

**As Reported by the Senate General Government and Agency Review
Committee**

133rd General Assembly

**Regular Session
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Am. S. B. No. 289

Senator Blessing

Cosponsor: Senator Schuring

A BILL

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

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

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

Sec. 5311.05. (A) A declaration submitting property to the 11
provisions of this chapter shall be signed and acknowledged by 12
the owner before a judge or clerk of a court of record, county 13
auditor, county engineer, notary public, or mayor, who shall 14
certify the acknowledgment and subscribe the certificate of 15
acknowledgment. 16

(B) A declaration shall contain all of the following: 17

(1) A legal description of the land or, for a water slip condominium property, of the land and the land under the water area, submitted to the provisions of this chapter;	18 19 20
(2) The name of the condominium property, which shall include the word "condominium";	21 22
(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;	23 24 25 26
(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;	27 28 29 30 31 32 33
(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;	34 35 36 37 38
(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;	39 40 41 42 43 44 45 46

(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;

(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;

(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;

(11) Any further provisions deemed desirable.

(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:

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

(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;

(3) (a) The time at which the option to expand the	76
condominium development expires, which shall not exceed seven	77
years from the date the declaration is filed for record;	78
(b) A statement that the declarant may, during the six	79
months prior to the time that the option expires, extend the	80
option for an additional seven years with the consent of the	81
holders of a majority of the voting power of the unit owners	82
other than the declarant;	83
(c) A statement of any circumstances that will terminate	84
the option to expand prior to the time established pursuant to	85
division (C) (3) (a) or (b) of this section.	86
(4) A legal description of all additional property that,	87
through exercise of the option, may be submitted to the	88
provisions of this chapter and added to the condominium	89
property;	90
(5) A statement that specifies all of the following:	91
(a) Whether the addition of all or a particular portion of	92
the additional property is mandatory;	93
(b) If the addition of additional property is not	94
mandatory, whether all or a particular portion of the additional	95
property must be added if any other additional property is	96
added;	97
(c) Whether or not there are any limitations on portions	98
of additional property that may be added.	99
(6) A statement of whether portions of the additional	100
property may be added at different times and a statement that	101
sets forth any limitations on the addition of additional	102
property at different times, including the legal descriptions of	103

the boundaries of portions that may be added and specifications 104
on the order in which those portions may be added to the 105
condominium property or a statement that there are no 106
limitations on the addition of additional property; 107

(7) A statement of any limitations on the location of any 108
improvements that may be made on any portion of the additional 109
property added to the condominium property, or a statement that 110
there are no limitations of that kind; 111

(8) A statement of the maximum number of units that may be 112
created on the additional property. If portions of the 113
additional property may be added to the condominium property and 114
the boundaries of those portions are fixed in accordance with 115
division (C)(6) of this section, the declaration also shall 116
state the maximum number of units that may be created on each 117
portion added to the condominium property. If portions of the 118
additional property may be added to the condominium property and 119
the boundaries of those portions are not fixed in accordance 120
with division (C)(6) of this section, the declaration also shall 121
state the maximum number of units per acre that may be created 122
on any portion added to the condominium property. 123

(9) Except when the original condominium property 124
contained no units restricted to residential use, a statement of 125
the maximum percentage of the aggregate land area and the 126
maximum percentage of aggregate floor area that may be devoted 127
to units not restricted to residential use on any additional 128
property added to the condominium property; 129

(10) A statement of the extent to which any structures 130
erected on any portion of the additional property added to the 131
condominium property will be compatible with structures on the 132
submitted property in terms of quality of construction, the 133

principal materials to be used, and architectural style, or a 134
statement that the structures need not be compatible in those 135
respects; 136

(11) With respect to all improvements to any portion of 137
additional property added to the condominium property, other 138
than structures, a statement setting forth both of the 139
following: 140

(a) A description of the improvements that must be made or 141
a statement that no other improvements must be made; 142

(b) Any restrictions or limitations on the improvements 143
that may be made or a statement that there are no restrictions 144
or limitations on improvements. 145

(12) With respect to all units created on any portion of 146
additional property added to the condominium property, a 147
statement setting forth both of the following: 148

(a) Whether all units of that kind must be substantially 149
identical to units on previously submitted property; 150

(b) Any limitations on the types of units that may be 151
created on the additional property or a statement that there are 152
no limitations of that kind. 153

(13) A description of any reserved right of the declarant 154
to create limited common elements within any portion of the 155
additional property added to the condominium property or to 156
designate common elements within each portion. The description 157
shall specify the types, sizes, and maximum number of limited 158
common elements in each portion that may subsequently be 159
assigned to units; 160

