



HOUSE OF REPRESENTATIVES

H. No. 4428

BY REPRESENTATIVES BIAZON, REYES (E.), DE VENECIA, BADELLES,
ANGARA, SOLIS, ZIALCITA, MACARAMBON, MAGSAYSAY (E.), MARCOS
AND ABAYON, PER COMMITTEE REPORT NO. 888

AN ACT PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS' ASSOCIATIONS

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 SECTION 1. *Title.* – This Act shall be known as the “Magna Carta for
2 Homeowners’ Associations”.

3 SEC. 2. *Declaration of Policy.* – In fulfillment of the constitutional
4 principles directing the State to encourage, promote and respect
5 nongovernmental, community-based and people’s organizations in serving
6 their legitimate collective interests in our participatory democracy, it is hereby
7 declared the policy of the State to recognize and promote the roles of
8 homeowners’ associations in serving the needs and interests of its members
9 and the communities surrounding them, in complementing the efforts of local

1 government units (LGUs) in providing vital and basic services to our citizens
2 and in helping implement local and national government policies, programs,
3 rules and ordinances, and to foster the growth and active participation of
4 homeowners' associations in the development of the nation.

5 SEC. 3. *Definition of Terms.* – For purposes of this Act, the following
6 terms shall mean:

7 (a) "Homeowners' association, residents' association or association"
8 refers to a corporation, unincorporated association or other legal entity, duly
9 registered with the Securities and Exchange Commission (SEC); each member
10 of which is an owner of a residential real property located within the
11 association's territorial jurisdiction, as described in the governing documents,
12 in accordance with its bylaws and, by virtue of membership or ownership of
13 property, is obligated to pay real property taxes, insurance premiums,
14 maintenance costs, etc.

15 (b) "Governing document" refers to articles of incorporation, bylaws,
16 conditions, rules and regulations of the association, or other written instrument
17 by which the association has the authority to exercise any of the powers
18 provided for in this Act.

19 (c) "Board of directors or board" refers to the body with primary
20 authority to manage the affairs of the association.

1 (d) "Residential real property" refers to any real estate property, the use
2 of which is limited by law, to primarily residential purposes.

3 (e) "Common areas" refers to property owned or otherwise maintained,
4 repaired or administered in whole or in part by the association including, but
5 not limited to, roads, parks, playgrounds and open spaces as provided in
6 Presidential Decree No. 1216 or other facilities.

7 (f) "Common expense" refers to costs incurred by the association to
8 exercise any of the powers provided for in this Act.

9 (g) "Subdivision/village" refers to a tract or a parcel of land partitioned
10 primarily for residential purposes into individual lots with or without
11 improvements thereon.

12 (h) "Homeowner" refers to the owner of the lot within a
13 subdivision/village.

14 SEC. 4. *Association Membership and Rights Thereof.* – The
15 membership of the association at all times shall consist exclusively of the
16 owners of all real property over which the association has jurisdiction, both
17 developed and undeveloped, and as prescribed in the association's Articles of
18 *Incorporation and Bylaws.* An owner or purchaser of real property within the
19 jurisdiction of the association automatically becomes a member of the
20 association, with full rights to enjoy and use community services and facilities
21 and to participate and vote and to be eligible to any elective or appointive

1 office of the association during the annual election and to participate in
2 association meetings, elections and referenda as long as his/her bona fide
3 membership subsists.

4 SEC. 5. *Rights and Powers of the Association* – An association has the
5 following rights and may exercise the following powers:

6 (a) Adopt and amend bylaws, rules and regulations subject to existing
7 laws and regulations;

8 (b) Adopt and amend budgets for revenues, expenditures and reserves,
9 and impose and collect membership dues and assessments for common
10 expenses from owners/members;

11 (c) Institute, defend or intervene in litigation or administrative
12 proceedings in its own name on behalf of itself or two or more
13 owners/members on matters affecting the homeowners' association, excluding
14 however disputes that are not the responsibility of the association;

15 (d) Regulate the use, maintenance, repair, replacement and
16 modification of common areas and cause additional improvements to be made
17 as part of the common areas: *Provided*, That the aforementioned do not
18 contradict the provisions of the approved subdivision plan;

19 (e) Regulate access to or passage through the subdivision of persons
20 and vehicles for purposes of preserving privacy, internal security, safety and
21 traffic order: *Provided*, That public consultation and hearings are held and the

1 appropriate memorandum of agreement between and among the parties
2 involved is executed;

3 (f) Hire and discharge or contract managing agents and other
4 employees, agents and independent contractors;

5 (g) Acquire, hold, encumber and convey in its own name any right, title
6 or interest to real or personal property and utilities in accordance with the
7 articles and bylaws of the homeowners' association;

8 (h) At its option, administer and manage the waterworks system of the
9 subdivision, which shall be turned over by the developer upon completion of
10 the subdivision;

11 (i) Grant easements, leases and concessions through or over the open
12 spaces and common areas and give prior consent to any petition for the
13 vacation or temporary closure of streets and alleys;

