaration and bylaws; 903

(8) The time and place for holding meetings and the manner 904
of and authority for calling, ~~giving notice of, and meetings,~~ 905
conducting meetings, and giving notice of meetings, which notice 906
may be sent by electronic mail, provided the association has 907
received the prior, written authorization from the owner; 908

(9) The common expenses for which assessments may be made 909
and the manner of collecting from the owners their respective 910

shares of the common expenses; 911

(10) Any other matters the original declarant or the 912
owners association deem necessary and appropriate. 913

(C) Nothing in this chapter invalidates any provision of a 914
document that governs a planned community if that provision was 915
in the document at the time the document was recorded and the 916
document was recorded prior to the original effective date of 917
this chapter, September 10, 2010. 918

(D) (1) The board of directors of the owners association of 919
any planned community that is in existence on the original 920
effective date of this chapter, September 10, 2010, shall file 921
and record the bylaws of that planned community that are in 922
effect on that effective date in the office of the recorder of 923
the county or counties in which the planned community is located 924
within one hundred eighty days after that effective date. 925

(2) The board of directors of the owners association of 926
any planned community that is in existence on the original 927
effective date of this chapter, September 10, 2010, shall file 928
and record the bylaws that are adopted by the owners association 929
on or after that effective date in the office of the recorder of 930
the county or counties in which the planned community is located 931
within ninety days after the date of adoption of the bylaws. 932

(3) The board of directors of the owners association of 933
any planned community that adopts an amendment to the bylaws of 934
that planned community shall file and record the amendment in 935
the office of the recorder of the county or counties in which 936
the planned community is located within sixty days after the 937
date of adoption of the amendment. 938

(4) Nothing in division (D) (1) or (2) of this section 939

shall require the board of directors or owners association of 940
any planned community that is in existence on the original 941
effective date of this chapter, September 10, 2010, to adopt 942
bylaws of that planned community. 943

(5) No board of directors of the owners association of a 944
planned community that is in existence on the original effective 945
date of this chapter, September 10, 2010, shall pursue any civil 946
action against any person based upon any provision of the bylaws 947
of that planned community or upon any amendments to the bylaws 948
until the bylaws or amendments are filed and recorded under 949
division (D) (1), (2), or (3) of this section. 950

Sec. 5312.03. (A) (1) An owners association shall 951
administer a planned community, and a board of directors the 952
owners elect from among the owners and their spouses shall 953
exercise all power and authority of the owners association. If 954
an owner is not an individual, any principal, member of a 955
limited liability company, partner, director, officer, trustee, 956
or employee of the owner may be elected to the board. The 957
majority of the board shall not consist of owners or 958
representatives from the same lot. 959

(2) Unless otherwise provided, a board of directors may 960
carry out any action this chapter requires or allows an owners 961
association to take, subject to any vote required of the owners. 962

(B) A declarant shall establish an owners association not 963
later than the date upon which the first lot in the planned 964
community is conveyed to a bona fide purchaser for value. The 965
owners association shall be organized as a nonprofit corporation 966
pursuant to Chapter 1702. of the Revised Code. 967

(C) (1) If provided in the declaration, a declarant may 968

control the owners association for the period of time the 969
declaration specifies. During the time of declarant control, the 970
declarant or the declarant's designee may appoint and remove the 971
members of the board. The period of declarant control shall 972
terminate not later than the time at which all of the lots have 973
been transferred to owners. 974

(2) Not later than the termination of any period of 975
declarant control, the owners shall elect a board of directors 976
comprised of the number of members the declaration or bylaws 977
specify. 978

Sec. 5312.06. (A) ~~Unless otherwise provided in the~~ 979
~~declaration or bylaws, the~~ The owners association, through its 980
board of directors, shall do both of the following: 981

(1) Annually adopt and amend an estimated budget for 982
revenues and expenditures. Any budget shall include reserves in 983
an amount adequate to repair and replace major capital items in 984
the normal course of operations without the necessity of special 985
assessments, unless the owners, exercising not less than a 986
majority of the voting power of the owners association, waive 987
the reserve requirement in writing annually. 988

(2) Collect assessments for common expenses from owners in 989
accordance with section 5312.10 of the Revised Code. 990