(14) Drawings and plans that the declarant considers 161

appropriate in supplementing the requirements of division (C) of	162
this section;	163
(15) A statement that a successor owner of the condominium	164
property or of additional property added to the condominium	165
property who is not an affiliate of the developer and who is a	166
bona fide purchaser of the property for value, or a purchaser	167
who acquires the property at a sheriff's sale or by deed in lieu	168
of a foreclosure, is not liable in damages for harm caused by an	169
action or omission of the developer or a breach of an obligation	170
by the developer.	171
(D) The declaration for a leasehold condominium	172
development shall contain all of the following in addition to	173
the requirements of division (B) of this section:	174
(1) With respect to any ground lease or other leases, the	175
expiration or termination of which could terminate or reduce the	176
amount of condominium property, a statement setting forth the	177
county in which the lease is recorded and the volume and page of	178
the record;	179
(2) A statement setting forth the date upon which each	180
lease referred to in division (D) (1) of this section expires;	181
(3) (a) A statement of whether the unit owners own any land	182
or improvements of the condominium property in fee simple, and	183
if so, a description of the improvements and a legal description	184
of the land;	185
(b) A statement of any rights the unit owners have to	186
remove any improvements within a reasonable time after the	187
expiration or termination of any ninety-nine year lease, or a	188
statement that they have no rights of that nature.	189
(4) A statement of the rights that the unit owners have to	190

redeem the reversion or any of the reversions, or a statement 191
that they have no rights of that nature; 192

(5) A statement that, subsequent to the recording of the 193
declaration, no lessor who executed it and no successor in 194
interest to that lessor has any right or power to terminate any 195
part of the leasehold interest of any unit owner who makes 196
timely payment of the unit owner's share of the rent to the 197
person designated in the declaration for the receipt of that 198
rent and who otherwise complies with all covenants that, if 199
violated, entitle the lessor to terminate the lease. 200

(E) (1) Without a vote of the unit owners, the board of 201
directors may amend the declaration in any manner necessary for 202
any of the following purposes: 203

(a) To meet the requirements of institutional mortgagees, 204
guarantors and insurers of first mortgage loans, the federal 205
national mortgage association, the federal home loan mortgage 206
corporation, the federal housing administration, the veterans 207
administration, and similar institutions; 208

(b) To meet the requirements of insurance underwriters; 209

(c) To bring the declaration into compliance with this 210
chapter; 211

(d) To correct clerical or typographical errors or obvious 212
factual errors in the declaration or an exhibit to the 213
declaration; 214

(e) To designate a successor to the person named to 215
receive service of process for the unit owners association. If 216
the association is incorporated in this state, this may be 217
accomplished by filing with the secretary of state an 218
appropriate change of statutory agent designation; 219

(f) To permit notices to owners, as required by the 220
declaration or bylaws, to be sent by electronic mail and, if 221
returned undeliverable, by regular mail, provided the 222
association has received the prior, written authorization from 223
the owner. 224

(2) Division (E) (1) of this section applies to condominium 225
properties submitted to this chapter prior to, on, or after ~~the~~ 226
~~effective date of this amendment~~ July 20, 2004. 227

(3) Any unit owner who is aggrieved by an amendment to the 228
declaration that the board of directors makes pursuant to 229
division (E) (1) of this section may commence a declaratory 230
judgment action to have the amendment declared invalid as 231
violative of division (E) (1) of this section. Any action filed 232
pursuant to division (E) (3) of this section shall be filed in 233
the appropriate court of common pleas within one year from the 234
date of the recordation of the amendment. 235

Sec. 5311.08. (A) (1) Every condominium property shall be 236
administered by a unit owners association. All power and 237
authority of the unit owners association shall be exercised by a 238
board of directors, which the unit owners shall elect from among 239
the unit owners or the spouses of unit owners. If a unit owner 240
is not an individual, that unit owner may nominate for the board 241
of directors any principal, member of a limited liability 242
company, partner, director, officer, or employee of that unit 243
owner. The majority of the board shall not consist of unit 244
owners or representatives from the same unit. 245

(2) The board of directors shall elect a president, 246
secretary, treasurer, and other officers that the board may 247
desire. 248

(3) Unless otherwise provided in the declaration or the bylaws, all meetings of the unit owners association are open to the unit owners, and those present in person or by proxy when action is taken during a meeting of the unit owners association constitute a sufficient quorum.	249 250 251 252 253
(4) (a) A meeting of the board of directors may be held by any method of communication, including electronic or telephonic communication provided that each member of the board can hear, participate, and respond to every other member of the board.	254 255 256 257
(b) In lieu of conducting a meeting, the board of directors may take action with the unanimous written consent of the members of the board. Those written consents shall be filed with the minutes of the meetings of the board.	258 259 260 261
(B) The unit owners association shall be governed by bylaws. No modification of or amendment to the bylaws is valid unless it is set forth in an amendment to the declaration, and the amendment to the declaration is filed for record. Unless otherwise provided by the declaration, the bylaws shall provide for the following:	262 263 264 265 266 267
(1) (a) The election of the board of directors of the unit owners association;	268 269
(b) The number of persons constituting the board;	270
(c) The terms of the directors, with not less than one-fifth to expire annually;	271 272
(d) The powers and duties of the board;	273
(e) The compensation of the directors;	274
(f) The method of removal of directors from office;	275

(g) The election of officers of the board;	276
(h) Whether or not the services of a manager or managing agent may be engaged.	277 278
(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;	279 280 281 282 283
(3) By whom and the procedure by which maintenance, repair, and replacement of the common elements may be authorized;	284 285 286
(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;	287 288 289
(5) The method of distributing the common profits;	290
(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, including the times and location at which items may be examined or copied and any required fee for copying the information or documents.	291 292 293 294 295 296 297 298 299 300 301
(C) (1) The unit owners association shall be established not later than the date that the deed or other evidence of ownership is filed for record following the first sale of a	302 303 304

condominium ownership interest in a condominium development. 305
Membership in the unit owners association shall be limited to 306
unit owners, and all unit owners shall be members. Until the 307
unit owners association is established, the developer shall act 308
in all instances in which action of the unit owners association 309
or its officers is authorized or required by law or the 310
declaration. 311