14 (j) Impose or collect reasonable fees on members and nonmembers
15 who avail of or benefit from the use of open spaces, and the facilities and
16 services of the association, to defray necessary operational expenses, subject to
17 the limitations and conditions imposed under the law, regulations of the board
18 and association's bylaws;

19 (k) Suspend privileges and services to and/or impose sanctions upon
20 its members for violations and/or noncompliance with the association's bylaws,

1 rules and regulations, and upon nonmembers by reason of any act and/or
2 omission prejudicial to the interest of the association and its members;

3 (l) Impose and collect charges for the late payments of assessments
4 and, after notice and an opportunity to be heard by the board of directors and
5 in accordance with the procedures as provided in the bylaws or rules or
6 regulations adopted by the board of directors, levy reasonable fines in
7 accordance with a previously established schedule adopted by the board of
8 directors and furnished to the owners for violation of the bylaws, rules and
9 regulations of the association;

10 (m) Require the prior approval of the majority of its residents in the
11 establishment of certain institutions such as, but not limited to, schools,
12 hospitals, markets, grocery stores and other similar establishments that will
13 necessarily affect the character of the subdivision in terms of traffic to be
14 generated and/or opening the area to outsiders which may result in loss of
15 privacy to its residents;

16 (n) Petition for the creation of a separate barangay, independently or
17 together with neighboring subdivisions, pursuant to its right to self-
18 determination: *Provided*, That all the requirements of the Local Government
19 Code are met, including Article 14(G) of the rules and regulations
20 implementing said Code, notwithstanding, the share of the newly created or
21 converted barangay in the internal revenue allotment shall be taken from the

1 twenty percent (20%) share of barangays, the same to be released one year
2 after such conversion or creation, in accordance with the Code;

3 (o) Exercise any other powers conferred by the bylaws; and

4 (p) Exercise any other powers necessary for the governance and
5 operation of the association.

6 SEC. 6. *Duties and Responsibilities of the Board of Directors/Officers*
7 *of Homeowners' Associations.* – The Board of directors or officers of
8 homeowners' associations have the following duties and responsibilities:

9 (a) To regularly maintain an accounting system and books of accounts
10 in accordance with generally-accepted principles of accounting with
11 nomenclatures conforming to standards formulated and prescribed by the SEC,
12 together with representatives of homeowners' associations. Such books of
13 accounts should be submitted to the SEC at a prescribed date every year;

14 (b) Undergo a free orientation by the SEC or any other competent
15 agency deputized by it on how to conduct meetings, preparation of minutes,
16 handling of accounts, laws and pertinent rules and regulations within thirty
17 (30) days after election or appointment;

18 (c) Discharge the duties and responsibilities provided for in the
19 association's bylaws;

20 (d) Exercise such other powers as may be necessary and proper for the
21 effective enforcement of this Act and to accomplish the purposes for which the

1 association was organized; and to do and perform any and all acts and deeds as
2 are necessary and incidental to the attainment of the purposes of the
3 association.

4 The board of directors shall act in all instances on behalf of the
5 association, except to amend the articles of incorporation, to take any action
6 that requires the vote or approval of the homeowners, to terminate the
7 association, to elect members of the board of directors or to determine the
8 qualifications, powers and duties, or terms of office of the board of directors;
9 but the board of directors may fill vacancies in its membership of the
10 unexpired portion of any term.

11 In the performance of their duties, the officers and members of the
12 board of directors shall exercise the degree of care and loyalty required by
13 such position.

14 SEC. 7. *Association's Bylaws.* – The bylaws of the association shall
15 provide for:

16 (a) The number, qualifications, powers and duties, terms of office and
17 manner of electing and removing the board of directors and officers, and filling
18 vacancies;

19 (b) Election by the board of directors or officers of the association as
20 the bylaws specify;

1 (c) Which, if any, of its powers the board of directors or officers may
2 delegate to other persons or a managing agent;

3 (d) Which of its officers may prepare, execute, certify and record
4 amendments to the governing documents on behalf of the association;

5 (e) The method of amending the bylaws;

6 (f) The list of acts constituting an offense/violation by its officers, and
7 the corresponding penalties to be meted to erring officers; and

8 (g) A list of contributions and fees that may be charged or collected by
9 the association.

10 SEC. 8. *Review of Association's Bylaws.* – A homeowners' association
11 shall, within six months from the effectivity of this Act, conduct a review of its
12 bylaws, draft its own rules of procedure to be incorporated in the bylaws and
13 conduct a plebiscite for the approval of the members of the association. A
14 simple majority shall be used to determine the approval of the bylaws.

15 SEC. 9. *Financial and Other Records.* – A homeowners' association is
16 enjoined to observe the following, with regard to its funds, financial and other
17 records:

18 (a) The association or its managing agent shall keep financial and other
19 records sufficiently detailed to enable the association to fully declare to each
20 member the true statement of its financial status. All financial and other
21 records of the association including, but not limited to, checks, bank records

1 and invoices, in whatever form they are kept, are the property of the
2 association. Each association managing agent shall turn over all original books
3 and records to the association immediately upon termination of the
4 management relationship with the association, or upon such other demand as is
5 made by the board of directors. An association managing agent is entitled to
6 keep association records. All records which the managing agent has turned
7 over to the association shall be made reasonably available for the examination
8 and copying by the managing agent.

