

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 289

Senator Blessing

A BILL

To amend sections 5302.30, 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. 6

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

Section 1. That sections 5302.30, 5311.05, 5311.08, 7
5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 5312.06, 8
5312.07, and 5312.11 be amended and sections 5311.192 and 9
5312.16 of the Revised Code be enacted to read as follows: 10

Sec. 5302.30. (A) As used in this section: 11

(1) "Good faith" means honesty in fact in a transaction 12
involving the transfer of residential real property. 13

(2) "Land installment contract" has the same meaning as in 14
section 5313.01 of the Revised Code. 15

(3) "Political subdivision" and "state" have the same 16
meanings as in section 2744.01 of the Revised Code. 17

(4) "Residential real property" means real property that 18

is improved by a building or other structure that has one to 19
four dwelling units. 20

(5) "Solar energy collection device" means any device 21
manufactured and sold for the sole purpose of facilitating the 22
collection and beneficial use of solar energy, including passive 23
heating panels or building components and solar photovoltaic 24
apparatus. 25

(B) (1) Except as provided in division (B) (2) of this 26
section, this section applies to any transfer of residential 27
real property that occurs on or after July 1, 1993, by sale, 28
land installment contract, lease with option to purchase, 29
exchange, or lease for a term of ninety-nine years and renewable 30
forever. For purposes of this section, a transfer occurs when 31
the initial contract for transfer is executed, regardless of 32
when legal title is transferred, and references in this section 33
to transfer offers and transfer agreements refer to offers and 34
agreements in respect of the initial contract for transfer. 35

(2) This section does not apply to any transfer of 36
residential real property that is any of the following: 37

(a) A transfer pursuant to court order, including, but not 38
limited to, a transfer ordered by a probate court during the 39
administration of a decedent's estate, a transfer pursuant to a 40
writ of execution, a transfer by a trustee in bankruptcy, a 41
transfer as a result of the exercise of the power of eminent 42
domain, and a transfer that results from a decree for specific 43
performance of a contract or other agreement between persons; 44

(b) A transfer to a mortgagee by a mortgagor by deed in 45
lieu of foreclosure or in satisfaction of the mortgage debt; 46

(c) A transfer to a beneficiary of a deed of trust by a 47

trustor in default;	48
(d) A transfer by a foreclosure sale that follows a default in the satisfaction of an obligation secured by a mortgage;	49 50 51
(e) A transfer by a sale under a power of sale following a default in the satisfaction of an obligation that is secured by a deed of trust or another instrument containing a power of sale;	52 53 54 55
(f) A transfer by a mortgagee, or a beneficiary under a deed of trust, who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or a deed of trust or who has acquired the residential real property by a deed in lieu of foreclosure;	56 57 58 59 60
(g) A transfer by a fiduciary in the course of the administration of a decedent's estate, a guardianship, a conservatorship, or a trust;	61 62 63
(h) A transfer from one co-owner to one or more other co-owners;	64 65
(i) A transfer made to the transferor's spouse or to one or more persons in the lineal line of consanguinity of one or more of the transferors;	66 67 68
(j) A transfer between spouses or former spouses as a result of a decree of divorce, dissolution of marriage, annulment, or legal separation or as a result of a property settlement agreement incidental to a decree of divorce, dissolution of marriage, annulment, or legal separation;	69 70 71 72 73
(k) A transfer to or from the state, a political subdivision of the state, or another governmental entity;	74 75

(l) A transfer that involves newly constructed residential real property that previously has not been inhabited;

(m) A transfer to a transferee who has occupied the property as a personal residence for one or more years immediately prior to the transfer;

(n) A transfer from a transferor who both has not occupied the property as a personal residence within one year immediately prior to the transfer and has acquired the property through inheritance or devise.

(C) Except as provided in division (B) (2) of this section and subject to divisions (E) and (F) of this section, every person who intends to transfer any residential real property on or after July 1, 1993, by sale, land installment contract, lease with option to purchase, exchange, or lease for a term of ninety-nine years and renewable forever shall complete all applicable items in a property disclosure form prescribed under division (D) of this section and shall deliver in accordance with division (I) of this section a signed and dated copy of the completed form to each prospective transferee or prospective transferee's agent as soon as is practicable.

(D) (1) Prior to July 1, 1993, the director of commerce, by rule adopted in accordance with Chapter 119. of the Revised Code, shall prescribe the disclosure form to be completed by transferors. The form prescribed by the director shall be designed to permit the transferor to disclose material matters relating to the physical condition of the property to be transferred, including, but not limited to, the source of water supply to the property; the nature of the sewer system serving the property; the condition of the structure of the property, including the roof, foundation, walls, and floors; the presence

of hazardous materials or substances, including lead-based 106
paint, asbestos, urea-formaldehyde foam insulation, and radon 107
gas; and any material defects in the property that are within 108
the actual knowledge of the transferor. 109

The form also shall set forth a statement of the purpose 110
of the form, including statements substantially similar to the 111
following: that the form constitutes a statement of the 112
conditions of the property and of information concerning the 113
property actually known by the transferor; that, unless the 114
transferee is otherwise advised in writing, the transferor, 115
other than having lived at or owning the property, possesses no 116
greater knowledge than that which could be obtained by a careful 117
inspection of the property by a potential transferee; that the 118
statement is not a warranty of any kind by the transferor or by 119
any agent or subagent representing the transferor in this 120
transaction; that the statement is not a substitute for any 121
inspections; that the transferee is encouraged to obtain the 122
transferee's own professional inspection; that the 123
representations are made by the transferor and are not the 124
representations of the transferor's agent or subagent; and that 125
the form and the representations contained therein are provided 126
by the transferor exclusively to potential transferees in a 127
transfer made by the transferor, and are not made to transferees 128
in any subsequent transfers. 129

The form shall include instructions to the transferor for 130
completing the form, space in which the transferor or 131
transferors shall sign and date the form, and space in which the 132
transferee or transferees shall sign and date the form 133
acknowledging receipt of a copy of the form and stating that the 134
transferee or transferees understand the purpose of the form as 135
stated thereon. 136

(2) Not later than January 1, 2006, the director shall 137
revise the disclosure form to include a statement that 138
information on the operation and maintenance of the type of 139
sewage treatment system serving the property is available from 140
the department of health or the board of health of the health 141
district in which the property is located. 142

As used in this section, "sewage treatment system" has the 143
same meaning as in section 3718.01 of the Revised Code. 144

(3) Not later than ninety days after the effective date of 145
this amendment, the director shall revise the disclosure form to 146
require the inclusion of all of the following for a transfer of 147
residential property subject to Chapter 5311. or 5312. of the 148
Revised Code: 149

(a) A copy of the declaration and any recorded amendments 150
thereto, owner association bylaws and any recorded amendments 151
thereto, and rules adopted by the board, if any; 152

(b) A statement indicating the current amount assessed 153
against the particular residential property by the owner 154
association for common expenses or other fees; 155

(c) A copy of the budget for operating expenses and 156
reserves adopted by the board for the prior fiscal year and the 157
current fiscal year. 158

(4) Not later than ninety days after the effective date of 159
this amendment, the director shall revise the disclosure form to 160
include disclosures of any conditions or restrictions on solar 161
energy collection devices contained in the recorded declaration 162
of a condominium property or planned community pursuant to 163
section 5311.192 or 5312.16 of the Revised Code. 164

(E) (1) Each disclosure of an item of information that is 165

required to be made in the property disclosure form prescribed 166
under division (D) of this section in connection with particular 167
residential real property and each act that may be performed in 168
making any disclosure of an item of information shall be made or 169
performed in good faith. 170