(2) (a) Not later than sixty days after the developer has 312
sold and conveyed condominium ownership interests appertaining 313
to twenty-five per cent of the undivided interests in the common 314
elements in a condominium development, the unit owners 315
association shall meet, and the unit owners other than the 316
developer shall elect not less than one-third of the members of 317
the board of directors. 318

(b) When computing undivided interests in expandable 319
condominium properties for purposes of divisions (C) and (D) of 320
this section, the undivided interests in common elements shall 321
be computed by comparing the number of units sold and conveyed 322
to the maximum number of units that may be created, as stated in 323
the declaration pursuant to division (C) (8) of section 5311.05 324
of the Revised Code. 325

(D) (1) Except as provided in division (C) of this section, 326
the declaration or bylaws of a condominium development may 327
authorize the developer or persons the developer designates to 328
appoint and remove members of the board of directors of the unit 329
owners association and to exercise the powers and 330
responsibilities otherwise assigned by law, the declaration, or 331
the bylaws to the unit owners association or to the board of 332
directors. The authorization for developer control may extend 333
from the date the unit owners association is established until 334

sixty days after the sale and conveyance to purchasers in good 335
faith for value of condominium ownership interests to which 336
seventy-five per cent of the undivided interests in the common 337
elements appertain, except that in no case may the authorization 338
extend for more than five years after the unit owners 339
association is established if the declaration includes 340
expandable condominium property or more than three years after 341
the unit owners association is established if the declaration 342
does not include expandable condominium property. 343

(2) If there is a unit owner other than the developer, the 344
declaration of a condominium development shall not be amended to 345
increase the scope or the period of the developer's control. 346

(3) Within sixty days after the expiration of the period 347
during which the developer has control pursuant to division (D) 348
(1) of this section, the unit owners association shall meet and 349
elect all members of the board of directors of the association. 350
The persons elected shall take office at the end of the meeting 351
during which they are elected and shall, as soon as reasonably 352
possible, appoint officers. 353

(E) The board of directors, or the developer while in 354
control of the association, may take any measures necessary to 355
incorporate the unit owners association as a not-for-profit 356
corporation. 357

Sec. 5311.081. (A) ~~Unless otherwise provided in the~~ 358
~~declaration or bylaws, the~~ The unit owners association, through 359
the board of directors, shall do both of the following: 360

(1) ~~Adopt~~ Annually, adopt and amend budgets an estimated 361
budget for revenues, and expenditures, and. The budget shall 362
include reserves in an amount adequate to repair and replace 363

major capital items in the normal course of operations without 364
the necessity of special assessments, ~~provided that the amount~~ 365
~~set aside annually for reserves shall not be less than ten per-~~ 366
~~cent of the budget for that year unless the reserve requirement~~ 367
~~is waived annually by the either of the following applies:~~ 368

(a) The declaration or bylaws include language limiting 369
the ability of the board of directors to increase assessments 370
for common expenses without a vote of the unit owners; 371

(b) The unit owners, exercising not less than a majority 372
of the voting power of the unit owners association, waive the 373
reserve requirement in writing annually. 374

(2) Collect assessments for common expenses from unit 375
owners. 376

(B) Unless otherwise provided in the declaration, the unit 377
owners association, through the board of directors, may exercise 378
all powers of the association, including the power to do the 379
following: 380

(1) Hire and fire managing agents, attorneys, accountants, 381
and other independent contractors and employees that the board 382
determines are necessary or desirable in the management of the 383
condominium property and the association; 384

(2) Commence, defend, intervene in, settle, or compromise 385
any civil, criminal, land use planning, or administrative action 386
or proceeding that is in the name of, or threatened against, the 387
unit owners association, the board of directors, or the 388
condominium property, or that involves two or more unit owners 389
and, impacts zoning, or otherwise relates to matters affecting 390
the condominium property or adjacent property; 391

(3) Enter into contracts and incur liabilities relating to 392

the operation of the condominium property;	393
(4) Regulate the use, maintenance, repair, replacement,	394
modification, and appearance of the condominium property;	395
(5) Adopt rules that regulate the use or occupancy of	396
units, the maintenance, repair, replacement, modification, and	397
appearance of units, common elements, and limited common	398
elements when the actions regulated by those rules affect common	399
elements or other units;	400
(6) Cause additional improvements to be made as part of	401
the common elements;	402
(7) Purchase, encumber, and convey units, and, subject to	403
any restrictions in the declaration or bylaws and with the	404
approvals required by division (H) (2) or (3) of section 5311.04	405
of the Revised Code, acquire an interest in other real property	406
and encumber or convey that interest. All expenses incurred in	407
connection with the acquisition, encumbrance, use, and operation	408
of that interest are common expenses.	409
(8) Acquire, encumber, and convey or otherwise transfer	410
personal property;	411
(9) Hold in the name of the unit owners association the	412
real property and personal property acquired pursuant to	413
divisions (B) (7) and (8) of this section;	414
(10) Grant easements, leases, licenses, and concessions	415
through or over the common elements;	416
(11) Impose and collect fees or other charges for <u>all of</u>	417
<u>the following:</u>	418
<u>(a) The use, rental, or operation of the common elements</u>	419
<u>or for services;</u>	420