9 (b) All financial records of the association, including the names and
10 addresses of the owners and other occupants of the lots, shall be available for
11 examination by all owners, holders of mortgages on the lots and their
12 respective authorized agents on reasonable advance notice during normal
13 working hours at the offices of the association or its managing agent. The
14 association shall not release the unlisted telephone number of any owner.

15 (c) A financial statement of the association shall be prepared annually
16 by an independent certified public accountant and shall, within forty-five (45)
17 days from the close of the accounting period, submit an audited financial
18 statement to the SEC. If the homeowners' association cannot yet afford to
19 retain the services of a certified public accountant as evidenced by its financial
20 statements, the LGU that has jurisdiction over the homeowners' association

1 shall provide the services of a certified public accountant upon the written
2 request of the concerned homeowners' association.

3 (d) The funds of the association shall be kept in accounts in the name
4 of the association and shall not be joined with the funds of any other
5 association or any person responsible for the custody of such funds.

6 SEC. 10. *Relationship with Local Government Units.* – The
7 homeowners' associations may complement, support and strengthen LGUs in
8 providing vital services to its members and helping implement local
9 government policies, programs, ordinances and rules.

10 Homeowners' associations are encouraged to actively cooperate with
11 LGUs in furtherance of their common goals and activities for the benefit of the
12 residents inside and outside of the subdivisions.

13 LGUs shall secure the concurrence of homeowners' associations where
14 proposed rules, zoning and other ordinances, projects and/or programs
15 affecting their jurisdiction and surrounding vicinity are to be implemented,
16 prior to the effectivity or implementation of the same.

17 SEC. 11. *Relationship with National Government Agencies.* – The
18 homeowners' associations shall complement, support and strengthen the efforts
19 of the national government agencies in providing vital services to its members
20 and in helping implement national government policies and programs.

1 Homeowners' associations are encouraged to actively cooperate with
2 national government agencies in the furtherance of their common goals and
3 activities for the benefit of the residents inside and outside of the subdivisions.

4 National government agencies shall secure the concurrence of
5 homeowners' associations where proposed rules, projects and/or programs may
6 affect their welfare.

7 SEC. 12. *Duties and Responsibilities of the Securities and Exchange*
8 *Commission (SEC)*. – In addition to the powers, authorities and responsibilities
9 vested in it by Republic Act No. 8799, the SEC shall:

10 (a) Conduct free orientation for officers of homeowners' associations
11 regularly or deputize another competent agency to conduct the orientation;

12 (b) Prepare a standard copy of articles and bylaws for homeowners'
13 associations;

14 (c) Register all homeowners' associations, federations, confederations
15 or umbrella organizations of homeowners' associations;

16 (d) Exercise the same powers over federations, confederations or
17 umbrella organizations of homeowners' associations;

18 (e) Formulate, together with at least two representatives of
19 homeowners' associations, the standard nomenclatures to be used for the
20 homeowners' associations' books of accounts;

1 (f) Formulate, together with at least two representatives of
2 homeowners' associations, a list of contributions and fees that may be charged
3 or collected by homeowners' associations that will be included in the
4 association's bylaws;

5 (g) Formulate, together with at least two representatives of
6 homeowners' associations, the guidelines in regulating the kinds of
7 contributions and fees that may be charged and/or collected by homeowners'
8 associations other than those provided in the association's bylaws;

9 (h) Act on all complaints filed by homeowners' associations, all of
10 which shall be treated as administrative in nature; and

11 (i) Act on all complaints filed against homeowners' associations, all of
12 which shall be treated as administrative in nature.

13 SEC. 13. *Additional Positions and Personnel for the SEC* – For
14 purposes of this Act, the SEC shall, upon its discretion, create positions and
15 enlist additional personnel to carry out its mandate.

16 SEC. 14. *Penal Provision*. – Any person who violates the provisions of
17 this Act shall be punished with a fine of not less than Five thousand pesos
18 (P5,000.00) and/or permanent disqualification from being elected or appointed
19 as member of the board of directors, officer or staff in the association.

1 SEC. 15. *Separability Clause.* – If any provision of this Act is declared
2 invalid or unconstitutional, the remainder of the Act shall remain valid and
3 subsisting.

4 SEC. 16. *Repealing Clause.* – All other issuances, laws, decrees,
5 orders, rules and regulations, or parts thereof inconsistent with this Act are
6 hereby repealed or modified accordingly.

7 SEC. 17. *Implementing Rules and Regulations.* – The Housing and
8 Urban Development Coordinating Council (HUDCC), the Department of the
9 Interior and Local Government (DILG) and the SEC shall formulate and
10 promulgate the rules and regulations necessary to implement the provisions of
11 this Act within six months of its effectivity.

12 SEC. 18. *Effectivity.* – This Act shall take effect fifteen (15) days
13 following its publication in the *Official Gazette* or in at least two newspapers
14 of general circulation.

Approved,

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