(2) If an item of information is unknown to the transferor 171
of residential real property at the time the item is required to 172
be disclosed in the property disclosure form prescribed under 173
division (D) of this section and if the approximation is not 174
used for the purpose of circumventing or otherwise evading 175
divisions (C) and (D) of this section, the transferor may make a 176
good faith approximation of the item of information. 177

(F) (1) A transferor of residential real property is not 178
liable in damages in a civil action for injury, death, or loss 179
to person or property that allegedly arises from any error in, 180
inaccuracy of, or omission of any item of information required 181
to be disclosed in the property disclosure form prescribed under 182
division (D) of this section if the error, inaccuracy, or 183
omission was not within the transferor's actual knowledge. 184

(2) If any item of information that is disclosed in the 185
property disclosure form prescribed under division (D) of this 186
section is rendered inaccurate after the delivery of the form to 187
the transferee of residential real property or the transferee's 188
agent as a result of any act, occurrence, or agreement, the 189
subsequent inaccuracy does not cause, and shall not be construed 190
as causing, the transferor of the residential real property to 191
be in noncompliance with the requirements of divisions (C) and 192
(D) of this section. 193

(G) Any disclosure of an item of information in the 194
property disclosure form prescribed under division (D) of this 195

section may be amended in writing by the transferor of 196
residential real property at any time following the delivery of 197
the form in accordance with divisions (C) and (I) of this 198
section. The amendment shall be subject to this section. 199

(H) Except as provided in division (B) (2) of this section, 200
every prospective transferee of residential real property who 201
receives in accordance with division (C) of this section a 202
signed and dated copy of a completed property disclosure form as 203
prescribed under division (D) of this section shall acknowledge 204
receipt of the form by doing both of the following: 205

(1) Signing and dating a copy of the form; 206

(2) Delivering a signed and dated copy of the form to the 207
transferor or the transferor's agent or subagent. 208

(I) The transferor's delivery under division (C) of this 209
section of a property disclosure form as prescribed under 210
division (D) of this section and the prospective transferee's 211
delivery under division (H) of this section of an acknowledgment 212
of receipt of that form shall be made by personal delivery to 213
the other party or the other party's agent or subagent, by 214
ordinary mail or certified mail, return receipt requested, or by 215
facsimile transmission. For the purposes of the delivery 216
requirements of this section, the delivery of a property 217
disclosure form to a prospective co-transferee of residential 218
real property or a prospective co-transferee's agent shall be 219
considered delivery to the other prospective transferees unless 220
otherwise provided by contract. 221

(J) The specification of items of information that must be 222
disclosed in the property disclosure form as prescribed under 223
division (D) (1) of this section does not limit or abridge, and 224

shall not be construed as limiting or abridging, any obligation 225
to disclose an item of information that is created by any other 226
provision of the Revised Code or the common law of this state or 227
that may exist in order to preclude fraud, either by 228
misrepresentation, concealment, or nondisclosure in a 229
transaction involving the transfer of residential real property. 230
The disclosure requirements of this section do not bar, and 231
shall not be construed as barring, the application of any legal 232
or equitable defense that a transferor of residential real 233
property may assert in a civil action commenced against the 234
transferor by a prospective or actual transferee of that 235
property. 236

(K) (1) Except as provided in division (K) (2) of this 237
section, but subject to divisions (J) and (L) of this section, a 238
transfer of residential real property that is subject to this 239
section shall not be invalidated because of the failure of the 240
transferor to provide to the transferee in accordance with 241
division (C) of this section a completed property disclosure 242
form as prescribed under division (D) of this section. 243

(2) Subject to division (K) (3) (c) of this section, if a 244
transferee of residential real property that is subject to this 245
section receives a property disclosure form prescribed under 246
division (D) of this section or an amendment of that form as 247
described in division (G) of this section after the transferee 248
has entered into a transfer agreement with respect to the 249
property, the transferee, after receipt of the form or 250
amendment, may rescind the transfer agreement in a written, 251
signed, and dated document that is delivered to the transferor 252
or the transferor's agent or subagent in accordance with 253
divisions (K) (3) (a) and (b) of this section, without incurring 254
any legal liability to the transferor because of the rescission, 255

including, but not limited to, a civil action for specific performance of the transfer agreement. Upon the rescission of the transfer agreement, the transferee is entitled to the return of, and the transferor shall return, any deposits made by the transferee in connection with the proposed transfer of the residential real property.

(3) (a) Subject to division (K) (3) (b) of this section, a rescission of a transfer agreement under division (K) (2) of this section only may occur if the transferee's written, signed, and dated document of rescission is delivered to the transferor or the transferor's agent or subagent within three business days following the date on which the transferee or the transferee's agent receives the property disclosure form prescribed under division (D) of this section or the amendment of that form as described in division (G) of this section.

(b) A transferee may not rescind a transfer agreement under division (K) (2) of this section unless the transferee rescinds the transfer agreement by the earlier of the date that is thirty days after the date upon which the transferor accepted the transferee's transfer offer or the date of the closing of the transfer of the residential real property.

(c) A transferee of residential real property may waive the right of rescission of a transfer agreement described in division (K) (2) of this section.

(d) A rescission of a transfer agreement is not permissible under division (K) (2) of this section if a transferee of residential real property that is subject to this section receives a property disclosure form as prescribed under division (D) of this section or an amendment of that form as described in division (G) of this section prior to the

transferee's submission to the transferor or the transferor's 286
agent or subagent of a transfer offer and the transferee's entry 287
into a transfer agreement with respect to the property. 288

(4) If a transferee of residential real property subject 289
to this section does not receive a property disclosure form, as 290
prescribed under division (D) of this section, from the 291
transferor after the transferee has submitted to the transferor 292
or the transferor's agent or subagent a transfer offer and has 293
entered into a transfer agreement with respect to the property, 294
the transferee may rescind the transfer agreement in a written, 295
signed, and dated document that is delivered to the transferor 296
or the transferor's agent or subagent in accordance with 297
division (K)(4) of this section without incurring any legal 298
liability to the transferor because of the rescission, 299
including, but not limited to, a civil action for specific 300
performance of the transfer agreement. Upon the rescission of 301
the transfer agreement, the transferee is entitled to the return 302
of, and the transferor shall return, any deposits made by the 303
transferee in connection with the proposed transfer of the 304
residential real property. A transferee may not rescind a 305
transfer agreement under division (K)(4) of this section unless 306
the transferee rescinds the transfer agreement by the earlier of 307
the date that is thirty days after the date upon which the 308
transferor accepted the transferee's transfer offer or the date 309
of the closing of the transfer of the residential real property. 310

(L) The right of rescission of a transfer agreement 311
described in division (K)(2) of this section or the absence of 312
that right does not affect, and shall not be construed as 313
affecting, any other legal causes of action or other remedies 314
that a transferee or prospective transferee of residential real 315
property may possess against the transferor of that property. 316

Sec. 5311.05. (A) A declaration submitting property to the 317
provisions of this chapter shall be signed and acknowledged by 318
the owner before a judge or clerk of a court of record, county 319
auditor, county engineer, notary public, or mayor, who shall 320
certify the acknowledgment and subscribe the certificate of 321
acknowledgment. 322

(B) A declaration shall contain all of the following: 323

(1) A legal description of the land or, for a water slip 324
condominium property, of the land and the land under the water 325
area, submitted to the provisions of this chapter; 326

(2) The name of the condominium property, which shall 327
include the word "condominium"; 328

(3) The purpose of the condominium property, the units and 329
recreational and commercial facilities situated in the 330
condominium property, and any restrictions upon the use of the 331
condominium property; 332