(B) Commencing not later than the time of the first 991
conveyance of a lot to a person other than a declarant, the 992
owners association shall maintain all of the following to the 993
extent reasonably available and applicable: 994

(1) Property insurance on the common elements; 995

(2) Liability insurance pertaining to the common elements; 996

(3) Directors and officers liability insurance;	997
<u>(4) (a) Blanket fidelity, crime, or dishonesty insurance</u>	998
<u>coverage for any person who controls or disburses association</u>	999
<u>funds. As used in division (B) (4) (a) of this section, "person</u>	1000
<u>who controls or disburses association funds" means any</u>	1001
<u>individual with authority or access to sign checks, conduct</u>	1002
<u>electronic transfers, or otherwise withdraw funds from any</u>	1003
<u>association account or deposit, including the following:</u>	1004
<u>(i) A management company's principals and employees;</u>	1005
<u>(ii) A bookkeeper;</u>	1006
<u>(iii) The president, secretary, treasurer, any other board</u>	1007
<u>member, or employee of the owners association.</u>	1008
<u>(b) All of the following apply to the insurance coverage</u>	1009
<u>required under division (B) (4) (a) of this section:</u>	1010
<u>(i) Coverage shall be for the maximum amount of funds that</u>	1011
<u>will be in the custody of the association or its designated</u>	1012
<u>agent at any one time plus three months of operating expenses.</u>	1013
<u>(ii) The insurance shall be the property of and for the</u>	1014
<u>sole benefit of the association and shall protect against theft,</u>	1015
<u>embezzlement, misappropriation, or any other unauthorized taking</u>	1016
<u>or loss of association funds.</u>	1017
<u>(iii) The policy shall include in its definition of</u>	1018
<u>"employee" the manager and the managing agent of the</u>	1019
<u>association's funds or provide for this inclusion by an</u>	1020
<u>endorsement to the policy.</u>	1021
<u>(iv) The policy shall name the association as the insured</u>	1022
<u>party and shall include a provision requiring the issuer of the</u>	1023
<u>policy to provide a ten-day written notice to the association's</u>	1024

president or manager in the event of cancellation or substantial 1025
modification of the policy. The manager or managing agent, if 1026
any, of the association shall be the designated agent on the 1027
policy. 1028

(v) If there is a change in the manager or the managing 1029
agent of the association, then within ten days of the effective 1030
start date, the new manager or managing agent shall notify the 1031
insurer of such change. 1032

(C) The owners association shall keep all of the 1033
following: 1034

(1) Correct and complete books and records of account that 1035
specify the receipts and expenditures relating to the common 1036
elements and other common receipts and expenses; 1037

(2) Records showing the collection of the common expenses 1038
from the owners; 1039

(3) Minutes of the meetings of the association and the 1040
board of directors; 1041

(4) Records of the names and addresses of the owners. 1042

(D) An owners association, through its board of directors, 1043
may do any of the following: 1044

(1) Hire and fire managing agents, attorneys, accountants, 1045
and other independent professionals and employees that the board 1046
determines are necessary or desirable in the management of the 1047
property and the association; 1048

(2) Commence, defend, intervene in, settle, or compromise 1049
any civil, criminal, land use planning, or administrative action 1050
or proceeding that is in the name of, or threatened against, the 1051
association, the board of directors, or the property, or that 1052

involves two or more owners and, <u>impacts zoning, or otherwise</u>	1053
relates to matters affecting the property <u>or adjacent property</u> ;	1054
(3) Enter into contracts and incur liabilities relating to	1055
the operation of the property;	1056
(4) Enforce all provisions of the declaration, bylaws,	1057
covenants, conditions, restrictions, and articles of	1058
incorporation governing the lots, common elements, and limited	1059
common elements;	1060
(5) Adopt and enforce rules that regulate the maintenance,	1061
repair, replacement, modification, and appearance of common	1062
elements, and any other rules as the declaration provides;	1063
(6) Acquire, encumber, and convey or otherwise transfer	1064
real and personal property, subject to section 5312.10 of the	1065
Revised Code;	1066
(7) Hold in the name of the owners association the real	1067
property and personal property;	1068
(8) Grant easements, leases, licenses, and concessions	1069
through or over the common elements;	1070
(9) Levy and collect fees or other charges for the use,	1071
rental, or operation of the common elements or for services	1072
provided to owners;	1073
(10) Pursuant to section 5312.11 of the Revised Code, levy	1074
the following charges and assessments:	1075
(a) Interest and charges for the late payment of	1076
assessments;	1077
(b) Returned check charges;	1078
(c) Enforcement assessments for violations of the	1079

