

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

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

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

(A)(1) Except as otherwise provided in division (A)(2) of this section, for recording and indexing an instrument if the photocopy or any similar process is employed, a base fee of seventeen dollars for the first two pages and a housing trust fund fee of seventeen dollars, and a base fee of four dollars and a housing trust fund fee of four dollars for each subsequent page, size eight and one-half inches by fourteen inches, or fraction of a page, including the caption page, of such instrument;

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

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

(C) For entering or indexing any marginal reference, or any reference previously accomplished as a marginal reference now accomplished through electronic means, by separate

recorded instrument, a base fee of two dollars and a housing trust fund fee of two dollars for each marginal reference, or reference previously accomplished as a marginal reference now accomplished through electronic means, set out in that instrument, in addition to the fees set forth in division (A)(1) of this section;

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

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

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

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

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

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

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

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

presentation.

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

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

Sec. 349.01. As used in this chapter:

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

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

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

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

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

(E) "Developer" means any person, organized for carrying out a new community development program who owns or controls, through leases of at least seventy-five years' duration, options, or contracts to purchase, the land within a new community district, or any municipal corporation, county, or port authority that owns the land within a new community district, or has the ability to acquire such land, either by voluntary acquisition or condemnation in order to eliminate slum, blighted, and deteriorated or deteriorating areas and to prevent the recurrence thereof. "Developer" may also mean a person, municipal corporation, county, or port authority that controls land within a new community district through leases of at least seventy-five years' duration. "Developer" includes a lessor that continues to own and control land for purposes of this chapter pursuant to leases with a ninety-nine-year renewable term, so long as all of the following apply:

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

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

(a) Failing to pay taxes and assessments;

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

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

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

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

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

(2) For a new community district that is located in more than one county, a board consisting of the members of the board of county commissioners of each of the counties in which the district is located, provided that action of the board shall require a majority vote of the members of each separate board of county commissioners; or

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

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

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

(I) "Community facilities" means all real property, buildings, structures, or other facilities, including related fixtures, equipment, and furnishings, to be owned, operated, financed, constructed, and maintained under this chapter or in furtherance of community activities, whether within or without the new community district, including public, community, village, neighborhood, or town buildings, centers and plazas, auditoriums, day care centers, recreation halls, educational facilities, health care facilities including hospital facilities as defined in section 140.01 of the Revised Code, telecommunications facilities, including all facilities necessary to provide telecommunications service as defined in section 4927.01 of the Revised Code, recreational facilities, natural resource facilities, including parks and other open space land, lakes and streams, cultural facilities, community streets and off-street parking facilities, pathway and bikeway systems, pedestrian underpasses and overpasses, lighting facilities, design amenities, or other community facilities, and buildings needed in connection with water supply or sewage disposal installations, or energy facilities including those for renewable or sustainable energy sources, and steam, gas, or electric lines or installation.

(J) "Cost" as applied to a new community development program means all costs related to land acquisition and land development, the acquisition, construction, maintenance, and operation of community facilities and offices of the community authority, and of providing furnishings and equipment therefor, financing charges including interest prior to and during construction and for the duration of the new community development program, planning expenses, engineering expenses, administrative expenses including working capital, and all other expenses necessary and incident to

the carrying forward of the new community development program.

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

(L) "Community development charge" means:

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

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

(M) "Proximate city" means the following:

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

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

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

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

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

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

(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;

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

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

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

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

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

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

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

(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 condominium development expires, which shall not exceed seven years from the date the declaration is filed for record;

(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;

(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.

(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;

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

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

(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 added;

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

(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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) To meet the requirements of insurance underwriters;

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



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

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

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

(g) To delete as void, any provision within the declaration or bylaws, or in any applicable restriction or covenant, that prohibits or limits the conveyance, encumbrance, rental, occupancy, or use of property subject to this chapter on the basis of race, color, national origin, sex, religion, or familial status.

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

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

Sec. 5311.08. (A)(1) Every condominium property shall be administered by a unit owners association. All power and authority of the unit owners association shall be exercised by a board of directors, which the unit owners shall elect from among the unit owners or the spouses of unit owners. If a unit owner is not an individual, that unit owner may nominate for the board of directors any principal, member of a limited liability company, partner, director, officer, or employee of that unit owner. The majority of the board shall not consist of unit owners or representatives from the same unit unless authorized by a resolution adopted by the board of directors prior to the board majority being comprised of owners or representatives from the same unit.

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

(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.

(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.

(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.