(4) A general description of buildings submitted to the 333
provisions of this chapter, stating the principal construction 334
materials and the number of stories, basements, and units. The 335
declaration for a water slip property shall also contain a 336
general description of each water slip and of the piers and 337
wharves forming each water slip submitted to the provisions of 338
this chapter; 339

(5) The unit designation of each unit submitted to the 340
provisions of this chapter and a statement of its location, 341
approximate area, the immediate common element or limited common 342
element to which it has access, and any other information 343
necessary for its proper identification; 344

(6) A description of the common elements and limited 345

common elements submitted to the provisions of this chapter, the 346
undivided interest in those elements appurtenant to each unit, 347
the basis upon which those appurtenant undivided interests are 348
allocated, and the procedures whereby the undivided interests 349
appertaining to each unit may be altered. The undivided 350
interests, basis, and procedures shall be in accordance with 351
sections 5311.031 to 5311.033 and 5311.04 of the Revised Code; 352

(7) A statement that each unit owner is a member of a unit 353
owners association established for the administration of the 354
condominium property; 355

(8) The name of a person to receive service of process for 356
the unit owners association, together with the person's 357
residence or place of business located in this state; 358

(9) A statement of any membership requirement if the unit 359
owners association or any unit owners are required to be members 360
of a not-for-profit organization that provides facilities or 361
recreation, education, or social services to owners of property 362
other than the condominium property; 363

(10) The method by which the declaration may be amended, 364
which, except as provided in division (E) of this section, 365
division (E) of section 5311.04, division (B) of section 366
5311.041, and sections 5311.031 to 5311.033 and 5311.051 of the 367
Revised Code, requires the affirmative vote of unit owners 368
exercising not less than seventy-five per cent of the voting 369
power; 370

(11) Any further provisions deemed desirable. 371

(C) The declaration for an expandable condominium property 372
shall contain all of the following in addition to the 373
requirements of division (B) of this section: 374

(1) The explicit reservation of the declarant's option to expand the condominium property;	375 376
(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;	377 378 379 380 381
(3) (a) The time at which the option to expand the condominium development expires, which shall not exceed seven years from the date the declaration is filed for record;	382 383 384
(b) A statement that the declarant may, during the six months prior to the time that the option expires, extend the option for an additional seven years with the consent of the holders of a majority of the voting power of the unit owners other than the declarant;	385 386 387 388 389
(c) A statement of any circumstances that will terminate the option to expand prior to the time established pursuant to division (C) (3) (a) or (b) of this section.	390 391 392
(4) A legal description of all additional property that, through exercise of the option, may be submitted to the provisions of this chapter and added to the condominium property;	393 394 395 396
(5) A statement that specifies all of the following:	397
(a) Whether the addition of all or a particular portion of the additional property is mandatory;	398 399
(b) If the addition of additional property is not mandatory, whether all or a particular portion of the additional property must be added if any other additional property is	400 401 402

added;	403
(c) Whether or not there are any limitations on portions of additional property that may be added.	404 405
(6) A statement of whether portions of the additional property may be added at different times and a statement that sets forth any limitations on the addition of additional property at different times, including the legal descriptions of the boundaries of portions that may be added and specifications on the order in which those portions may be added to the condominium property or a statement that there are no limitations on the addition of additional property;	406 407 408 409 410 411 412 413
(7) A statement of any limitations on the location of any improvements that may be made on any portion of the additional property added to the condominium property, or a statement that there are no limitations of that kind;	414 415 416 417
(8) A statement of the maximum number of units that may be created on the additional property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units that may be created on each portion added to the condominium property. If portions of the additional property may be added to the condominium property and the boundaries of those portions are not fixed in accordance with division (C)(6) of this section, the declaration also shall state the maximum number of units per acre that may be created on any portion added to the condominium property.	418 419 420 421 422 423 424 425 426 427 428 429
(9) Except when the original condominium property contained no units restricted to residential use, a statement of	430 431

the maximum percentage of the aggregate land area and the 432
maximum percentage of aggregate floor area that may be devoted 433
to units not restricted to residential use on any additional 434
property added to the condominium property; 435

(10) A statement of the extent to which any structures 436
erected on any portion of the additional property added to the 437
condominium property will be compatible with structures on the 438
submitted property in terms of quality of construction, the 439
principal materials to be used, and architectural style, or a 440
statement that the structures need not be compatible in those 441
respects; 442

(11) With respect to all improvements to any portion of 443
additional property added to the condominium property, other 444
than structures, a statement setting forth both of the 445
following: 446

(a) A description of the improvements that must be made or 447
a statement that no other improvements must be made; 448

(b) Any restrictions or limitations on the improvements 449
that may be made or a statement that there are no restrictions 450
or limitations on improvements. 451

(12) With respect to all units created on any portion of 452
additional property added to the condominium property, a 453
statement setting forth both of the following: 454

(a) Whether all units of that kind must be substantially 455
identical to units on previously submitted property; 456

(b) Any limitations on the types of units that may be 457
created on the additional property or a statement that there are 458
no limitations of that kind. 459

(13) A description of any reserved right of the declarant 460
to create limited common elements within any portion of the 461
additional property added to the condominium property or to 462
designate common elements within each portion. The description 463
shall specify the types, sizes, and maximum number of limited 464
common elements in each portion that may subsequently be 465
assigned to units; 466

(14) Drawings and plans that the declarant considers 467
appropriate in supplementing the requirements of division (C) of 468
this section; 469

(15) A statement that a successor owner of the condominium 470
property or of additional property added to the condominium 471
property who is not an affiliate of the developer and who is a 472
bona fide purchaser of the property for value, or a purchaser 473
who acquires the property at a sheriff's sale or by deed in lieu 474
of a foreclosure, is not liable in damages for harm caused by an 475
action or omission of the developer or a breach of an obligation 476
by the developer. 477

(D) The declaration for a leasehold condominium 478
development shall contain all of the following in addition to 479
the requirements of division (B) of this section: 480

(1) With respect to any ground lease or other leases, the 481
expiration or termination of which could terminate or reduce the 482
amount of condominium property, a statement setting forth the 483
county in which the lease is recorded and the volume and page of 484
the record; 485

(2) A statement setting forth the date upon which each 486
lease referred to in division (D) (1) of this section expires; 487

(3) (a) A statement of whether the unit owners own any land 488

or improvements of the condominium property in fee simple, and 489
if so, a description of the improvements and a legal description 490
of the land; 491

(b) A statement of any rights the unit owners have to 492
remove any improvements within a reasonable time after the 493
expiration or termination of any ninety-nine year lease, or a 494
statement that they have no rights of that nature. 495

(4) A statement of the rights that the unit owners have to 496
redeem the reversion or any of the reversions, or a statement 497
that they have no rights of that nature; 498

(5) A statement that, subsequent to the recording of the 499
declaration, no lessor who executed it and no successor in 500
interest to that lessor has any right or power to terminate any 501
part of the leasehold interest of any unit owner who makes 502
timely payment of the unit owner's share of the rent to the 503
person designated in the declaration for the receipt of that 504
rent and who otherwise complies with all covenants that, if 505
violated, entitle the lessor to terminate the lease. 506

(E) (1) Without a vote of the unit owners, the board of 507
directors may amend the declaration in any manner necessary for 508
any of the following purposes: 509

(a) To meet the requirements of institutional mortgagees, 510
guarantors and insurers of first mortgage loans, the federal 511
national mortgage association, the federal home loan mortgage 512
corporation, the federal housing administration, the veterans 513
administration, and similar institutions; 514

(b) To meet the requirements of insurance underwriters; 515

(c) To bring the declaration into compliance with this 516
chapter; 517

(d) To correct clerical or typographical errors or obvious 518
factual errors in the declaration or an exhibit to the 519
declaration; 520