<u>(b) Services provided to unit owners;</u>	421
<u>(c) To the extent provided in the declaration or bylaws,</u>	422
<u>social activities or charitable contributions on behalf of the</u>	423
<u>owners association;</u>	424
(12) Impose interest and late charges for the late payment	425
of assessments; impose returned check charges; and, pursuant to	426
division (C) of this section, impose reasonable enforcement	427
assessments for violations of the declaration, the bylaws, and	428
the rules of the unit owners association, and reasonable charges	429
for damage to the common elements or other property;	430
(13) Adopt and amend rules that regulate the collection of	431
delinquent assessments and the application of payments of	432
delinquent assessments;	433
(14) Subject to applicable laws, adopt and amend rules	434
that regulate the termination of utility or other service to a	435
commercial unit if the unit owner is delinquent in the payment	436
of an assessment that pays, in whole or in part, the cost of	437
that service;	438
(15) Impose reasonable charges for preparing, recording,	439
or copying amendments to the declaration, resale certificates,	440
or statements of unpaid assessments;	441
(16) Enter a unit for bona fide purposes when conditions	442
exist that involve an imminent risk of damage or harm to common	443
elements, another unit, or to the health or safety of the	444
occupants of that unit or another unit;	445
(17) To the extent provided in the declaration or bylaws,	446
assign the unit owners association's rights to common	447
assessments, or other future income, to a lender as security for	448
a loan to the unit owners association;	449

(18) Suspend the voting privileges and use of recreational facilities of a unit owner who is delinquent in the payment of assessments for more than thirty days;	450 451 452
(19) Purchase insurance and fidelity bonds the directors consider appropriate or necessary;	453 454
(20) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;	455 456
(21) Exercise powers that are:	457
(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	458 459
(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;	460 461
(c) Permitted to be exercised in this state by a not-for-profit corporation;	462 463
(d) Necessary and proper for the government and operation of the unit owners association.	464 465
(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:	466 467 468 469 470 471
(a) A description of the property damage or violation;	472
(b) The amount of the proposed charge or assessment;	473
(c) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment;	474 475 476

(d) A statement setting forth the procedures to request a hearing pursuant to division (C) (2) of this section; 477
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(e) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment. 479
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(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) 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. 481
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(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. 488
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(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. 492
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(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. 495
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(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. 499
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(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 503
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requested, or by regular mail. 506

Sec. 5311.091. (A) Except as otherwise prohibited by this 507
section, any member of a unit owners association may examine and 508
copy the books, records, and minutes described in division (A) 509
of section 5311.09 of the Revised Code pursuant to reasonable 510
standards set forth in the declaration, bylaws, or rules the 511
board promulgates, which may include, but are not limited to, 512
standards governing the type of documents that are subject to 513
examination and copying, the times and locations at which those 514
documents may be examined or copied, and the specification of a 515
reasonable fee for copying the documents. 516

~~(B) The unit owners association is not required to permit~~ 517
~~the examination and copying of any of the following from~~ 518
Unless approved by the board of directors, a unit owner may not examine 519
or copy any books, records, and or minutes that meet either of 520
the following conditions: 521

(1) Date back more than five years prior to the date of 522
the request; 523

(2) Contain any of the following: 524

(a) Information that pertains to condominium property- 525
related personnel matters; 526

~~(2)~~ (b) Communications with legal counsel or attorney work 527
product pertaining to pending litigation or other condominium 528
property-related matters; 529

~~(3)~~ (c) Information that pertains to contracts or 530
transactions currently under negotiation, or information that is 531
contained in a contract or other agreement containing 532
confidentiality requirements and that is subject to those 533
requirements; 534

~~(4)~~ (d) Information that relates to the enforcement of the 535
declaration, bylaws, or rules of the unit owners association 536
against unit owners; 537

~~(5)~~ (e) Information the disclosure of which is prohibited 538
by state or federal law. 539

Sec. 5311.16. Unless otherwise provided by the declaration 540
or bylaws, the board of directors shall ~~insure~~ maintain, with 541
the cost to be a common expense, all of the following: 542

(A) Liability insurance for all unit owners, their 543
tenants, and all persons lawfully in possession or control of 544
any part of the condominium property ~~for the~~ in an amount that 545
it determines ~~against liability~~ for personal injury or property 546
damage arising from or relating to the common elements ~~and shall~~ 547
~~obtain for;~~ 548

(B) For the benefit of all unit owners, fire and extended 549
coverage insurance on all buildings and structures of the 550
condominium property in an amount not less than ~~eighty-ninety~~ 551
per cent of the ~~fair market value. The cost of the insurance is~~ 552
~~a common expense.~~ replacement cost; 553

(C) (1) Blanket fidelity, crime, or dishonesty insurance 554
coverage for any person who controls or disburses association 555
funds. As used in division (C) (1) of this section, "person who 556
controls or disburses association funds" means any individual 557
with authority or access to sign checks, conduct electronic 558
transfers, or otherwise withdraw funds from any association 559
account or deposit, including the following: 560

