

CLIENT ALERT

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1

OHIO LEGISLATURE ADOPTS NEW PROTECTIONS FOR SOLAR ACCESS FOR HOMEOWNERS

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On June 14, 2022, Governor Mike DeWine signed [Substitute Senate Bill 61](#) ("S.B. 61") into law, codifying protections for homeowners who wish to install solar panels on their property. S.B. 61 takes effect on September 13, 2022.

Sponsored by Senator Louis W. Blessing, III (R-Cincinnati) and Senator Nickie Antonio (D-Lakewood), the new law grants individuals additional protections to install and operate solar panels¹ on their properties in planned communities and condominiums, limiting the ability of Homeowners Associations ("HOAs") and Condominium Owners Associations ("COAs") to prohibit solar.

Passed on a bipartisan basis, with the support of the Community Associations Institute, Ohio Realtors Association, and Ohio Environmental Council Action Fund, S.B. 61 creates a presumption that installation of solar panels is permissible unless specifically prohibited by an HOA/COA declaration, subject to certain conditions. Under the new law, HOAs and COAs are only permitted to establish "reasonable restrictions² on a solar panel's "size, place, and manner"³ of placement.

Solar Access Requirements for Planned Communities

Unless expressly prohibited by the HOA declaration, the new law permits an owner of a home within a planned community to install solar panels on their residence or in an alternative location on the owner's property if either of the following conditions apply:

- The cost to "insure, maintain, repair, and replace"⁴ the roof of the residence, or the alternative location where the panels are located, is the owner's responsibility. The costs must not be an expense of the HOA; or
- The declaration of the planned community specifically allows for the use of solar panels and regulates their installation within the community. In this case, the declaration must also establish the responsibility of the homeowner to "insure, maintain, repair and replace"⁵ the solar panels.

If a homeowner within a planned community is in violation of either of the above provisions due to their installation of solar panels, the HOA must give the owner written notice before imposing a charge for damages or enforcement assessment.⁶ The notice, which may be emailed, *must include all of the following*:

- A description of the property damage or violation;
- The amount of the proposed charge or assessment;
- A statement that the owner has a right to a hearing before the Homeowners Association Board to contest the proposed charge or assessment;
- The procedure to request a hearing; and
- A reasonable date by which the unit owner must cure the violation to avoid the proposed charge of assessment.

Solar Access Requirements for Condominiums

Unless specifically prohibited by the COA declaration, the new law permits an owner of a condominium unit that does not have units above or below it to install solar panels on the roof if *all of the following conditions apply*⁷:

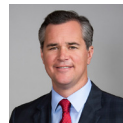
- The declaration states that the condominium unit includes the roof;
- The cost to "insure, maintain, repair, and replace"⁸ the panels is at the expense of the condominium owner and the declaration specifically states that the owner is responsible for those costs; and
- The declaration specifically states that solar panels are permitted and regulates the types and installation of solar panels in the shared public areas of the condominium units and the privately owned area of the condominium units.

Conclusion

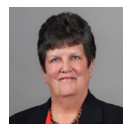
Senate Bill 61 ensures greater access and robust protections for individuals to implement solar in their homes. Importantly, the law protects the rights of property owners to solar access by only allowing HOAs/COAs the ability to adopt "reasonable restrictions" on panel placement and size.

For assistance regarding solar projects in Ohio, please feel free to reach out to any of the following Dickinson Wright attorneys.

KEY CONTACTS



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¹ S.B. 61 uses the term "solar energy collection device," which is defined as "any device manufactured and sold for the purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar voltaic apparatus." See S.B. 61 § 5311.192(C)(2); S.B. § 5312.16(D).

² S.B. 61 § 5311.192(B); S.B. § 5312.16(B).

³ S.B. 61 § 5311.192(B); S.B. 61 § 5312.16(A).

⁴ S.B. 61 § 5312.16(A)(1).

⁵ S.B. 61 § 5312.16(A)(2).

⁶ S.B. 61 § 5312.16(C).

⁷ S.B. 61 § 5311.192(A)(1); S.B. 61 § 5311.192(A)(2).

⁸ S.B. 61 § 5311.192(A)(1); S.B. 61 § 5311.192(A)(2).