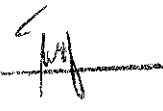


SENATE
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(in substitution of Senate Bill No. 1294)

Prepared jointly by the Committees on Urban Planning, Housing and Resettlement
and on Local Government with Senators Blazon and Lim as authors

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’ Associations.”

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

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

9 (1) *Homeowners’ Association herein referred to as the Association* is a corporation or other legal
10 entity, duly registered with the Housing and Land Use Regulatory Board (HLURB) of a residential real
11 property located within the Association’s jurisdiction, or an Association of awardees or beneficiaries of a
12 unit, house and/or lot in government-assisted housing projects, as described in their governing documents,
13 and by virtue of membership or ownership of property are obligated to pay real property taxes, insurance
14 premiums, maintenance costs, and such other necessary fees.

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

18 (3) *Board of Directors herein referred to as the Board* is the body with primary authority to manage
19 the affairs of the Association.

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

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

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

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

10 (8) *Homeowner* is an owner of a lot within a subdivision/village or is an awardee or beneficiary of a
11 unit, house and/or lot in government-assisted housing projects, who shall have the right to enjoy and use
12 community services and facilities and to participate and vote and be elected in Association meetings,
13 elections and referenda.

14 **SEC. 4. *Association Membership and Rights Thereof.*** – The membership of the Association at all
15 times shall consist exclusively of the owners of all real property over which the Association has jurisdiction,
16 both developed and undeveloped and as prescribed in the Association's articles of incorporation and by-
17 laws. An owner or purchaser of real property or beneficiary of a house and/or lot in government-assisted
18 housing projects or his duly authorized representative within the jurisdiction of the Association automatically
19 becomes a member of the Association, with full rights to enjoy and use community services and facilities
20 and to participate and vote and to be eligible to any elective or appointive office of the Association during
21 the annual election and to participate in Association meetings, elections and referendums as long as
22 his/her bona fide membership subsists.

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

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

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

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

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

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

6 (6) Regulate access to or passage through the subdivision of persons and vehicles for purposes
7 of preserving privacy, internal security, safety and traffic order;

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

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

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

14 (10) Grant easements, leases, licenses, and concessions through or over the common areas
15 within its jurisdiction: *Provided*, That the said grant of easements, leases, licenses, and concessions shall
16 not be applicable to access roads and main interconnecting roads within the subdivision;

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

19 (12) Impose and collect reasonable charges for assessments and, after notice and an opportunity
20 to be heard by the Board and in accordance with the procedures as provided in the by-laws or rules or
21 regulations adopted by the said Board, levy reasonable fines for late payments in accordance with a
22 previously established schedule adopted by the Board and furnished to the owners for violation of the by-
23 laws, rules, and regulations of the Association;

24 (13) Impose height limitations on buildings, edifices, or structures that may be built within the
25 subdivision;

26 (14) Require the prior approval of the majority of its residents, not contrary to law, in the
27 establishment of certain institutions such as, but not limited to, schools, hospitals, markets, grocery stores
28 and other similar establishments that will necessarily affect the character of the subdivision in terms of

1 traffic to be generated, and/or opening the area to outsiders which may result in loss of privacy to its
2 residents;

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

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

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

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

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

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

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

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

18 (5) To do and perform any and all acts and deeds as are necessary and incidental to the
19 attainment of the purposes of the Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) The Association shall keep financial and other records sufficiently detailed to enable the said
20 Association to fully declare to each member the true statement of its financial status. All original copies of
21 financial and other records of the association, including but not limited to checks, bank records, and
22 invoices, in whatever form they are kept, are the properties of the Association and shall be kept in the
23 Association office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved,