

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

8 FEB 12 P2:59

SENATE  
S. No. 2072

RECEIVED BY: 

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

A homeowners' association is a legal entity, usually a non-profit corporation, created to oversee the needs of its member-residents and provide an orderly, safe and peaceful environment consistent with the community's shared values. However, the growing number of residents in certain communities has brought about an increase in disputes, particularly when the association's regulations become a contentious issue among its members. Hence, it becomes necessary to lay down guidelines for the proper creation of homeowners' associations, their powers, the scope of their authority, and their relationship with local government units (LGUs).

This bill seeks to create a Magna Carta for Homeowners' Associations to promote the roles of homeowners' associations in serving the needs and interests of its members and the communities surrounding them, in conjunction with efforts of LGUs in providing vital and basic services to our citizens and in helping implement local and national government policies, programs, rules and ordinances, and to foster the growth and active participation of homeowners' associations in the development of the nation.

  
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT  
2 PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS' ASSOCIATIONS

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

5 SECTION 1. *Title.* – This Act shall be known as the “Magna Carta for Homeowners’  
6 Associations of 2008.”

7 SECTION 2. *Declaration of Policy.* – In fulfillment of the constitutional principles  
8 directing the State to encourage, promote and respect nongovernmental, community-based and  
9 people’s organizations in serving their legitimate collective interests in our participatory  
10 democracy, it is hereby declared the policy of the State to recognize and promote the roles of  
11 homeowners’ associations in serving the needs and interests of its members and the communities  
12 surrounding them, in complementing the efforts of local government units (LGUs) in providing  
13 vital and basic services to our citizens and in helping implement local and national government  
14 policies, programs, rules and ordinances, and to foster the growth and active participation of  
15 homeowners’ associations in the development of the nation.

16 SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms shall  
17 mean:

18 (A) “Homeowners’ association, residents’ association or association” refers to a  
19 corporation, unincorporated association or other legal entity, duly registered with the Securities  
20 and Exchange Commission (SEC); each member of which is an owner of a residential real  
21 property located within the association’s territorial jurisdiction, as described in the governing

1 documents, in accordance with its by-laws and, by virtue of membership or ownership of  
2 property, is obligated to pay real property taxes, insurance premiums, maintenance costs, etc.

3 (B) “Governing document” refers to articles of incorporation, by-laws, conditions, rules  
4 and regulations of the association, or other written instrument by which the association has the  
5 authority to exercise any of the powers provided for in this Act.

6 (C) “Board of directors or board” refers to the body with primary authority to manage the  
7 affairs of the association.

8 (D) “Residential real property” refers to any real estate property, the use of which is  
9 limited by law, to primarily residential purposes.

10 (E) “Common areas” refers to property owned or otherwise maintained, repaired or  
11 administered in whole or in part by the association including, but not limited to, roads, parks,  
12 playgrounds and open spaces as provided in Presidential Decree No. 1216 or other facilities.

13 (F) “Common expense” refers to costs incurred by the association to exercise any of the  
14 powers provided for in this Act.

15 (G) “Subdivision/village” refers to a tract or a parcel of land partitioned primarily for  
16 residential purposes into individual lots with or without improvements thereon.

17 (H) “Homeowner” refers to the owner of the lot within a subdivision/village.

18 SECTION 4. *Association Membership and Rights Thereof.* – The membership of the  
19 association at all times shall consist exclusively of the owners of all real property over which the  
20 association has jurisdiction, both developed and undeveloped, and as prescribed in the  
21 association’s Articles of Incorporation and By-laws. An owner or purchaser of real property  
22 within the jurisdiction of the association automatically becomes a member of the association,  
23 with full rights to enjoy and use community services and facilities and to participate and vote and  
24 to be eligible to any elective or appointive office of the association during the annual election  
25 and to participate in association meetings, elections and referenda as long as his/her bona fide  
26 membership subsists.

27 SECTION 5. *Rights and Powers of the Association.* – An association has the following  
28 rights and may exercise the following powers:

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

3 (B) Adopt and amend budgets for revenues, expenditures and reserves, and impose and  
4 collect membership dues and assessments for common expenses from owners/members;

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

8 (D) Regulate the use, maintenance, repair, replacement and modification of common  
9 areas and cause additional improvements to be made as part of the common areas: *Provided,*  
10 That the aforementioned do not contradict the provisions of the approved subdivision plan;

11 (E) Regulate access to or passage through the subdivision of persons and vehicles for  
12 purposes of preserving privacy, internal security, safety and traffic order: *Provided,* That public  
13 consultation and hearings are held and the appropriate memorandum of agreement between and  
14 among the parties involved is executed;

15 (F) Hire and discharge or contract managing agents and other employees, agents and  
16 independent contractors;

17 (G) Acquire, hold, encumber and convey in its own name any right, title or interest to real  
18 or personal property and utilities in accordance with the articles and by-laws of the homeowners'  
19 association;

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

22 (I) Grant easements, leases and concessions through or over the open spaces and  
23 common areas and give prior consent to any petition for the vacation or temporary closure of  
24 streets and alleys;

25 (J) Impose or collect reasonable fees on members and nonmembers who avail of or  
26 benefit from the use of open spaces, and the facilities and services of the association, to defray  
27 necessary operational expenses, subject to the limitations and conditions imposed under the law,  
28 regulations of the board and association's by-laws;

1 (K) Suspend privileges and services to and/or impose sanctions upon its members for  
2 violations and/or noncompliance with the association's by-laws, rules and regulations, and upon  
3 nonmembers by reason of any act and/or omission prejudicial to the interest of the association  
4 and its members;

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

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

15 (N) Petition for the creation of a separate barangay, independently or together with  
16 neighboring subdivisions, pursuant to its right to self-determination: *Provided*, That all the  
17 requirements of the Local Government Code are met, including Article 14(G) of the rules and  
18 regulations implementing said Code, notwithstanding, the share of the newly created or  
19 converted barangay in the internal revenue allotment shall be taken from the twenty percent  
20 (20%) share of barangays, the same to be released one year after such conversion or creation, in  
21 accordance with the Code;

22 (O) Exercise any other powers conferred by the by-laws; and

23 (P) Exercise any other powers necessary for the governance and operation of the  
24 association.