declaration, the bylaws, and the rules of the owners	1080
association;	1081
(d) Charges for damage to the common elements or other	1082
property.	1083
(11) Adopt and amend rules that regulate the collection of	1084
delinquent assessments and the application of payments of	1085
delinquent assessments;	1086
(12) Impose reasonable charges for preparing, recording,	1087
or copying the declaration, bylaws, amendments to the	1088
declaration and bylaws, resale certificates, or statements of	1089
unpaid assessments;	1090
(13) Authorize entry to any portion of the planned	1091
community by designated individuals when conditions exist that	1092
involve an imminent risk of damage or harm to common elements,	1093
another dwelling unit, or to the health or safety of the	1094
occupants of that dwelling unit or another dwelling unit;	1095
(14) Subject to division (A) (1) of section 5312.09 of the	1096
Revised Code, borrow money and assign the right to common	1097
assessments or other future income to a lender as security for a	1098
loan to the owners association;	1099
(15) Suspend the voting privileges and use of recreational	1100
facilities of an owner who is delinquent in the payment of	1101
assessments for more than thirty days;	1102
(16) Purchase insurance and fidelity bonds the directors	1103
consider appropriate and necessary;	1104
(17) Invest excess funds in investments that meet	1105
standards for fiduciary investments under the laws of this	1106
state;	1107

(18) Exercise powers that are any of the following:	1108
(a) Conferred by the declaration or bylaws;	1109
(b) Necessary to incorporate the owners association as a nonprofit corporation;	1110 1111
(c) Permitted to be exercised in this state by a nonprofit corporation;	1112 1113
(d) Necessary and proper for the government and operation of the owners association.	1114 1115
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.	1116 1117 1118 1119 1120 1121 1122 1123 1124 1125
(B) Unless approved by the board of directors, an owner may not examine or copy any of the following from books, records, and or <u>minutes that meet either of the following conditions:</u>	1126 1127 1128 1129
(1) <u>Date back more than five years prior to the date of the request;</u>	1130 1131
(2) <u>Contain any of the following:</u>	1132
(a) <u>Information that pertains to property-related personnel matters;</u>	1133 1134

~~(2)~~ (b) Communications with legal counsel or attorney work 1135
product pertaining to potential, threatened or pending 1136
litigation, or other property-related matters; 1137

~~(3)~~ (c) Information that pertains to contracts or 1138
transactions currently under negotiation, or information that is 1139
contained in a contract or other agreement containing 1140
confidentiality requirements and that is subject to those 1141
requirements; 1142

~~(4)~~ (d) Information that relates to the enforcement of the 1143
declaration, bylaws, or rules of the owners association against 1144
other owners; 1145

~~(5)~~ (e) Information, the disclosure of which is prohibited 1146
by state or federal law. 1147

Sec. 5312.11. (A) An owners association may assess an 1148
individual lot for any of the following: 1149

(1) Enforcement assessments and individual assessments for 1150
utility service that are imposed or levied in accordance with 1151
the declaration, as well as expenses the board incurs in 1152
collecting those assessments; 1153

(2) Costs of maintenance, repair, or replacement incurred 1154
due to the willful or negligent act of an owner or occupant of a 1155
lot or their family, tenants, guests, or invitees, including, 1156
but not limited to, attorney's fees, court costs, and other 1157
expenses; 1158

(3) Costs associated with the enforcement of the 1159
declaration or the rules and regulations of the owners 1160
association, including, but not limited to, attorney's fees, 1161
court costs, and other expenses; 1162

(4) Costs or charges the declaration or bylaws permit.	1163
(B) Unless otherwise provided by the declaration, bylaws,	1164
or rules, the owners association shall credit any amount it	1165
receives from a lot owner pursuant to this section in the	1166
following order:	1167
(1) To interest owed to the owners association;	1168
(2) To administrative late fees or enforcement assessments	1169
owed to the owners association;	1170
(3) To collection costs, attorney's fees, and paralegal	1171
fees the owners association incurred in collecting the	1172
assessment;	1173
(4) To the oldest principal amounts the owner owes to the	1174
owners association for the common expenses chargeable against	1175
the dwelling unit or lot.	1176
(C) Prior to imposing a charge for damages or an	1177
enforcement assessment pursuant to this section, the board of	1178
directors shall give the owner a written notice, <u>which may be in</u>	1179
<u>the form of electronic mail to an electronic mail address</u>	1180
<u>previously provided by the owner in writing,</u> that includes all	1181
of the following:	1182
(1) A description of the property damage or violation;	1183
(2) The amount of the proposed charge or assessment;	1184
(3) A statement that the owner has a right to a hearing	1185
before the board to contest the proposed charge or assessment;	1186
(4) A statement setting forth the procedures to request a	1187
hearing;	1188
(5) A reasonable date by which the owner must cure a	1189

continuing violation to avoid the proposed charge or assessment, 1190
if such an opportunity to cure is applicable. 1191

(D) (1) To request a hearing, the owner shall deliver a 1192
written notice to the board not later than the tenth day after 1193
receiving the notice this division requires. If the owner fails 1194
to make a timely request for a hearing, the right to that 1195
hearing is waived, and the board immediately may impose a charge 1196
for damages or an enforcement assessment pursuant to this 1197
section. 1198

(2) If an owner requests a hearing, at least seven days 1199
prior to the hearing the board shall provide the owner with a 1200
written notice that includes the date, time, and location of the 1201
hearing. 1202

(3) The board shall not levy a charge or assessment before 1203
holding any hearing requested pursuant to this section. 1204

(4) Within thirty days following a hearing at which the 1205
board imposes a charge or assessment, the owners association 1206
shall deliver a written notice of the charge or assessment to 1207
the owner. 1208

(5) Any written notice that this section requires shall be 1209
delivered to the owner or any occupant of the dwelling unit by 1210
personal delivery, by certified mail, return receipt requested, 1211
or by regular mail. 1212

Sec. 5312.16. (A) Unless specifically prohibited in the 1213
declaration, any owner may install a solar energy collection 1214
device on the owner's dwelling unit or other location within the 1215
owner's lot if either of the following conditions apply: 1216

(1) The cost to insure, maintain, repair, and replace the 1217
unit's roof or alternative location within the lot is not a 1218

common expense of the owners association and is instead the 1219
owner's responsibility. 1220

(2) The declaration specifically allows for and regulates 1221
the types and installation of solar energy collection devices 1222
within the planned community and establishes responsibility for 1223
the cost to insure, maintain, repair, and replace such devices. 1224

(B) Notwithstanding division (A) of this section, an 1225
owners association may establish reasonable restrictions 1226
concerning the size, place, and manner of placement of solar 1227
energy collection devices. 1228

(C) Prior to imposing a charge for damages or an 1229
enforcement assessment pursuant to this section, the board of 1230
directors shall give the owner a written notice, which may be in 1231
the form of electronic mail to an electronic mail address 1232
previously provided by the owner in writing that includes all of 1233
the following: 1234

(1) A description of the property damage or violation; 1235

(2) The amount of the proposed charge or assessment; 1236

(3) A statement that the owner has a right to a hearing 1237
before the board of directors to contest the proposed charge or 1238
assessment; 1239

(4) A statement setting forth the procedures to request a 1240
hearing; 1241

(5) A reasonable date by which the unit owner must cure 1242
the violation to avoid the proposed charge or assessment. 1243

(D) As used in this section, "solar energy collection 1244
device" has the same meaning as in section 5311.192 of the 1245
Revised Code. 1246

Section 2. That existing sections 349.01, 5311.05,	1247
5311.08, 5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03,	1248
5312.06, 5312.07, and 5312.11 of the Revised Code are hereby	1249
repealed.	1250