(a) A management company's principals and employees; 561

(b) A bookkeeper; 562

(c) The president, secretary, treasurer, any other board member, or employee of the unit owners association. 563
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(2) All of the following apply to the insurance coverage required under division (C)(1) of this section: 565
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(a) Coverage shall be for the maximum amount of funds that will be in the custody of the association or its designated agent at any one time plus three months of operating expenses. 567
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(b) The insurance shall be the property of and for the sole benefit of the association and shall protect against theft, embezzlement, misappropriation, or any other unauthorized taking or loss of association funds. 570
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(c) The policy shall include in its definition of "employee" the manager and the managing agent of the association's funds or provide for this inclusion by an endorsement to the policy. 574
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(d) The policy shall name the association as the insured party and shall include a provision requiring the issuer of the policy to provide a ten-day written notice to the association's president or manager in the event of cancellation or substantial modification of the policy. The manager or managing agent, if any, of the association shall be the designated agent on the policy. 578
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(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. 585
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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 589
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unit and the appurtenant undivided interest in the common 592
elements for the payment of any of the following expenses that 593
are chargeable against the unit and that remain unpaid for ten 594
days after any portion has become due and payable: 595

(a) The portion of the common expenses chargeable against 596
the unit; 597

(b) Interest, administrative late fees, enforcement 598
assessments, and collection costs, attorney's fees, and 599
paralegal fees the association incurs if authorized by the 600
declaration, the bylaws, or the rules of the unit owners 601
association and if chargeable against the unit. 602

(2) Unless otherwise provided by the declaration, the 603
bylaws, or the rules of the unit owners association, the 604
association shall credit payments made by a unit owner for the 605
expenses described in divisions (A) (1) (a) and (b) of this 606
section in the following order of priority: 607

(a) First, to interest owed to the association; 608

(b) Second, to administrative late fees owed to the 609
association; 610

(c) Third, to collection costs, attorney's fees, and 611
paralegal fees incurred by the association; 612

(d) Fourth, to the principal amounts the unit owner owes 613
to the association for the common expenses or penalty 614
assessments chargeable against the unit. 615

(3) The lien described in division (A) (1) of this section 616
is effective on the date that a certificate of lien in the form 617
described in division (A) (3) of this section is filed for record 618
in the office of the recorder of the county or counties in which 619

the condominium property is situated pursuant to an 620
authorization given by the board of directors of the unit owners 621
association. The certificate shall contain a description of the 622
unit, the name of the record owner of the unit, and the amount 623
of the unpaid portion of the common expenses and, subject to 624
subsequent adjustments, any unpaid interest, administrative late 625
fees, enforcement assessments, collection costs, attorney's 626
fees, and paralegal fees. The certificate shall be subscribed by 627
the president or other designated representative of the 628
association. 629

(4) The lien described in division (A) (1) of this section 630
is valid for a period of five years from the date of filing, 631
unless it is sooner released or satisfied in the same manner 632
provided by law for the release and satisfaction of mortgages on 633
real property or unless it is discharged by the final judgment 634
or order of a court in an action brought to discharge the lien 635
as provided in division (C) of this section. 636

(B) (1) The lien described in division (A) (1) of this 637
section is prior to any lien or encumbrance subsequently arising 638
or created except liens for real estate taxes and assessments of 639
political subdivisions and liens of first mortgages that have 640
been filed for record and may be foreclosed in the same manner 641
as a mortgage on real property in an action brought on behalf of 642
the unit owners association ~~by the president or other chief-~~ 643
~~officer of the association pursuant to authority given to that~~ 644
~~individual as authorized by~~ the board of directors. 645

(2) In a foreclosure action a unit owners association 646
commences pursuant to division (B) (1) of this section or a 647
foreclosure action the holder of a first mortgage or other lien 648
on a unit commences, the owner of the unit, as the defendant in 649

the action, shall be required to pay a reasonable rental for the 650
unit during the pendency of the action. The unit owners 651
association or the holder of the lien is entitled to the 652
appointment of a receiver to collect the rental. Each rental 653
payment a receiver collects during the pendency of the 654
foreclosure action shall be applied first to the payment of the 655
portion of the common expenses chargeable to the unit during the 656
foreclosure action. 657

(3) In a foreclosure action the holder of a lien on a unit 658
commences, the holder of that lien shall name the unit owners 659
association as a defendant in the action. 660

(4) Unless prohibited by the declaration or the bylaws, 661
following a foreclosure action a unit owners association 662
commences pursuant to division (B)(1) of this section or a 663
foreclosure action the holder of a lien on a unit commences, the 664
association or its agent duly authorized by action of the board 665
of directors, is entitled to become a purchaser at the 666
foreclosure sale. 667

(5) A mortgage on a unit may contain a provision that 668
secures the mortgagee's advances for the payment of the portion 669
of the common expenses chargeable against the unit upon which 670
the mortgagee holds the mortgage. 671

(6) In any foreclosure action, it is not a defense, set 672
off, counterclaim, or crossclaim that the unit owners 673
association has failed to provide the unit owner with any 674
service, goods, work, or material, or failed in any other duty. 675

(C) A unit owner who believes that the portion of the 676
common expenses chargeable to the unit, for which the unit 677
owners association files a certificate of lien pursuant to 678

division (A) of this section, has been improperly charged may 679
commence an action for the discharge of the lien in the court of 680
common pleas of the county in which all or a part of the 681
condominium property is situated. In the action, if it is 682
finally determined that the portion of the common expenses was 683
improperly charged to the unit owner or the unit, the court 684
shall enter an order that it determines to be just, which may 685
provide for a discharge of record of all or a portion of the 686
lien. 687

