


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUN 30 P 3:09

SENATE
S. B. No. 182

RECEIVED BY: 

Introduced by **Senator Biazon**

EXPLANATORY NOTE

The role of people's organizations in nation-building was recognized with the approval of the 1987 Constitution. Section 15, Article XIII provides:

"The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means."

Aside from Section 15, Article XIII, two other sections of the present constitution – Section 23, Article II and Section 16 also of Article XIII – make reference to people's organizations. Indeed, after the approval of the 1987 Constitution, people's organizations flourished and up to this day, continue to flourish.


The passage into law of the Local Government Code further recognized, emphasized and pushed into the rubric of the nation's consciousness, the significant role of people's organizations in the task of governance and uplifting the quality of life of our people. Sections 34 to 36 of the Code specifically provide for these.

A homeowners' association is one such type of people's organization that is being referred to in the provisions of the Constitution and those in the Local Government Code. In communities where there are homeowners' associations, whenever a problem comes up, such is usually tried to be resolved by these organizations before it is referred to the Barangay. Problems ranging from simple misunderstandings or petty quarrels among neighbors and up to the more complex ones such as providing basic services to the people in terms of water, garbage collection and security (peace and order), are usually taken cared of by homeowners' associations.

Homeowners' associations are not just instruments that embody the will of our people to help themselves with whatever resources they can muster. These organizations are also manifestations of the stark reality of the dearth of government resources in providing our people with badly needed basic services. It is but logical that government should provide an environment that would further allow the growth and development of such types of organizations. By doing so, we are also empowering our people.

As an organization that is rooted in the places of abode of people, homeowners' associations need to be supported and enhanced. These organizations when properly harnessed can be a potent force in trying to shape the future of this nation and its people.

It is for the foregoing that passage of this bill is earnestly sought.



RODOLFO G. BIAZON
Senator

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SENATE

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RECEIVED BY: [Signature]

Introduced by **Senator Biazon**

AN ACT
GRANTING THE MAGNA CARTA FOR HOMEOWNERS' ASSOCIATIONS AND FOR
OTHER PURPOSES

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

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

3 **SEC. 2.** *Declaration of Policy.* – It is hereby declared the policy of the State to
4 recognize and promote the roles of Homeowners’ Associations, in serving the needs and interests
5 of its members and the communities surrounding them, in complementing the efforts of local
6 government units, in providing vital and basic services to our citizens, and in helping implement
7 local and national government policies, programs, rules and ordinances; and to foster the growth
8 and active participation of homeowners’ associations in the development of the nation.

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

10 (1) *Board of Directors* herein referred to as the Board is the body with primary authority
11 to manage the affairs of the Association.

12 (2) *Common Area* is a property owned, or otherwise maintained, repaired or administered
13 in whole or in part by the Association, including but shall not be limited to roads, parks,
14 playgrounds, or other facilities.

15 (3) *Common Expenses* are costs incurred by the Association in the exercise of its powers
16 as provided for in this Act.

17 (4) *Economic Housing* refers to a type of housing project provided to moderately low-
18 income families with lower interest rates and longer amortization periods.

1 (5) *Governing Documents* are articles of incorporation, by-laws, conditions, rules and
2 regulations of the Association, or other written instruments that the Association has the authority
3 to exercise powers on as provided for in this Act.

4 (6) *Homeowner* is an owner of a lot within a subdivision/village or is an awardee or
5 beneficiary of a unit, house and/or lot in a government socialized or economic housing project,
6 who shall have the right to enjoy and use community services and facilities and to participate and
7 vote and be elected in Association meetings, elections and referenda.

8 (7) *Homeowners' Association* herein referred to as the Association is a non-stock, non-
9 profit corporation organized by owners of a residential real property located within the
10 Association's jurisdiction or an association of awardees or beneficiaries of a unit, house and/or
11 lot in a government socialized or economic housing project and wherein said owners or
12 awardees/beneficiaries, by virtue of membership or ownership of property, are obligated to pay
13 real property taxes, insurance premiums, maintenance costs, and such other necessary fees.

14 (7) *Residential Real Property* is any real property, the use of which is limited by law, to
15 primarily residential or recreational purposes.

16 (8) *Socialized Housing* refers to housing programs and projects covering houses and lots
17 or home lots only undertaken by the Government or the private sector for the underprivileged
18 and homeless citizens which shall include sites and services development, long-term financing,
19 liberalized terms on interest payments, and such other benefits in accordance with the provisions
20 of the UDHA.

21 (9) *Subdivision/Village* is a tract or a parcel of land partitioned into individual lots with
22 or without improvements thereon, primarily for residential purposes.

23 **SEC. 4. Association Membership and Rights Thereof.** – The membership of the
24 Association at all times shall consist exclusively of the owners or awardees/beneficiaries of all
25 real property over which the Association has jurisdiction, both developed and undeveloped and
26 as prescribed in the Association's articles of incorporation and by-laws. An owner or purchaser
27 of real property in a village/subdivision or awardee/beneficiary of a unit, house and/or lot in a
28 government socialized or economic housing project, or his/her duly authorized representative
29 within the jurisdiction of the Association, automatically becomes a member of the Association,

1 with full rights to enjoy and use community services and facilities and to participate and vote and
2 to be eligible to any elective or appointive office of the Association during the annual election
3 and to participate in Association meetings, elections and referenda as long as his/her bona fide
4 membership subsists.

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

7 (1) Adopt and amend by-laws, rules and regulations, subject to existing laws and
8 regulations;

9 (2) Adopt and amend budgets for revenues, expenditures and reserves;

10 (3) Subject to consultation, impose and collect assessments for common expenses from
11 owners;

12 (4) In behalf of its members, institute, defend, or intervene in litigation or
13 administrative proceedings affecting the welfare of the Association;

14 (5) Have the right of first refusal to accept donations of the common areas and upon the
15 turn over and donation to the Association, repair or rehabilitate, maintain and regulate the use of
16 the same and cause additional improvements thereon, or may donate the same to the local
17 government units;

18 (7) Hire, discharge or contract with managing agents and other employees, agents and
19 independent contractors;

20 (8) Acquire, hold, encumber and convey in its own name any right, title or interest to
21 real or personal property, and utilities;

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

24 (11) Impose and collect any reasonable payments, fees, or charges for the use, rental or
25 operation of the common areas;

26 (12) Impose and collect reasonable charges for assessments and, after notice and an
27 opportunity to be heard by the Board and in accordance with the procedures as provided in the
28 by-laws, rules and regulations adopted by the said Board, levy reasonable fines for late payments

1 in accordance with a previously established schedule adopted by the Board and furnished to the
2 owners for violation of the by-laws, rules, and regulations of the Association;

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

8 (15) Petition for the creation of a separate barangay, independently or together with
9 neighboring subdivisions, provided, that all the requirements of the Local Government Code are
10 met;

11 (16) Exercise any other powers conferred by its by-laws; and

12 (17) Exercise any other powers necessary for the governance and operation of the
13 Association.

14 **SEC. 6. *Duties and Responsibilities of the Board or Officers of the Associations.*** – The
15 Board or officers of the Associations have the following duties and responsibilities:

16 (1) Maintain an accounting system using generally accepted accounting principles.
17 Such books of accounts shall be opened for inspection to any member and duly authorized
18 representatives of government agencies, upon request, during reasonable hours on business days;

19 (2) Undergo a free orientation by the HLURB on how to conduct meetings, preparation
20 of minutes, handling of accounts, laws and pertinent rules and regulations, within thirty (30) days
21 after election or appointment;

22 (3) Discharge the duties and responsibilities provided for in the Association's by-laws;

23 (4) To exercise such other powers as may be necessary and proper for the effective
24 enforcement of this Act and to accomplish the purposes for which the Association was
25 organized; and

26 (5) To perform any and all acts necessary and incidental to the attainment of the
27 purposes of the Association.

1 The Board shall act in all instances on behalf of the Association. In the performance of
2 their duties, the officers and members of the Board shall exercise the degree of care and loyalty
3 required by such position.

4 **SEC. 7. Association By-Laws.** – The by-laws of the Association shall provide for:

5 (1) The qualifications for admission to membership and the payment to be made or
6 interest to be acquired as a condition for the exercise of the right of membership;

7 (2) The rights, duties and obligations of membership;

8 (3) The circumstances under which membership is acquired, maintained and lost;

9 (4) The procedure to be followed in case of termination of membership;

10 (5) The rules and procedures on the agenda, time, place and manner of calling,
11 convening, conducting meetings quorum requirements, voting systems, and other matters relative
12 to the affairs of the general assembly, Directors, officers, and committees;

13 (6) The manner in which Association funds may be raised and the purposes for which it
14 can be utilized;

15 (7) The method of adopting, amending, repealing and abrogating the by-laws;

16 (8) A conciliation or mediation mechanism for the amicable settlement of disputes
17 among members, directors, officers and committee members of the Association, including inter-
18 Association disputes;

19 (9) The list of acts constituting an offense/violation by its officers and corresponding
20 penalties to be meted to erring officers;

21 (10) The Association to conduct a review of its by-laws, draft its own rules of procedure
22 to be incorporated in the said by-laws and obtain thereof by approval of a simple majority of its
23 members, within six (6) months from the effectivity of this Act; and

24 (11) Other necessary information that is deemed necessary in the furtherance of the
25 interests of the association.

26 **SEC. 8. Financial and Other Records.** – The Associations are enjoined to observe the
27 following, with regard to its funds, financial and other records:

28 (1) The Association shall keep financial and other records sufficiently detailed to
29 enable the said Association to fully declare to each member the true statement of its financial

1 status. All original copies of financial and other records of the association, including but not
2 limited to checks, bank records, and invoices, in whatever form they are kept, are the properties
3 of the Association and shall be kept in the Association office.

4 (2) All records of the Association, including the names and addresses of owners and
5 other occupants of the lots, shall be available for examination by all owners, holders of
6 mortgages on the lots, and their respective authorized agents on reasonable advance notice
7 during normal working hours at the office of the Association.

8 (3) A financial statement of the Association shall be prepared annually by an
9 independent certified public accountant.

10 (4) The funds of the Association shall be kept in accounts in the name of the
11 Association and shall not be joined with the funds of any other Association, or any person
12 responsible for the custody of such funds.

13 **SEC. 9. Relationship with Local Government Units or LGUs.** – The Associations shall
14 complement, support and strengthen LGUs in providing vital services to its members and helping
15 implement local government policies, programs, ordinances, and rules. .

16 Associations are encouraged to actively cooperate with LGUs in furtherance of their
17 common goals and activities for the benefit of the residents inside and outside of the
18 subdivisions.

19 Where the LGUs lack the resources to provide for basic services, the Associations shall
20 endeavor to tap the means to provide for the same. In recognition of the Associations' efforts to
21 assist the LGUs in its duties, their Association dues and income derived from the rentals of their
22 facilities shall be tax-exempt: *Provided*, That such income and dues will be used for the
23 maintenance of the cleanliness, safety and security of their respective subdivisions/villages.

24 LGUs shall secure the concurrence of Associations where proposed rules, zoning and
25 other ordinances, projects and/or programs affecting their jurisdiction and surrounding vicinity
26 are to be implemented, prior to the effectivity or implementation of the same.

27 **SEC. 10. Relationship with National Government Agencies.** – The Associations shall
28 complement, support and strengthen the efforts of the national government agencies in providing
29 vital services to its members and helping implement national government policies and programs.

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

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

6 **SEC. 11. Duties and Responsibilities of the HLURB.** – In addition to the powers,
7 authorities and responsibilities vested in it by Republic Act No. 8763, Presidential Decree No.
8 92-A, Batas Pambansa Blg. No. 68 and Executive Order No. 535, Series of 1981, as amended,
9 HLURB shall:

10 (1) Conduct free orientation for officers of the Associations regularly;

11 (2) Register all Associations, federations, confederations or umbrella organizations of
12 the Associations;

13 (3) Exercise the same powers over federations, confederations or umbrella
14 organizations of the Associations;

15 (4) Formulate, in consultation with the representatives of Associations, federations,
16 confederations or umbrella organizations of the Associations, standard nomenclatures to be used
17 for the Associations' books of accounts; and

18 (5) Formulate, in consultation with the representatives of Associations, federations,
19 confederations or umbrella organizations of the Associations, the guidelines in regulating the
20 kinds of contributions and fees that may be charged and/or collected by Associations, other than
21 those provided in the Associations' by-laws.

22 **SEC. 12. Penal Provision.** – Any person who violates the provisions of this Act shall be
23 punished with a fine of not less than Five Thousand Pesos (₱5,000.00), permanent
24 disqualification from being elected or appointed as member of the Board, officer or staff in the
25 Association, and/or imprisonment of not less than two (2) months but not more than one (1) year,
26 or all of said penalties, at the discretion of the court.

27 **SEC. 13. Separability Clause.** – If any provision of this Act is declared invalid or
28 unconstitutional, the remainder of the Act shall remain valid and subsisting.

1 **SEC. 14. *Repealing Clause.*** – All other issuances, laws, decrees, orders, rules and
2 regulations, or parts thereof inconsistent with this Act are hereby repealed or modified
3 accordingly.

4 **SEC. 15. *Implementing Rules and Regulations.*** – The Department of the Interior and
5 Local Government, and the HLURB shall formulate and promulgate the rules and regulations
6 necessary to implement the provisions of this Act within six (6) months of its effectivity.

7 No rule or regulation shall be issued that may tend to undermine the organizational and
8 territorial integrity of any Association.

9 **SEC. 16. *Effectivity.*** – This Act shall take effect fifteen (15) days following its
10 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,