(e) To designate a successor to the person named to 521
receive service of process for the unit owners association. If 522
the association is incorporated in this state, this may be 523
accomplished by filing with the secretary of state an 524
appropriate change of statutory agent designation; 525

(f) To permit notices to owners, as required by the 526
declaration or bylaws, to be sent by electronic mail and, if 527
returned undeliverable, by regular mail, provided the 528
association has received the prior, written authorization from 529
the owner. 530

(2) Division (E)(1) of this section applies to condominium 531
properties submitted to this chapter prior to, on, or after ~~the~~ 532
~~effective date of this amendment~~ July 20, 2004. 533

(3) Any unit owner who is aggrieved by an amendment to the 534
declaration that the board of directors makes pursuant to 535
division (E)(1) of this section may commence a declaratory 536
judgment action to have the amendment declared invalid as 537
violative of division (E)(1) of this section. Any action filed 538
pursuant to division (E)(3) of this section shall be filed in 539
the appropriate court of common pleas within one year from the 540
date of the recordation of the amendment. 541

Sec. 5311.08. (A)(1) Every condominium property shall be 542
administered by a unit owners association. All power and 543
authority of the unit owners association shall be exercised by a 544
board of directors, which the unit owners shall elect from among 545
the unit owners or the spouses of unit owners. If a unit owner 546

is not an individual, that unit owner may nominate for the board 547
of directors any principal, member of a limited liability 548
company, partner, director, officer, or employee of that unit 549
owner. The majority of the board shall not consist of unit 550
owners or representatives from the same unit. 551

(2) The board of directors shall elect a president, 552
secretary, treasurer, and other officers that the board may 553
desire. 554

(3) Unless otherwise provided in the declaration or the 555
bylaws, all meetings of the unit owners association are open to 556
the unit owners, and those present in person or by proxy when 557
action is taken during a meeting of the unit owners association 558
constitute a sufficient quorum. 559

(4) (a) A meeting of the board of directors may be held by 560
any method of communication, including electronic or telephonic 561
communication provided that each member of the board can hear, 562
participate, and respond to every other member of the board. 563

(b) In lieu of conducting a meeting, the board of 564
directors may take action with the unanimous written consent of 565
the members of the board. Those written consents shall be filed 566
with the minutes of the meetings of the board. 567

(B) The unit owners association shall be governed by 568
bylaws. No modification of or amendment to the bylaws is valid 569
unless it is set forth in an amendment to the declaration, and 570
the amendment to the declaration is filed for record. Unless 571
otherwise provided by the declaration, the bylaws shall provide 572
for the following: 573

(1) (a) The election of the board of directors of the unit 574
owners association; 575

(b) The number of persons constituting the board;	576
(c) The terms of the directors, with not less than one-fifth to expire annually;	577 578
(d) The powers and duties of the board;	579
(e) The compensation of the directors;	580
(f) The method of removal of directors from office;	581
(g) The election of officers of the board;	582
(h) Whether or not the services of a manager or managing agent may be engaged.	583 584
(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;	585 586 587 588 589
(3) By whom and the procedure by which maintenance, repair, and replacement of the common elements may be authorized;	590 591 592
(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;	593 594 595
(5) The method of distributing the common profits;	596
(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	597 598 599 600 601 602

and documents that are subject to examination and copying by 603
unit owners pursuant to section 5311.091 of the Revised Code, 604
including the times and location at which items may be examined 605
or copied and any required fee for copying the information or 606
documents. 607

(C) (1) The unit owners association shall be established 608
not later than the date that the deed or other evidence of 609
ownership is filed for record following the first sale of a 610
condominium ownership interest in a condominium development. 611
Membership in the unit owners association shall be limited to 612
unit owners, and all unit owners shall be members. Until the 613
unit owners association is established, the developer shall act 614
in all instances in which action of the unit owners association 615
or its officers is authorized or required by law or the 616
declaration. 617

(2) (a) Not later than sixty days after the developer has 618
sold and conveyed condominium ownership interests appertaining 619
to twenty-five per cent of the undivided interests in the common 620
elements in a condominium development, the unit owners 621
association shall meet, and the unit owners other than the 622
developer shall elect not less than one-third of the members of 623
the board of directors. 624

(b) When computing undivided interests in expandable 625
condominium properties for purposes of divisions (C) and (D) of 626
this section, the undivided interests in common elements shall 627
be computed by comparing the number of units sold and conveyed 628
to the maximum number of units that may be created, as stated in 629
the declaration pursuant to division (C) (8) of section 5311.05 630
of the Revised Code. 631

(D) (1) Except as provided in division (C) of this section, 632

the declaration or bylaws of a condominium development may 633
authorize the developer or persons the developer designates to 634
appoint and remove members of the board of directors of the unit 635
owners association and to exercise the powers and 636
responsibilities otherwise assigned by law, the declaration, or 637
the bylaws to the unit owners association or to the board of 638
directors. The authorization for developer control may extend 639
from the date the unit owners association is established until 640
sixty days after the sale and conveyance to purchasers in good 641
faith for value of condominium ownership interests to which 642
seventy-five per cent of the undivided interests in the common 643
elements appertain, except that in no case may the authorization 644
extend for more than five years after the unit owners 645
association is established if the declaration includes 646
expandable condominium property or more than three years after 647
the unit owners association is established if the declaration 648
does not include expandable condominium property. 649

(2) If there is a unit owner other than the developer, the 650
declaration of a condominium development shall not be amended to 651
increase the scope or the period of the developer's control. 652

(3) Within sixty days after the expiration of the period 653
during which the developer has control pursuant to division (D) 654
(1) of this section, the unit owners association shall meet and 655
elect all members of the board of directors of the association. 656
The persons elected shall take office at the end of the meeting 657
during which they are elected and shall, as soon as reasonably 658
possible, appoint officers. 659

(E) The board of directors, or the developer while in 660
control of the association, may take any measures necessary to 661
incorporate the unit owners association as a not-for-profit 662

corporation. 663

Sec. 5311.081. (A) ~~Unless otherwise provided in the~~ 664
~~declaration or bylaws, the~~ The unit owners association, through 665
the board of directors, shall do both of the following: 666

(1) ~~Adopt Annually, adopt and amend budgets an estimated~~ 667
~~budget for revenues, and expenditures, and.~~ The budget shall 668
include reserves in an amount adequate to repair and replace 669
major capital items in the normal course of operations without 670
the necessity of special assessments, ~~provided that the amount~~ 671
~~set aside annually for reserves shall not be less than ten per~~ 672
~~cent of the budget for that year unless the reserve requirement~~ 673
~~is waived annually by the~~ either of the following applies: 674

(a) The declaration or bylaws include language limiting 675
the ability of the board of directors to increase assessments 676
for common expenses without a vote of the unit owners; 677

(b) The unit owners, exercising not less than a majority 678
of the voting power of the unit owners association, waive the 679
reserve requirement in writing annually. 680

(2) Collect assessments for common expenses from unit 681
owners. 682

(B) Unless otherwise provided in the declaration, the unit 683
owners association, through the board of directors, may exercise 684
all powers of the association, including the power to do the 685
following: 686

(1) Hire and fire managing agents, attorneys, accountants, 687
and other independent contractors and employees that the board 688
determines are necessary or desirable in the management of the 689
condominium property and the association; 690

(2) Commence, defend, intervene in, settle, or compromise 691
any civil, criminal, land use planning, or administrative action 692
or proceeding that is in the name of, or threatened against, the 693
unit owners association, the board of directors, or the 694
condominium property, or that involves two or more unit owners 695
and, impacts zoning, or otherwise relates to matters affecting 696
the condominium property or adjacent property; 697

