

SB98 ENROLLED



1 U8R8XG-2

2 By Senator Givhan

3 RFD: Fiscal Responsibility and Economic Development

4 First Read: 21-Mar-23

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6 2023 Regular Session



Enrolled, An Act,

Relating to nonprofit homeowners' associations; amending Section 35-20-5, Code of Alabama 1975, to remove the requirement that certain duplicative filings shall be submitted to the Secretary of State.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 35-20-5, Code of Alabama 1975, is amended to read as follows:

"§35-20-5

(a) On or after January 1, 2016, a homeowners' association created pursuant to a declaration shall be organized as a nonprofit corporation pursuant to Chapter 3 of Title 10A, and shall be governed in all respects as a nonprofit corporation.

(b) (1) A homeowners' association, its members, and directors shall be subject to all of the obligations, duties, and responsibilities of and shall have all of the rights and benefits provided in Chapter 3 of Title 10A.

(2) In addition or supplemental to any other filing required in Chapter 3 of Title 10A, a homeowners' association shall file the following documents with the Secretary of State:

a. Articles of incorporation.

b.a. Bylaws, ~~resolutions~~, or other governing documents of the association.

e.b. The original covenants, conditions, or



29 restrictions adopted by the association.

30 (3) The Secretary of State shall implement and maintain
31 an electronic database, organized by association name,
32 accessible by the public through the Secretary of State's
33 website which provides the capability to search and retrieve
34 the documents listed in subdivision (2). Any documents filed
35 with the Secretary of State shall be filed in accordance with
36 Division 4 of Article 3 of Chapter 4, provided such documents
37 filed with the Secretary of State pursuant to this chapter
38 shall not be deemed to provide notice pursuant to Chapter 4.

39 (4) The Secretary of State may adopt rules necessary
40 for the implementation of this section, including reasonable
41 fees for the filing of documents.

42 (c) The organizational documents of a homeowners'
43 association shall provide for all of the following:

44 (1) Methods of efficient communications with the
45 members of the association unless a different method is
46 required by Chapter 3 of Title 10A.

47 (2) Rules and regulations for the conduct of any
48 meetings of the association.

49 (3) The compilation, organization, and maintenance of
50 full and complete financial records of the association
51 available to any member at a reasonable time and place upon
52 the payment of reasonable associated costs.

53 (4) Reasonable rules and regulations for the use,
54 maintenance, repair, replacement, or modification of any
55 common areas, if any, including penalties for violations.

56 (5) Power to grant easements, leases, licenses, and



57 concessions through or over the common areas, if any.

58 (6) Statements regarding the payment of dues and
59 assessments to be provided to any person having an interest,
60 upon the payment of reasonable associated costs.

61 (7) Preparation and submission of the annual budgets of
62 the association to the members.

63 (8) Any other act a nonprofit corporation is required
64 to do under law.

65 (d) In addition to the requirements set forth in
66 subsection (c), the organizational documents of a homeowners'
67 association may provide for the following:

68 (1) Indemnification and insurance for the association,
69 its officers, and directors.

70 (2) Fidelity bonds for any person or entity having
71 custody or control of any funds of the association.

72 (3) Periodic audits of the financial records of the
73 association.

74 (4) Power to acquire real and personal property for the
75 benefit of the association and its members.

76 (5) Power to hire and discharge managing agents and
77 other employees, agents, and independent contractors."

78 Section 2. This act shall become effective on the first
79 day of the third month following its passage and approval by
80 the Governor, or its otherwise becoming law.



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84 President and Presiding Officer of the Senate
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89 Speaker of the House of Representatives
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92 SB98

93 Senate 06-Apr-23

94 I hereby certify that the within Act originated in and passed
95 the Senate.

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97 Patrick Harris,
98 Secretary.
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103 House of Representatives

104 Passed: 02-May-23

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By: Senator Givhan