Sec. 5311.192. (A) Unless specifically prohibited in the 688
declaration, any owner of a solar appropriate unit may install a 689
solar energy collection device on the roof of that unit if 690
either of the following conditions apply: 691

(1) The unit, as defined by the declaration, includes the 692
roof, for which the cost to insure, maintain, repair, and 693
replace is not a common expense and is instead the owner's 694
responsibility. 695

(2) The declaration specifically allows for and regulates 696
the types and installation of solar energy collection devices in 697
the common or limited common elements and establishes 698
responsibility for the cost to insure, maintain, repair, and 699
replace such devices. 700

(B) Notwithstanding division (A) of this section, a unit 701
owners association may establish reasonable restrictions 702
concerning the size, place, and manner of placement of solar 703
energy collection devices. 704

(C) As used in this section: 705

(1) "Solar appropriate unit" means a condominium unit that 706
does not have any other condominium units directly above or 707

below it. 708

(2) "Solar energy collection device" means any device 709
manufactured and sold for the sole purpose of facilitating the 710
collection and beneficial use of solar energy, including passive 711
heating panels or building components and solar photovoltaic 712
apparatus. 713

Sec. 5312.02. (A) Any planned community in this state is 714
subject to this chapter. No person shall establish a planned 715
community unless that person files and records a declaration and 716
bylaws for that planned community in the office of the recorder 717
of the county or counties in which the planned community is 718
located. 719

(B) Any declaration for a planned community shall be 720
accompanied by bylaws that provide for the operation of the 721
planned community. The declaration and bylaws shall provide for 722
all of the following: 723

(1) The election of the board of directors of the owners 724
association; 725

(2) The number of persons constituting the board; 726

(3) The terms of the directors, with not less than one- 727
fifth to expire annually; 728

(4) The powers and duties of the board; 729

(5) The method of removal of directors from office; 730

(6) Whether the services of a manager or managing agent 731
may be engaged; 732

(7) The method of amending the declaration and bylaws; 733

(8) The time and place for holding meetings and the manner 734

of and authority for calling, ~~giving notice of, and meetings,~~ 735
conducting meetings, and giving notice of meetings, which notice 736
may be sent by electronic mail, provided the association has 737
received the prior, written authorization from the owner; 738

(9) The common expenses for which assessments may be made 739
and the manner of collecting from the owners their respective 740
shares of the common expenses; 741

(10) Any other matters the original declarant or the 742
owners association deem necessary and appropriate. 743

(C) Nothing in this chapter invalidates any provision of a 744
document that governs a planned community if that provision was 745
in the document at the time the document was recorded and the 746
document was recorded prior to the original effective date of 747
this chapter, September 10, 2010. 748

(D) (1) The board of directors of the owners association of 749
any planned community that is in existence on the original 750
effective date of this chapter, September 10, 2010, shall file 751
and record the bylaws of that planned community that are in 752
effect on that effective date in the office of the recorder of 753
the county or counties in which the planned community is located 754
within one hundred eighty days after that effective date. 755

(2) The board of directors of the owners association of 756
any planned community that is in existence on the original 757
effective date of this chapter, September 10, 2010, shall file 758
and record the bylaws that are adopted by the owners association 759
on or after that effective date in the office of the recorder of 760
the county or counties in which the planned community is located 761
within ninety days after the date of adoption of the bylaws. 762

(3) The board of directors of the owners association of 763

any planned community that adopts an amendment to the bylaws of 764
that planned community shall file and record the amendment in 765
the office of the recorder of the county or counties in which 766
the planned community is located within sixty days after the 767
date of adoption of the amendment. 768

(4) Nothing in division (D) (1) or (2) of this section 769
shall require the board of directors or owners association of 770
any planned community that is in existence on the original 771
effective date of this chapter, September 10, 2010, to adopt 772
bylaws of that planned community. 773

(5) No board of directors of the owners association of a 774
planned community that is in existence on the original effective 775
date of this chapter, September 10, 2010, shall pursue any civil 776
action against any person based upon any provision of the bylaws 777
of that planned community or upon any amendments to the bylaws 778
until the bylaws or amendments are filed and recorded under 779
division (D) (1), (2), or (3) of this section. 780

Sec. 5312.03. (A) (1) An owners association shall 781
administer a planned community, and a board of directors the 782
owners elect from among the owners and their spouses shall 783
exercise all power and authority of the owners association. If 784
an owner is not an individual, any principal, member of a 785
limited liability company, partner, director, officer, trustee, 786
or employee of the owner may be elected to the board. The 787
majority of the board shall not consist of owners or 788
representatives from the same lot. 789

(2) Unless otherwise provided, a board of directors may 790
carry out any action this chapter requires or allows an owners 791
association to take, subject to any vote required of the owners. 792

(B) A declarant shall establish an owners association not 793
later than the date upon which the first lot in the planned 794
community is conveyed to a bona fide purchaser for value. The 795
owners association shall be organized as a nonprofit corporation 796
pursuant to Chapter 1702. of the Revised Code. 797

(C) (1) If provided in the declaration, a declarant may 798
control the owners association for the period of time the 799
declaration specifies. During the time of declarant control, the 800
declarant or the declarant's designee may appoint and remove the 801
members of the board. The period of declarant control shall 802
terminate not later than the time at which all of the lots have 803
been transferred to owners. 804