(3) Enter into contracts and incur liabilities relating to 698
the operation of the condominium property; 699

(4) Regulate the use, maintenance, repair, replacement, 700
modification, and appearance of the condominium property; 701

(5) Adopt rules that regulate the use or occupancy of 702
units, the maintenance, repair, replacement, modification, and 703
appearance of units, common elements, and limited common 704
elements when the actions regulated by those rules affect common 705
elements or other units; 706

(6) Cause additional improvements to be made as part of 707
the common elements; 708

(7) Purchase, encumber, and convey units, and, subject to 709
any restrictions in the declaration or bylaws and with the 710
approvals required by division (H) (2) or (3) of section 5311.04 711
of the Revised Code, acquire an interest in other real property 712
and encumber or convey that interest. All expenses incurred in 713
connection with the acquisition, encumbrance, use, and operation 714
of that interest are common expenses. 715

(8) Acquire, encumber, and convey or otherwise transfer 716
personal property; 717

(9) Hold in the name of the unit owners association the 718
real property and personal property acquired pursuant to 719

divisions (B) (7) and (8) of this section;	720
(10) Grant easements, leases, licenses, and concessions through or over the common elements;	721 722
(11) Impose and collect fees or other charges for <u>all of the following:</u>	723 724
(a) <u>The use, rental, or operation of the common elements</u> or for services;	725 726
(b) <u>Services provided to unit owners;</u>	727
(c) <u>To the extent provided in the declaration or bylaws, social activities or charitable contributions on behalf of the owners association;</u>	728 729 730
(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 the rules of the unit owners association, and reasonable charges for damage to the common elements or other property;	731 732 733 734 735 736
(13) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;	737 738 739
(14) Subject to applicable laws, adopt and amend rules that regulate the termination of utility or other service to a commercial unit if the unit owner is delinquent in the payment of an assessment that pays, in whole or in part, the cost of that service;	740 741 742 743 744
(15) Impose reasonable charges for preparing, recording, or copying amendments to the declaration, resale certificates, or statements of unpaid assessments;	745 746 747

(16) Enter a unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to common elements, another unit, or to the health or safety of the occupants of that unit or another unit;	748 749 750 751
(17) To the extent provided in the declaration or bylaws, assign the unit owners association's rights to common assessments, or other future income, to a lender as security for a loan to the unit owners association;	752 753 754 755
(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;	756 757 758
(19) Purchase insurance and fidelity bonds the directors consider appropriate or necessary;	759 760
(20) Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;	761 762
(21) Exercise powers that are:	763
(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;	764 765
(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;	766 767
(c) Permitted to be exercised in this state by a not-for-profit corporation;	768 769
(d) Necessary and proper for the government and operation of the unit owners association.	770 771
(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	772 773 774

written notice, which may be in the form of electronic mail to 775
an electronic mail address previously provided by the owner in 776
writing, that includes all of the following: 777

(a) A description of the property damage or violation; 778

(b) The amount of the proposed charge or assessment; 779

(c) A statement that the owner has a right to a hearing 780
before the board of directors to contest the proposed charge or 781
assessment; 782

(d) A statement setting forth the procedures to request a 783
hearing pursuant to division (C) (2) of this section; 784

(e) A reasonable date by which the unit owner must cure 785
the violation to avoid the proposed charge or assessment. 786

(2) (a) To request a hearing, the owner shall deliver a 787
written notice to the board of directors not later than the 788
tenth day after receiving the notice required by division (C) (1) 789
of this section. If the owner fails to make a timely request for 790
a hearing, the right to that hearing is waived, and the board 791
may immediately impose a charge for damages or an enforcement 792
assessment pursuant to division (C) of this section. 793

(b) If a unit owner requests a hearing, at least seven 794
days prior to the hearing the board of directors shall provide 795
the unit owner with a written notice that includes the date, 796
time, and location of the hearing. 797

(3) The board of directors shall not levy a charge or 798
assessment before holding any hearing requested pursuant to 799
division (C) (2) of this section. 800

(4) The unit owners, through the board of directors, may 801
allow a reasonable time to cure a violation described in 802

division (B) (12) of this section before imposing a charge or 803
assessment. 804

(5) Within thirty days following a hearing at which the 805
board of directors imposes a charge or assessment, the unit 806
owners association shall deliver a written notice of the charge 807
or assessment to the unit owner. 808

(6) Any written notice that division (C) of this section 809
requires shall be delivered to the unit owner or any occupant of 810
the unit by personal delivery, by certified mail, return receipt 811
requested, or by regular mail. 812

Sec. 5311.091. (A) Except as otherwise prohibited by this 813
section, any member of a unit owners association may examine and 814
copy the books, records, and minutes described in division (A) 815
of section 5311.09 of the Revised Code pursuant to reasonable 816
standards set forth in the declaration, bylaws, or rules the 817
board promulgates, which may include, but are not limited to, 818
standards governing the type of documents that are subject to 819
examination and copying, the times and locations at which those 820
documents may be examined or copied, and the specification of a 821
reasonable fee for copying the documents. 822

(B) ~~The unit owners association is not required to permit-~~ 823
~~the examination and copying of any of the following from Unless~~ 824
~~approved by the board of directors, a unit owner may not examine~~ 825
~~or copy any books, records, and or minutes that meet either of~~ 826
~~the following conditions:~~ 827

(1) Date back more than five years prior to the date of 828
the request; 829

(2) Contain any of the following: 830

(a) Information that pertains to condominium property- 831

related personnel matters; 832

~~(2)~~ (b) Communications with legal counsel or attorney work 833
product pertaining to pending litigation or other condominium 834
property-related matters; 835

~~(3)~~ (c) Information that pertains to contracts or 836
transactions currently under negotiation, or information that is 837
contained in a contract or other agreement containing 838
confidentiality requirements and that is subject to those 839
requirements; 840

~~(4)~~ (d) Information that relates to the enforcement of the 841
declaration, bylaws, or rules of the unit owners association 842
against unit owners; 843

~~(5)~~ (e) Information the disclosure of which is prohibited 844
by state or federal law. 845

Sec. 5311.16. Unless otherwise provided by the declaration 846
or bylaws, the board of directors shall ~~insure~~ maintain, with 847
the cost to be a common expense, all of the following: 848

(A) Liability insurance for all unit owners, their 849
tenants, and all persons lawfully in possession or control of 850
any part of the condominium property ~~for the~~ in an amount that 851
it determines ~~against liability~~ for personal injury or property 852
damage arising from or relating to the common elements ~~and shall~~ 853
~~obtain for;~~ 854

(B) For the benefit of all unit owners, fire and extended 855
coverage insurance on all buildings and structures of the 856
condominium property in an amount not less than ~~eighty-ninety~~ 857
per cent of the ~~fair market value. The cost of the insurance is~~ 858
~~a common expense.~~ replacement cost; 859

(C) (1) Blanket fidelity, crime, or dishonesty insurance 860
coverage for any person who controls or disburses association 861
funds. As used in division (C) (1) of this section, "person who 862
controls or disburses association funds" means any individual 863
with authority or access to sign checks, conduct electronic 864
transfers, or otherwise withdraw funds from any association 865
account or deposit, including the following: 866

(a) A management company's principals and employees; 867

(b) A bookkeeper; 868

(c) The president, secretary, treasurer, any other board 869
member, or employee of the unit owners association. 870

(2) All of the following apply to the insurance coverage 871
required under division (C) (1) of this section: 872

(a) Coverage shall be for the maximum amount of funds that 873
will be in the custody of the association or its designated 874
agent at any one time plus three months of operating expenses. 875