(B) ~~The Except as provided in division (A)(1) of this section,~~ 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:

- (1)(a) The election of the board of directors of the unit owners association;
  - (b) The number of persons constituting the board;
  - (c) The terms of the directors, with not less than one-fifth to expire annually;
  - (d) The powers and duties of the board;
  - (e) The compensation of the directors;
  - (f) The method of removal of directors from office;
  - (g) The election of officers of the board;
  - (h) Whether or not the services of a manager or managing agent may be engaged.
- (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;
- (3) By whom and the procedure by which maintenance, repair, and replacement of the common elements may be authorized;
- (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;
- (5) The method of distributing the common profits;
- (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.
- (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 condominium ownership interest in a condominium development. Membership in the unit owners association shall be limited to unit owners, and all unit owners shall be members. Until the unit owners association is established, the developer shall act in all instances in which action of the unit owners association or its officers is authorized or required by law or the declaration.
- (2)(a) Not later than sixty days after the developer has sold and conveyed condominium ownership interests appertaining to twenty-five per cent of the undivided interests in the common elements in a condominium development, the unit owners association shall meet, and the unit owners other than the developer shall elect not less than one-third of the members of the board of directors.
- (b) When computing undivided interests in expandable condominium properties for purposes of divisions (C) and (D) of this section, the undivided interests in common elements shall be computed by comparing the number of units sold and conveyed to the maximum number of units that may be created, as stated in the declaration pursuant to division (C)(8) of section 5311.05 of the Revised Code.
- (D)(1) Except as provided in division (C) of this section, the declaration or bylaws of a condominium development may authorize the developer or persons the developer designates to appoint and remove members of the board of directors of the unit owners association and to exercise the powers and responsibilities otherwise assigned by law, the declaration, or the bylaws to the unit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Grant easements, leases, licenses, and concessions through or over the common elements;

(11) Impose and collect fees or other charges for all of the following:

(a) The use, rental, or operation of the common elements ~~or for services~~;

(b) Services provided to unit owners;

(c) To the extent provided in the declaration or bylaws, social activities or charitable contributions on behalf of the owners association;

(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;

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

(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;

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

(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;

(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;

(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;

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

(20) Invest excess funds in investments that meet standards for fiduciary investments under

Ohio law;

(21) Exercise powers that are:

(a) Conferred by the declaration or the bylaws of the unit owners association or the board of directors;

(b) Necessary to incorporate the unit owners association as a not-for-profit corporation;

(c) Permitted to be exercised in this state by a not-for-profit corporation;

(d) Necessary and proper for the government and operation of the unit owners association.

(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, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing, that includes all of the following:

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

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

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

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

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

(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.

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

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

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

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

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

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

at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents.

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

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

(2) Contain any of the following:

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

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

~~(3)-(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;

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

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

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

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

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

(C)(1) Blanket fidelity, crime, or dishonesty insurance coverage for any person who controls or disburses association funds. As used in division (C)(1) 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:

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

(b) A bookkeeper;

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

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

(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.

(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.

(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.

(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.

(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.

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

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

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

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

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

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

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

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

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

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

(B)(1) The lien described in division (A)(1) of this section is prior to any lien or encumbrance subsequently arising or created except liens for real estate taxes and assessments of political subdivisions and liens of first mortgages that have been filed for record and may be foreclosed in the

same manner as a mortgage on real property in an action brought on behalf of the unit owners association ~~by the president or other chief officer of the association pursuant to authority given to that individual as authorized~~ by the board of directors.

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

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

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

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

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

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

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

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

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

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

(C) As used in this section:

(1) "Solar appropriate unit" means a condominium unit that does not have any other



condominium units directly above or below it.

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

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

(B) Any declaration for a planned community shall be accompanied by bylaws that provide for the operation of the planned community. ~~The~~ Except as provided in division (A)(1) of section 5312.03 of the Revised Code, the declaration and bylaws shall provide for all of the following:

- (1) The election of the board of directors of the owners association;
- (2) The number of persons constituting the board;
- (3) The terms of the directors, with not less than one-fifth to expire annually;
- (4) The powers and duties of the board;
- (5) The method of removal of directors from office;
- (6) Whether the services of a manager or managing agent may be engaged;
- (7) The method of amending the declaration and bylaws;
- (8) The time and place for holding meetings and the manner of and authority for calling, giving notice of, and meetings, conducting meetings, and giving notice of meetings, which notice may be sent by electronic mail, provided the association has received the prior, written authorization from the owner;

(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;

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

(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, September 10, 2010.

(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, September 10, 2010, 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.

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

(3) The board of directors of the owners association of any planned community that adopts an amendment to the bylaws of that planned community shall file and record the amendment in the office of the recorder of the county or counties in which the planned community is located within

sixty days after the date of adoption of the amendment.

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

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

Sec. 5312.03. (A)(1) An owners association shall administer a planned community, and a board of directors the owners elect from among the owners and their spouses shall exercise all power and authority of the owners association. If an owner is not an individual, any principal, member of a limited liability company, partner, director, officer, trustee, or employee of the owner may be elected to the board. The majority of the board shall not consist of owners or representatives from the same lot unless authorized by a resolution adopted by the board of directors prior to the board majority being comprised of owners or representatives from the same lot.

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

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

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

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

Sec. 5312.05. (A) Unless otherwise specified in division (C) of this section or the declaration or bylaws, the owners may amend the declaration and bylaws by the consent of seventy-five per cent of the owners, either in writing or in a meeting called for that purpose. No amendment to the declaration or bylaws is effective until filed in the office of the county recorder.