(2) Not later than the termination of any period of 805
declarant control, the owners shall elect a board of directors 806
comprised of the number of members the declaration or bylaws 807
specify. 808

Sec. 5312.06. (A) ~~Unless otherwise provided in the~~ 809
~~declaration or bylaws, the~~ The owners association, through its 810
board of directors, shall do both of the following: 811

(1) Annually adopt and amend an estimated budget for 812
revenues and expenditures. Any budget shall include reserves in 813
an amount adequate to repair and replace major capital items in 814
the normal course of operations without the necessity of special 815
assessments, unless the owners, exercising not less than a 816
majority of the voting power of the owners association, waive 817
the reserve requirement in writing annually. 818

(2) Collect assessments for common expenses from owners in 819
accordance with section 5312.10 of the Revised Code. 820

(B) Commencing not later than the time of the first 821

conveyance of a lot to a person other than a declarant, the owners association shall maintain all of the following to the extent reasonably available and applicable:

(1) Property insurance on the common elements;

(2) Liability insurance pertaining to the common elements;

(3) Directors and officers liability insurance;

(4) (a) Blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in division (B) (4) (a) of this section, "person who controls or disburses association funds" means any individual with authority or access to sign checks, conduct electronic transfers, or otherwise withdraw funds from any association account or deposit, including the following:

(i) A management company's principals and employees;

(ii) A bookkeeper;

(iii) The president, secretary, treasurer, any other board member, or employee of the owners association.

(b) All of the following apply to the insurance coverage required under division (B) (4) (a) of this section:

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

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

(iii) The policy shall include in its definition of

"employee" the manager and the managing agent of the 849
association's funds or provide for this inclusion by an 850
endorsement to the policy. 851

(iv) The policy shall name the association as the insured 852
party and shall include a provision requiring the issuer of the 853
policy to provide a ten-day written notice to the association's 854
president or manager in the event of cancellation or substantial 855
modification of the policy. The manager or managing agent, if 856
any, of the association shall be the designated agent on the 857
policy. 858

(v) If there is a change in the manager or the managing 859
agent of the association, then within ten days of the effective 860
start date, the new manager or managing agent shall notify the 861
insurer of such change. 862

(C) The owners association shall keep all of the 863
following: 864

(1) Correct and complete books and records of account that 865
specify the receipts and expenditures relating to the common 866
elements and other common receipts and expenses; 867

(2) Records showing the collection of the common expenses 868
from the owners; 869

(3) Minutes of the meetings of the association and the 870
board of directors; 871

(4) Records of the names and addresses of the owners. 872

(D) An owners association, through its board of directors, 873
may do any of the following: 874

(1) Hire and fire managing agents, attorneys, accountants, 875
and other independent professionals and employees that the board 876

determines are necessary or desirable in the management of the property and the association;	877 878
(2) Commence, defend, intervene in, settle, or compromise any civil, criminal, <u>land use planning,</u> or administrative action or proceeding that is in the name of, or threatened against, the association, the board of directors, or the property, or that involves two or more owners and, <u>impacts zoning, or otherwise</u> relates to matters affecting the property <u>or adjacent property;</u>	879 880 881 882 883 884
(3) Enter into contracts and incur liabilities relating to the operation of the property;	885 886
(4) Enforce all provisions of the declaration, bylaws, covenants, conditions, restrictions, and articles of incorporation governing the lots, common elements, and limited common elements;	887 888 889 890
(5) Adopt and enforce rules that regulate the maintenance, repair, replacement, modification, and appearance of common elements, and any other rules as the declaration provides;	891 892 893
(6) Acquire, encumber, and convey or otherwise transfer real and personal property, subject to section 5312.10 of the Revised Code;	894 895 896
(7) Hold in the name of the owners association the real property and personal property;	897 898
(8) Grant easements, leases, licenses, and concessions through or over the common elements;	899 900
(9) Levy and collect fees or other charges for the use, rental, or operation of the common elements or for services provided to owners;	901 902 903
(10) Pursuant to section 5312.11 of the Revised Code, levy	904

the following charges and assessments:	905
(a) Interest and charges for the late payment of assessments;	906 907
(b) Returned check charges;	908
(c) Enforcement assessments for violations of the declaration, the bylaws, and the rules of the owners association;	909 910 911
(d) Charges for damage to the common elements or other property.	912 913
(11) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;	914 915 916
(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;	917 918 919 920
(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;	921 922 923 924 925
(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;	926 927 928 929
(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;	930 931 932

(16) Purchase insurance and fidelity bonds the directors	933
consider appropriate and necessary;	934
(17) Invest excess funds in investments that meet	935
standards for fiduciary investments under the laws of this	936
state;	937
(18) Exercise powers that are any of the following:	938
(a) Conferred by the declaration or bylaws;	939
(b) Necessary to incorporate the owners association as a	940
nonprofit corporation;	941
(c) Permitted to be exercised in this state by a nonprofit	942
corporation;	943
(d) Necessary and proper for the government and operation	944
of the owners association.	945
Sec. 5312.07. (A) Unless otherwise prohibited by this	946
section, any owner may examine and copy the books, records, and	947
minutes of the owners association that division (C) of section	948
5312.06 of the Revised Code describes, pursuant to reasonable	949
standards set forth in the declaration, bylaws, or rules the	950
board promulgates. The standards may include, but are not	951
limited to, standards governing the type of documents that are	952
subject to examination and copying, the times and locations at	953
which those documents may be examined or copied, and the	954
specification of a reasonable fee for copying the documents.	955
(B) Unless approved by the board of directors, an owner	956
may not examine or copy any of the following from books,	957
records, and <u>or minutes that meet either of the following</u>	958
<u>conditions:</u>	959
(1) <u>Date back more than five years prior to the date of</u>	960