(b) The insurance shall be the property of and for the 876
sole benefit of the association and shall protect against theft, 877
embezzlement, misappropriation, or any other unauthorized taking 878
or loss of association funds. 879

(c) The policy shall include in its definition of 880
"employee" the manager and the managing agent of the 881
association's funds or provide for this inclusion by an 882
endorsement to the policy. 883

(d) The policy shall name the association as the insured 884
party and shall include a provision requiring the issuer of the 885
policy to provide a ten-day written notice to the association's 886
president or manager in the event of cancellation or substantial 887

modification of the policy. The manager or managing agent, if 888
any, of the association shall be the designated agent on the 889
policy. 890

(e) If there is a change in the manager or the managing 891
agent of the association, then within ten days of the effective 892
start date, the new manager or managing agent shall notify the 893
insurer of such change. 894

Sec. 5311.18. (A) (1) Unless otherwise provided by the 895
declaration or the bylaws, the unit owners association has a 896
continuing lien upon the estate or interest of the owner in any 897
unit and the appurtenant undivided interest in the common 898
elements for the payment of any of the following expenses that 899
are chargeable against the unit and that remain unpaid for ten 900
days after any portion has become due and payable: 901

(a) The portion of the common expenses chargeable against 902
the unit; 903

(b) Interest, administrative late fees, enforcement 904
assessments, and collection costs, attorney's fees, and 905
paralegal fees the association incurs if authorized by the 906
declaration, the bylaws, or the rules of the unit owners 907
association and if chargeable against the unit. 908

(2) Unless otherwise provided by the declaration, the 909
bylaws, or the rules of the unit owners association, the 910
association shall credit payments made by a unit owner for the 911
expenses described in divisions (A) (1) (a) and (b) of this 912
section in the following order of priority: 913

(a) First, to interest owed to the association; 914

(b) Second, to administrative late fees owed to the 915
association; 916

(c) Third, to collection costs, attorney's fees, and	917
paralegal fees incurred by the association;	918
(d) Fourth, to the principal amounts the unit owner owes	919
to the association for the common expenses or penalty	920
assessments chargeable against the unit.	921
(3) The lien described in division (A) (1) of this section	922
is effective on the date that a certificate of lien in the form	923
described in division (A) (3) of this section is filed for record	924
in the office of the recorder of the county or counties in which	925
the condominium property is situated pursuant to an	926
authorization given by the board of directors of the unit owners	927
association. The certificate shall contain a description of the	928
unit, the name of the record owner of the unit, and the amount	929
of the unpaid portion of the common expenses and, subject to	930
subsequent adjustments, any unpaid interest, administrative late	931
fees, enforcement assessments, collection costs, attorney's	932
fees, and paralegal fees. The certificate shall be subscribed by	933
the president or other designated representative of the	934
association.	935
(4) The lien described in division (A) (1) of this section	936
is valid for a period of five years from the date of filing,	937
unless it is sooner released or satisfied in the same manner	938
provided by law for the release and satisfaction of mortgages on	939
real property or unless it is discharged by the final judgment	940
or order of a court in an action brought to discharge the lien	941
as provided in division (C) of this section.	942
(B) (1) The lien described in division (A) (1) of this	943
section is prior to any lien or encumbrance subsequently arising	944
or created except liens for real estate taxes and assessments of	945
political subdivisions and liens of first mortgages that have	946

been filed for record and may be foreclosed in the same manner 947
as a mortgage on real property in an action brought on behalf of 948
the unit owners association ~~by the president or other chief-~~ 949
~~officer of the association pursuant to authority given to that-~~ 950
~~individual as authorized by~~ the board of directors. 951

(2) In a foreclosure action a unit owners association 952
commences pursuant to division (B)(1) of this section or a 953
foreclosure action the holder of a first mortgage or other lien 954
on a unit commences, the owner of the unit, as the defendant in 955
the action, shall be required to pay a reasonable rental for the 956
unit during the pendency of the action. The unit owners 957
association or the holder of the lien is entitled to the 958
appointment of a receiver to collect the rental. Each rental 959
payment a receiver collects during the pendency of the 960
foreclosure action shall be applied first to the payment of the 961
portion of the common expenses chargeable to the unit during the 962
foreclosure action. 963

(3) In a foreclosure action the holder of a lien on a unit 964
commences, the holder of that lien shall name the unit owners 965
association as a defendant in the action. 966

(4) Unless prohibited by the declaration or the bylaws, 967
following a foreclosure action a unit owners association 968
commences pursuant to division (B)(1) of this section or a 969
foreclosure action the holder of a lien on a unit commences, the 970
association or its agent duly authorized by action of the board 971
of directors, is entitled to become a purchaser at the 972
foreclosure sale. 973

(5) A mortgage on a unit may contain a provision that 974
secures the mortgagee's advances for the payment of the portion 975
of the common expenses chargeable against the unit upon which 976

the mortgagee holds the mortgage. 977

(6) In any foreclosure action, it is not a defense, set 978
off, counterclaim, or crossclaim that the unit owners 979
association has failed to provide the unit owner with any 980
service, goods, work, or material, or failed in any other duty. 981

(C) A unit owner who believes that the portion of the 982
common expenses chargeable to the unit, for which the unit 983
owners association files a certificate of lien pursuant to 984
division (A) of this section, has been improperly charged may 985
commence an action for the discharge of the lien in the court of 986
common pleas of the county in which all or a part of the 987
condominium property is situated. In the action, if it is 988
finally determined that the portion of the common expenses was 989
improperly charged to the unit owner or the unit, the court 990
shall enter an order that it determines to be just, which may 991
provide for a discharge of record of all or a portion of the 992
lien. 993

Sec. 5311.192. (A) Unless specifically prohibited in the 994
declaration, any owner of a solar appropriate unit may install a 995
solar energy collection device on the roof of that unit if 996
either of the following conditions apply: 997

(1) The unit, as defined by the declaration, includes the 998
roof, for which the cost to insure, maintain, repair, and 999
replace is not a common expense and is instead the owner's 1000
responsibility. 1001

(2) The declaration specifically allows for and regulates 1002
the types and installation of solar energy collection devices in 1003
the common or limited common elements and establishes 1004
responsibility for the cost to insure, maintain, repair, and 1005

replace such devices. 1006

(B) Notwithstanding division (A) of this section, a unit 1007
owners association may establish reasonable restrictions 1008
concerning the size, place, and manner of placement of solar 1009
energy collection devices. 1010

(C) As used in this section: 1011

(1) "Solar appropriate unit" means a condominium unit that 1012
does not have any other condominium units directly above or 1013
below it. 1014

(2) "Solar energy collection device" has the same meaning 1015
as in section 5302.30 of the Revised Code. 1016

Sec. 5312.02. (A) Any planned community in this state is 1017
subject to this chapter. No person shall establish a planned 1018
community unless that person files and records a declaration and 1019
bylaws for that planned community in the office of the recorder 1020
of the county or counties in which the planned community is 1021
located. 1022

(B) Any declaration for a planned community shall be 1023
accompanied by bylaws that provide for the operation of the 1024
planned community. The declaration and bylaws shall provide for 1025
all of the following: 1026

(1) The election of the board of directors of the owners 1027
association; 1028

(2) The number of persons constituting the board; 1029

(3) The terms of the directors, with not less than one- 1030
fifth to expire annually; 1031

