

1 HB46
2 158380-4
3 By Representative England
4 RFD: County and Municipal Government
5 First Read: 14-JAN-14
6 PFD: 11/18/2013

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ENROLLED, An Act,

To amend Section 11-52-33, Code of Alabama 1975, relating to municipal subdivision development; to provide that nothing in the section shall impair or limit a valid and enforceable contract for the purchase or sale of any lot in a proposed subdivision within the jurisdiction of a municipal planning commission; and to add a new Section 11-24-2.1 to the Code of Alabama 1975, to allow the county engineer to authorize the developer to secure pre-sale agreements for a proposed subdivision development in the unincorporated areas of the county under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-52-33, Code of Alabama 1975, is hereby amended to read as follows:

"§11-52-33.

"(a) Where the regulation of a subdivision development is the responsibility of the municipal planning commission, if the owner or agent of the owner of any land located within a subdivision conveys, transfers, or sells ~~or agrees to sell or negotiates to sell~~ any land by reference to or exhibition of or by other use of a plat of a subdivision before the plat has been approved by the ~~municipal planning commission~~ appropriate commission, department, or agency of any municipality or county requiring such approval and

1 recorded or filed in the office of the appropriate county
2 probate office, the owner or agent shall forfeit and pay a
3 penalty of one hundred dollars (\$100) for each lot or parcel
4 so transferred ~~or sold or agreed or negotiated to be sold,~~ and
5 the description of the lot or parcel by metes and bounds in
6 the instrument of transfer or other document used in the
7 process of selling or transferring shall not exempt the
8 transaction from the penalties or from the remedies provided
9 in this section.

10 "(b) The ~~municipal corporation~~ municipality ~~or~~
11 ~~county~~ may enjoin the conveyance, transfer, or sale ~~or~~
12 ~~agreement~~ by a civil action for injunction brought in any
13 court of competent jurisdiction or may recover the same
14 penalty provided in this section by a civil action in any
15 court of competent jurisdiction.

16 "(c) Where the county commission is responsible for
17 regulation of subdivision development within the territorial
18 jurisdiction of a municipal planning commission, enforcement
19 of the subdivision regulations of the county shall be as
20 provided in Chapter 24, and any penalties assessed against a
21 developer for failure to comply with the subdivision
22 regulations of the county shall be as provided therein.

23 "(d) Nothing in this section shall impair, impede,
24 or prohibit any person or entity from entering into any
25 otherwise valid and enforceable contract for the purchase or

1 sale of any lot within any proposed subdivision prior to its
2 approval."

3 Section 2. A new Section 11-24-1.1 is added to the
4 Code of Alabama 1975, which reads as follows:

5 §11-24-1.1.

6 (a) Notwithstanding the provisions of Section
7 11-24-2, the developer may obtain authorization from the
8 county engineer to secure pre-sale agreements from prospective
9 buyers of property included in a proposed subdivision
10 development prior to obtaining the permit to develop if the
11 developer establishes to the satisfaction of the county
12 engineer that: (1) the developer has a preliminary plan for
13 the subdivision development that is likely to be approved
14 under the county's subdivision regulations and (2) the
15 developer has explained to the satisfaction of the county
16 engineer the reasons for requesting authorization to secure
17 pre-sale agreements.

18 (b) Upon receiving authorization from the county
19 engineer for the developer to secure pre-sale agreements as
20 provided in subsection (a), the developer shall notify the
21 county engineer in writing when financing has been obtained,
22 and if no such notification is received within six months of
23 the date the authority is granted, the authority shall be
24 revoked by the operation of law and any further efforts on the
25 part of the developer to secure pre-sale agreements shall be a

1 violation of this chapter punishable by fines as set out in
2 Section 11-24-3. The developer may request from the county
3 engineer an extension of the time set forth herein for
4 notification in order to allow the developer additional time
5 to secure pre-sale agreements; provided that no pre-sale
6 agreements may be entered into following the six-month time
7 period until and unless an extension has been granted.

8 (c) Any pre-sale agreements secured by the developer
9 under authority of this section shall clearly state that any
10 final sale of the property shall not take place until and
11 unless the developer has obtained a permit to develop pursuant
12 to the requirements of Section 11-24-2. Any pre-sale
13 agreements executed in violation of this chapter shall be
14 punishable by fines as set out in Section 11-24-3.
15 Additionally, the failure to comply with this section shall
16 result in the county engineer revoking the authority granted
17 to secure pre-sale agreements for the proposed development.

18 (d) The authorization to secure pre-sale agreements
19 from prospective buyers of property included in a proposed
20 subdivision development prior to obtaining the permit to
21 develop as provided in this section shall in no way affect the
22 developer's requirement to comply with the county's
23 subdivision regulations and, in particular, to obtain the
24 permit to develop as provided in Section 11-24-2 prior to the
25 actual sale, offering for sale, transfer, or lease of any lots

1 from the subdivision except as specifically authorized in this
2 section.

3 Section 3. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 13-FEB-14, as amended.

Jeff Woodard
Clerk

Senate	01-APR-14	Amended and Passed
House	01-APR-14	Concurred in Senate Amendment