<u>the request;</u>	961
<u>(2) Contain any of the following:</u>	962
<u>(a) Information that pertains to property-related personnel matters;</u>	963 964
(2) <u>(b) Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other property-related matters;</u>	965 966 967
(3) <u>(c) 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;</u>	968 969 970 971 972
(4) <u>(d) Information that relates to the enforcement of the declaration, bylaws, or rules of the owners association against other owners;</u>	973 974 975
(5) <u>(e) Information, the disclosure of which is prohibited by state or federal law.</u>	976 977
Sec. 5312.11. (A) An owners association may assess an individual lot for any of the following:	978 979
(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;	980 981 982 983
(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;	984 985 986 987 988

(3) Costs associated with the enforcement of the declaration or the rules and regulations of the owners association, including, but not limited to, attorney's fees, court costs, and other expenses;	989 990 991 992
(4) Costs or charges the declaration or bylaws permit.	993
(B) Unless otherwise provided by the declaration, bylaws, or rules, the owners association shall credit any amount it receives from a lot owner pursuant to this section in the following order:	994 995 996 997
(1) To interest owed to the owners association;	998
(2) To administrative late fees or enforcement assessments owed to the owners association;	999 1000
(3) To collection costs, attorney's fees, and paralegal fees the owners association incurred in collecting the assessment;	1001 1002 1003
(4) To the oldest principal amounts the owner owes to the owners association for the common expenses chargeable against the dwelling unit or lot.	1004 1005 1006
(C) Prior to imposing a charge for damages or an enforcement assessment pursuant to this section, the board of directors shall give the 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:	1007 1008 1009 1010 1011 1012
(1) A description of the property damage or violation;	1013
(2) The amount of the proposed charge or assessment;	1014
(3) A statement that the owner has a right to a hearing	1015

before the board to contest the proposed charge or assessment; 1016

(4) A statement setting forth the procedures to request a 1017
hearing; 1018

(5) A reasonable date by which the owner must cure a 1019
continuing violation to avoid the proposed charge or assessment, 1020
if such an opportunity to cure is applicable. 1021

(D) (1) To request a hearing, the owner shall deliver a 1022
written notice to the board not later than the tenth day after 1023
receiving the notice this division requires. If the owner fails 1024
to make a timely request for a hearing, the right to that 1025
hearing is waived, and the board immediately may impose a charge 1026
for damages or an enforcement assessment pursuant to this 1027
section. 1028

(2) If an owner requests a hearing, at least seven days 1029
prior to the hearing the board shall provide the owner with a 1030
written notice that includes the date, time, and location of the 1031
hearing. 1032

(3) The board shall not levy a charge or assessment before 1033
holding any hearing requested pursuant to this section. 1034

(4) Within thirty days following a hearing at which the 1035
board imposes a charge or assessment, the owners association 1036
shall deliver a written notice of the charge or assessment to 1037
the owner. 1038

(5) Any written notice that this section requires shall be 1039
delivered to the owner or any occupant of the dwelling unit by 1040
personal delivery, by certified mail, return receipt requested, 1041
or by regular mail. 1042

Sec. 5312.16. (A) Unless specifically prohibited in the 1043

declaration, any owner may install a solar energy collection 1044
device on the owner's dwelling unit or other location within the 1045
owner's lot if either of the following conditions apply: 1046

(1) The cost to insure, maintain, repair, and replace the 1047
unit's roof or alternative location within the lot is not a 1048
common expense of the owners association and is instead the 1049
owner's responsibility. 1050

(2) The declaration specifically allows for and regulates 1051
the types and installation of solar energy collection devices 1052
within the planned community and establishes responsibility for 1053
the cost to insure, maintain, repair, and replace such devices. 1054

(B) Notwithstanding division (A) of this section, an 1055
owners association may establish reasonable restrictions 1056
concerning the size, place, and manner of placement of solar 1057
energy collection devices. 1058

(C) Prior to imposing a charge for damages or an 1059
enforcement assessment pursuant to this section, the board of 1060
directors shall give the owner a written notice, which may be in 1061
the form of electronic mail to an electronic mail address 1062
previously provided by the owner in writing that includes all of 1063
the following: 1064

(1) A description of the property damage or violation; 1065

(2) The amount of the proposed charge or assessment; 1066

(3) A statement that the owner has a right to a hearing 1067
before the board of directors to contest the proposed charge or 1068
assessment; 1069

(4) A statement setting forth the procedures to request a 1070
hearing; 1071

(5) A reasonable date by which the unit owner must cure 1072
the violation to avoid the proposed charge or assessment. 1073

(D) As used in this section, "solar energy collection 1074
device" has the same meaning as in section 5311.192 of the 1075
Revised Code. 1076

Section 2. That existing sections 5311.05, 5311.08, 1077
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 5312.06, 1078
5312.07, and 5312.11 of the Revised Code are hereby repealed. 1079