(4) The powers and duties of the board; 1032

(5) The method of removal of directors from office;	1033
(6) Whether the services of a manager or managing agent may be engaged;	1034 1035
(7) The method of amending the declaration and bylaws;	1036
(8) The time and place for holding meetings and the manner of and authority for calling, giving notice of, and meetings, conducting meetings, <u>and giving notice of meetings, which notice</u> <u>may be sent by electronic mail, provided the association has</u> <u>received the prior, written authorization from the owner;</u>	1037 1038 1039 1040 1041
(9) The common expenses for which assessments may be made and the manner of collecting from the owners their respective shares of the common expenses;	1042 1043 1044
(10) Any other matters the original declarant or the owners association deem necessary and appropriate.	1045 1046
(C) Nothing in this chapter invalidates any provision of a document that governs a planned community if that provision was in the document at the time the document was recorded and the document was recorded prior to the original effective date of this chapter, <u>September 10, 2010.</u>	1047 1048 1049 1050 1051
(D) (1) The board of directors of the owners association of any planned community that is in existence on the original effective date of this chapter, <u>September 10, 2010,</u> shall file and record the bylaws of that planned community that are in effect on that effective date in the office of the recorder of the county or counties in which the planned community is located within one hundred eighty days after that effective date.	1052 1053 1054 1055 1056 1057 1058
(2) The board of directors of the owners association of any planned community that is in existence on the original	1059 1060

effective date of this chapter, September 10, 2010, shall file 1061
and record the bylaws that are adopted by the owners association 1062
on or after that effective date in the office of the recorder of 1063
the county or counties in which the planned community is located 1064
within ninety days after the date of adoption of the bylaws. 1065

(3) The board of directors of the owners association of 1066
any planned community that adopts an amendment to the bylaws of 1067
that planned community shall file and record the amendment in 1068
the office of the recorder of the county or counties in which 1069
the planned community is located within sixty days after the 1070
date of adoption of the amendment. 1071

(4) Nothing in division (D) (1) or (2) of this section 1072
shall require the board of directors or owners association of 1073
any planned community that is in existence on the original 1074
effective date of this chapter, September 10, 2010, to adopt 1075
bylaws of that planned community. 1076

(5) No board of directors of the owners association of a 1077
planned community that is in existence on the original effective 1078
date of this chapter, September 10, 2010, shall pursue any civil 1079
action against any person based upon any provision of the bylaws 1080
of that planned community or upon any amendments to the bylaws 1081
until the bylaws or amendments are filed and recorded under 1082
division (D) (1), (2), or (3) of this section. 1083

Sec. 5312.03. (A) (1) An owners association shall 1084
administer a planned community, and a board of directors the 1085
owners elect from among the owners and their spouses shall 1086
exercise all power and authority of the owners association. If 1087
an owner is not an individual, any principal, member of a 1088
limited liability company, partner, director, officer, trustee, 1089
or employee of the owner may be elected to the board. The 1090

majority of the board shall not consist of owners or 1091
representatives from the same lot. 1092

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

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

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

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

Sec. 5312.06. (A) ~~Unless otherwise provided in the~~ 1112
~~declaration or bylaws, the~~ The owners association, through its 1113
board of directors, shall do both of the following: 1114

(1) Annually adopt and amend an estimated budget for 1115
revenues and expenditures. Any budget shall include reserves in 1116
an amount adequate to repair and replace major capital items in 1117
the normal course of operations without the necessity of special 1118
assessments, unless the owners, exercising not less than a 1119

majority of the voting power of the owners association, waive 1120
the reserve requirement in writing annually. 1121

(2) Collect assessments for common expenses from owners in 1122
accordance with section 5312.10 of the Revised Code. 1123

(B) Commencing not later than the time of the first 1124
conveyance of a lot to a person other than a declarant, the 1125
owners association shall maintain all of the following to the 1126
extent reasonably available and applicable: 1127

(1) Property insurance on the common elements; 1128

(2) Liability insurance pertaining to the common elements; 1129

(3) Directors and officers liability insurance; 1130

(4) (a) Blanket fidelity, crime, or dishonesty insurance 1131
coverage for any person who controls or disburses association 1132
funds. As used in division (B) (4) (a) of this section, "person 1133
who controls or disburses association funds" means any 1134
individual with authority or access to sign checks, conduct 1135
electronic transfers, or otherwise withdraw funds from any 1136
association account or deposit, including the following: 1137

(i) A management company's principals and employees; 1138

(ii) A bookkeeper; 1139

(iii) The president, secretary, treasurer, any other board 1140
member, or employee of the owners association. 1141

(b) All of the following apply to the insurance coverage 1142
required under division (B) (4) (a) of this section: 1143

(i) Coverage shall be for the maximum amount of funds that 1144
will be in the custody of the association or its designated 1145
agent at any one time plus three months of operating expenses. 1146

(ii) The insurance shall be the property of and for the 1147
sole benefit of the association and shall protect against theft, 1148
embezzlement, misappropriation, or any other unauthorized taking 1149
or loss of association funds. 1150

(iii) The policy shall include in its definition of 1151
"employee" the manager and the managing agent of the 1152
association's funds or provide for this inclusion by an 1153
endorsement to the policy. 1154

(iv) The policy shall name the association as the insured 1155
party and shall include a provision requiring the issuer of the 1156
policy to provide a ten-day written notice to the association's 1157
president or manager in the event of cancellation or substantial 1158
modification of the policy. The manager or managing agent, if 1159
any, of the association shall be the designated agent on the 1160
policy. 1161

(v) If there is a change in the manager or the managing 1162
agent of the association, then within ten days of the effective 1163
start date, the new manager or managing agent shall notify the 1164
insurer of such change. 1165

(C) The owners association shall keep all of the 1166
following: 1167

(1) Correct and complete books and records of account that 1168
specify the receipts and expenditures relating to the common 1169
elements and other common receipts and expenses; 1170

(2) Records showing the collection of the common expenses 1171
from the owners; 1172

(3) Minutes of the meetings of the association and the 1173
board of directors; 1174

(4) Records of the names and addresses of the owners.	1175
(D) An owners association, through its board of directors, may do any of the following:	1176 1177
(1) Hire and fire managing agents, attorneys, accountants, and other independent professionals and employees that the board determines are necessary or desirable in the management of the property and the association;	1178 1179 1180 1181
(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 <u>property or adjacent property</u> ;	1182 1183 1184 1185 1186 1187
(3) Enter into contracts and incur liabilities relating to the operation of the property;	1188 1189
(4) Enforce all provisions of the declaration, bylaws, covenants, conditions, restrictions, and articles of incorporation governing the lots, common elements, and limited common elements;	1190 1191 1192 1193
(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;	1194 1195 1196
(6) Acquire, encumber, and convey or otherwise transfer real and personal property, subject to section 5312.10 of the Revised Code;	1197 1198 1199
(7) Hold in the name of the owners association the real property and personal property;	1200 1201
(8) Grant easements, leases, licenses, and concessions	1202

through or over the common elements;	1203
(9) Levy and collect fees or other charges for the use,	1204
rental, or operation of the common elements or for services	1205
provided to owners;	1206
(10) Pursuant to section 5312.11 of the Revised Code, levy	1207
the following charges and assessments:	1208
(a) Interest and charges for the late payment of	1209
assessments;	1210
(b) Returned check charges;	1211
(c) Enforcement assessments for violations of the	1212
declaration, the bylaws, and the rules of the owners	1213
association;	1214
(d) Charges for damage to the common elements or other	1215
property.	1216
(11) Adopt and amend rules that regulate the collection of	1217
delinquent assessments and the application of payments of	1218
delinquent assessments;	1219
(12) Impose reasonable charges for preparing, recording,	1220
or copying the declaration, bylaws, amendments to the	1221
declaration and bylaws, resale certificates, or statements of	1222
unpaid assessments;	1223
(13) Authorize entry to any portion of the planned	1224
community by designated individuals when conditions exist that	1225
involve an imminent risk of damage or harm to common elements,	1226
another dwelling unit, or to the health or safety of the	1227
occupants of that dwelling unit or another dwelling unit;	1228
(14) Subject to division (A) (1) of section 5312.09 of the	1229