25 SECTION 6. *Duties and Responsibilities of the Board of Directors/Officers of*  
26 *Homeowners' Associations.* – The Board of directors or officers of homeowners' associations  
27 have the following duties and responsibilities:

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

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

9 (C) Discharge the duties and responsibilities provided for in the association's by-laws;

10 (D) Exercise such other powers as may be necessary and proper for the effective  
11 enforcement of this Act and to accomplish the purposes for which the association was organized;  
12 and to do and perform any and all acts and deeds as are necessary and incidental to the  
13 attainment of the purposes of the association.

14 The board of directors shall act in all instances on behalf of the association, except to  
15 amend the articles of incorporation, to take any action that requires the vote or approval of the  
16 homeowners, to terminate the association, to elect members of the board of directors or to  
17 determine the qualifications, powers and duties, or terms of office of the board of directors; but  
18 the board of directors may fill vacancies in its membership of the unexpired portion of any term.  
19 In the performance of their duties, the officers and members of the board of directors shall  
20 exercise the degree of care and loyalty required by such position.

21 SECTION 7. *Association's By-laws.* – The by-laws of the association shall provide for:

22 (A) The number, qualifications, powers and duties, terms of office and manner of electing  
23 and removing the board of directors and officers, and filling vacancies;

24 (B) Election by the board of directors or officers of the association as the by-laws specify;

25 (C) Which, if any, of its powers the board of directors or officers may delegate to other  
26 persons or a managing agent;

27 (D) Which of its officers may prepare, execute, certify and record amendments to the  
28 governing documents on behalf of the association;

1 (E) The method of amending the by-laws;

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

4 (G) A list of contributions and fees that may be charged or collected by the association.

5 SECTION 8. *Review of Association's By-laws.* -- A homeowners' association shall,  
6 within six (6) months from the effectivity of this Act, conduct a review of its by-laws, draft its  
7 own rules of procedure to be incorporated in the by-laws and conduct a plebiscite for the  
8 approval of the members of the association. A simple majority shall be used to determine the  
9 approval of the by-laws.

10 SECTION 9. *Financial and Other Records.* -- A homeowners' association is enjoined to  
11 observe the following, with regard to its funds, financial and other records:

12 (A) The association or its managing agent shall keep financial and other records  
13 sufficiently detailed to enable the association to fully declare to each member the true statement  
14 of its financial status. All financial and other records of the association including, but not limited  
15 to, checks, bank records and invoices, in whatever form they are kept, are the property of the  
16 association. Each association managing agent shall turn over all original books and records to the  
17 association immediately upon termination of the management relationship with the association,  
18 or upon such other demand as is made by the board of directors. An association managing agent  
19 is entitled to keep association records. All records which the managing agent has turned over to  
20 the association shall be made reasonably available for the examination and copying by the  
21 managing agent.

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

27 (C) A financial statement of the association shall be prepared annually by an independent  
28 certified public accountant and shall, within forty-five (45) days from the close of the accounting

1 period, submit an audited financial statement to the SEC. If the homeowners' association cannot  
2 yet afford to retain the services of a certified public accountant as evidenced by its financial  
3 statements, the LGU that has jurisdiction over the homeowners' association shall provide the  
4 services of a certified public accountant upon the written request of the concerned homeowners'  
5 association.

6 (D) The funds of the association shall be kept in accounts in the name of the association  
7 and shall not be joined with the funds of any other association or any person responsible for the  
8 custody of such funds.

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

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

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

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

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

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



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

4           (A) Conduct free orientation for officers of homeowners' associations regularly or  
5   deputize another competent agency to conduct the orientation;

6           (B) Prepare a standard copy of articles and by-laws for homeowners' associations;

7           (C) Register all homeowners' associations, federations, confederations or umbrella  
8   organizations of homeowners' associations;

9           (D) Exercise the same powers over federations, confederations or umbrella organizations  
10   of homeowners' associations;

11          (E) Formulate, together with at least two representatives of homeowners' associations,  
12   the standard nomenclatures to be used for the homeowners' associations' books of accounts;

13          (F) Formulate, together with at least two representatives of homeowners' associations, a  
14   list of contributions and fees that may be charged or collected by homeowners' associations that  
15   will be included in the association's by-laws;

16          (G) Formulate, together with at least two representatives of homeowners' associations,  
17   the guidelines in regulating the kinds of contributions and fees that may be charged and/or  
18   collected by homeowners' associations other than those provided in the association's by-laws;

19          (H) Act on all complaints filed by homeowners' associations, all of which shall be treated  
20   as administrative in nature; and

21          (I) Act on all complaints filed against homeowners' associations, all of which shall be  
22   treated as administrative in nature.

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

26           SECTION 14. *Penal Provision*. – Any person who violates the provisions of this Act  
27   shall be punished with a fine of not less than Five Thousand Pesos (P5,000.00) and/or permanent

1 disqualification from being elected or appointed as member of the board of directors, officer or  
2 staff in the association.

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

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

8 SECTION 17. *Implementing Rules and Regulations.* – The Housing and Urban  
9 Development Coordinating Council (HUDCC), the Department of the Interior and Local  
10 Government (DILG) and the SEC shall formulate and promulgate the rules and regulations  
11 necessary to implement the provisions of this Act within six (6) months of its effectivity.

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

14 Approved,