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

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

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

(1) Annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the

normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the owners association, waive the reserve requirement in writing annually.

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

(B) Commencing not later than the time of the first 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 association's funds or provide for this inclusion by an endorsement to the policy.

(iv) 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.

(v) 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.

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

- (1) Correct and complete books and records of account that specify the receipts and expenditures relating to the common elements and other common receipts and expenses;
- (2) Records showing the collection of the common expenses from the owners;
- (3) Minutes of the meetings of the association and the board of directors;
- (4) Records of the names and addresses of the owners.

- (D) An owners association, through its board of directors, may do any of the following:
- (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;
  - (2) Commence, defend, intervene in, settle, or compromise any civil, criminal, land use planning, 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~~, impacts zoning, or otherwise relates to matters affecting the property;
  - (3) Enter into contracts and incur liabilities relating to the operation of the property;
  - (4) Enforce all provisions of the declaration, bylaws, covenants, conditions, restrictions, and articles of incorporation governing the lots, common elements, and limited common elements;
  - (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;
  - (6) Acquire, encumber, and convey or otherwise transfer real and personal property, subject to section 5312.10 of the Revised Code;
  - (7) Hold in the name of the owners association the real property and personal property;
  - (8) Grant easements, leases, licenses, and concessions through or over the common elements;
  - (9) Levy and collect fees or other charges for the use, rental, or operation of the common elements or for services provided to owners;
  - (10) Pursuant to section 5312.11 of the Revised Code, levy the following charges and assessments:
    - (a) Interest and charges for the late payment of assessments;
    - (b) Returned check charges;
    - (c) Enforcement assessments for violations of the declaration, the bylaws, and the rules of the owners association;
    - (d) Charges for damage to the common elements or other property.
  - (11) Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;
  - (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;
  - (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;
  - (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;
  - (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;
  - (16) Purchase insurance and fidelity bonds the directors consider appropriate and necessary;
  - (17) Invest excess funds in investments that meet standards for fiduciary investments under the laws of this state;

(18) Exercise powers that are any of the following:

- (a) Conferred by the declaration or bylaws;
- (b) Necessary to incorporate the owners association as a nonprofit corporation;
- (c) Permitted to be exercised in this state by a nonprofit corporation;
- (d) Necessary and proper for the government and operation of the owners association.

Sec. 5312.07. (A) Unless otherwise prohibited by this section, any owner may examine and copy the books, records, and minutes of the owners association that division (C) of section 5312.06 of the Revised Code describes, pursuant to reasonable standards set forth in the declaration, bylaws, or rules the board promulgates. The standards may include, but are not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents.

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

- (1) Date back more than five years prior to the date of the request;
- (2) Contain any of the following:
  - (a) Information that pertains to property-related personnel matters;
  - ~~(2)~~(b) Communications with legal counsel or attorney work product pertaining to potential, threatened or pending litigation, or other property-related matters;
  - ~~(3)~~(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;
  - ~~(4)~~(d) Information that relates to the enforcement of the declaration, bylaws, or rules of the owners association against other owners;
  - ~~(5)~~(e) Information, the disclosure of which is prohibited by state or federal law.

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

- (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;
- (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;
- (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;
- (4) Costs or charges the declaration or bylaws permit.

(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:

- (1) To interest owed to the owners association;
- (2) To administrative late fees or enforcement assessments owed to the owners association;
- (3) To collection costs, attorney's fees, and paralegal fees the owners association incurred in collecting the assessment;

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

(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, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing, that includes all of the following:

- (1) A description of the property damage or violation;
- (2) The amount of the proposed charge or assessment;
- (3) A statement that the owner has a right to a hearing before the board to contest the proposed charge or assessment;
- (4) A statement setting forth the procedures to request a hearing;
- (5) A reasonable date by which the owner must cure a continuing violation to avoid the proposed charge or assessment, if such an opportunity to cure is applicable.

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

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

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

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

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

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

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

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

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

(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, which may be in the form of electronic mail to an electronic mail address previously provided by the owner in writing that includes all of the following:

- (1) A description of the property damage or violation;
  - (2) The amount of the proposed charge or assessment;
  - (3) A statement that the owner has a right to a hearing before the board of directors to contest the proposed charge or assessment;
  - (4) A statement setting forth the procedures to request a hearing;
  - (5) A reasonable date by which the unit owner must cure the violation to avoid the proposed charge or assessment.
- (D) As used in this section, "solar energy collection device" has the same meaning as in section 5311.192 of the Revised Code.

SECTION 2. That existing sections 317.32, 349.01, 5311.05, 5311.08, 5311.081, 5311.091, 5311.16, 5311.18, 5312.02, 5312.03, 5312.05, 5312.06, 5312.07, and 5312.11 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



Sub. S. B. No. 61

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

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*Secretary of State.*

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