Revised Code, borrow money and assign the right to common	1230
assessments or other future income to a lender as security for a	1231
loan to the owners association;	1232
(15) Suspend the voting privileges and use of recreational	1233
facilities of an owner who is delinquent in the payment of	1234
assessments for more than thirty days;	1235
(16) Purchase insurance and fidelity bonds the directors	1236
consider appropriate and necessary;	1237
(17) Invest excess funds in investments that meet	1238
standards for fiduciary investments under the laws of this	1239
state;	1240
(18) Exercise powers that are any of the following:	1241
(a) Conferred by the declaration or bylaws;	1242
(b) Necessary to incorporate the owners association as a	1243
nonprofit corporation;	1244
(c) Permitted to be exercised in this state by a nonprofit	1245
corporation;	1246
(d) Necessary and proper for the government and operation	1247
of the owners association.	1248
Sec. 5312.07. (A) Unless otherwise prohibited by this	1249
section, any owner may examine and copy the books, records, and	1250
minutes of the owners association that division (C) of section	1251
5312.06 of the Revised Code describes, pursuant to reasonable	1252
standards set forth in the declaration, bylaws, or rules the	1253
board promulgates. The standards may include, but are not	1254
limited to, standards governing the type of documents that are	1255
subject to examination and copying, the times and locations at	1256
which those documents may be examined or copied, and the	1257

specification of a reasonable fee for copying the documents. 1258

(B) Unless approved by the board of directors, an owner 1259
may not examine or copy any ~~of the following from books,~~ 1260
records, ~~and or minutes that meet either of the following~~ 1261
conditions: 1262

(1) Date back more than five years prior to the date of 1263
the request; 1264

(2) Contain any of the following: 1265

(a) Information that pertains to property-related 1266
personnel matters; 1267

~~(2)~~ (b) Communications with legal counsel or attorney work 1268
product pertaining to potential, threatened or pending 1269
litigation, or other property-related matters; 1270

~~(3)~~ (c) Information that pertains to contracts or 1271
transactions currently under negotiation, or information that is 1272
contained in a contract or other agreement containing 1273
confidentiality requirements and that is subject to those 1274
requirements; 1275

~~(4)~~ (d) Information that relates to the enforcement of the 1276
declaration, bylaws, or rules of the owners association against 1277
other owners; 1278

~~(5)~~ (e) Information, the disclosure of which is prohibited 1279
by state or federal law. 1280

Sec. 5312.11. (A) An owners association may assess an 1281
individual lot for any of the following: 1282

(1) Enforcement assessments and individual assessments for 1283
utility service that are imposed or levied in accordance with 1284

the declaration, as well as expenses the board incurs in	1285
collecting those assessments;	1286
(2) Costs of maintenance, repair, or replacement incurred	1287
due to the willful or negligent act of an owner or occupant of a	1288
lot or their family, tenants, guests, or invitees, including,	1289
but not limited to, attorney's fees, court costs, and other	1290
expenses;	1291
(3) Costs associated with the enforcement of the	1292
declaration or the rules and regulations of the owners	1293
association, including, but not limited to, attorney's fees,	1294
court costs, and other expenses;	1295
(4) Costs or charges the declaration or bylaws permit.	1296
(B) Unless otherwise provided by the declaration, bylaws,	1297
or rules, the owners association shall credit any amount it	1298
receives from a lot owner pursuant to this section in the	1299
following order:	1300
(1) To interest owed to the owners association;	1301
(2) To administrative late fees or enforcement assessments	1302
owed to the owners association;	1303
(3) To collection costs, attorney's fees, and paralegal	1304
fees the owners association incurred in collecting the	1305
assessment;	1306
(4) To the oldest principal amounts the owner owes to the	1307
owners association for the common expenses chargeable against	1308
the dwelling unit or lot.	1309
(C) Prior to imposing a charge for damages or an	1310
enforcement assessment pursuant to this section, the board of	1311
directors shall give the owner a written notice, <u>which may be in</u>	1312

the form of electronic mail to an electronic mail address 1313
previously provided by the owner in writing, that includes all 1314
of the following: 1315

(1) A description of the property damage or violation; 1316

(2) The amount of the proposed charge or assessment; 1317

(3) A statement that the owner has a right to a hearing 1318
before the board to contest the proposed charge or assessment; 1319

(4) A statement setting forth the procedures to request a 1320
hearing; 1321

(5) A reasonable date by which the owner must cure a 1322
continuing violation to avoid the proposed charge or assessment, 1323
if such an opportunity to cure is applicable. 1324

(D) (1) To request a hearing, the owner shall deliver a 1325
written notice to the board not later than the tenth day after 1326
receiving the notice this division requires. If the owner fails 1327
to make a timely request for a hearing, the right to that 1328
hearing is waived, and the board immediately may impose a charge 1329
for damages or an enforcement assessment pursuant to this 1330
section. 1331

(2) If an owner requests a hearing, at least seven days 1332
prior to the hearing the board shall provide the owner with a 1333
written notice that includes the date, time, and location of the 1334
hearing. 1335

(3) The board shall not levy a charge or assessment before 1336
holding any hearing requested pursuant to this section. 1337

(4) Within thirty days following a hearing at which the 1338
board imposes a charge or assessment, the owners association 1339
shall deliver a written notice of the charge or assessment to 1340

the owner. 1341

(5) Any written notice that this section requires shall be 1342
delivered to the owner or any occupant of the dwelling unit by 1343
personal delivery, by certified mail, return receipt requested, 1344
or by regular mail. 1345

Sec. 5312.16. (A) Unless specifically prohibited in the 1346
declaration, any owner may install a solar energy collection 1347
device on the owner's dwelling unit or other location within the 1348
owner's lot if either of the following conditions apply: 1349

(1) The cost to insure, maintain, repair, and replace the 1350
unit's roof or alternative location within the lot is not a 1351
common expense of the owners association and is instead the 1352
owner's responsibility. 1353

(2) The declaration specifically allows for and regulates 1354
the types and installation of solar energy collection devices 1355
within the planned community and establishes responsibility for 1356
the cost to insure, maintain, repair, and replace such devices. 1357

(B) Notwithstanding division (A) of this section, an 1358
owners association may establish reasonable restrictions 1359
concerning the size, place, and manner of placement of solar 1360
energy collection devices. 1361

(C) Prior to imposing a charge for damages or an 1362
enforcement assessment pursuant to this section, the board of 1363
directors shall give the owner a written notice, which may be in 1364
the form of electronic mail to an electronic mail address 1365
previously provided by the owner in writing that includes all of 1366
the following: 1367

(1) A description of the property damage or violation; 1368

<u>(2) The amount of the proposed charge or assessment;</u>	1369
<u>(3) A statement that the owner has a right to a hearing</u>	1370
<u>before the board of directors to contest the proposed charge or</u>	1371
<u>assessment;</u>	1372
<u>(4) A statement setting forth the procedures to request a</u>	1373
<u>hearing;</u>	1374
<u>(5) A reasonable date by which the unit owner must cure</u>	1375
<u>the violation to avoid the proposed charge or assessment.</u>	1376
<u>(D) As used in this section, "solar energy collection</u>	1377
<u>device" has the same meaning as in section 5302.30 of the</u>	1378
<u>Revised Code.</u>	1379
Section 2. That existing sections 5302.30, 5311.05,	1380
5311.08, 5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03,	1381
5312.06, 5312.07, and 5312.11 of the Revised Code are hereby	1382
repealed.	1383