

**SB344 INTRODUCED**



1 SB344  
2 U5CKGGX-1  
3 By Senator Hovey  
4 RFD: County and Municipal Government  
5 First Read: 25-Apr-24



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SYNOPSIS:

Under existing law, there are various requirements applicable to developments subject to a declaration providing for a homeowners' association. The requirements apply to all homeowners' associations formed on or after January 1, 2016, and those homeowners' associations formed prior to that date which have elected to be governed by those requirements.

This bill would apply the requirements to all homeowners' associations.

Also under existing law, a declaration providing for a development or the governing documents of a homeowners' association may provide for a period during which the declarant will maintain control of the board of directors of the homeowners' association.

This bill would limit this period to the five years following the declarant's first conveyance of a lot in the development.

This bill would also provide minimum thresholds of lot owner representation on the homeowners' association of the respective development following the conveyance of a specified number of lots by the declarant.



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama Homeowners' Association Act; to amend Sections 35-20-3, 35-20-5, and 35-20-7, Code of Alabama 1975, to provide limitations on the period during which a declarant may maintain control of the board of directors of a homeowners' association; to provide certain requirements for the election of lot owners to the board of directors of the respective homeowners' association; and to provide retroactive effect.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 35-20-3, 35-20-5, and 35-20-7, Code of Alabama 1975, are amended to read as follows:

"§35-20-3

(a) This chapter applies to all developments subject to a declaration providing for a homeowners' association recorded in the office of the judge of probate in the county in which the development, or any part thereof, is located ~~on or after January 1, 2016, and any association formed prior to that time, provided the association, by a majority of its members, elects to be governed by this chapter.~~

(b) This chapter does not apply to any of the following:

(1) A development for commercial, industrial, or other



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57 nonresidential use.

58 (2) Any association that is subject to regulation under  
59 Chapters 8 or 8A of this title.

60 (3) A real estate cooperative, time-share development,  
61 or campground."

62 "§35-20-5

63 (a) ~~On or after January 1, 2016, a~~A homeowners'  
64 association created pursuant to a declaration shall be  
65 organized as a nonprofit corporation pursuant to Chapter 3 of  
66 Title 10A, and shall be governed in all respects as a  
67 nonprofit corporation.

68 (b) (1) A homeowners' association, its members, and  
69 directors shall be subject to all of the obligations, duties,  
70 and responsibilities of and shall have all of the rights and  
71 benefits provided in Chapter 3 of Title 10A.

72 (2) In addition or supplemental to any other filing  
73 required in Chapter 3 of Title 10A, a homeowners' association  
74 shall file the following documents with the Secretary of  
75 State:

76 a. Bylaws or other governing documents of the  
77 association.

78 b. The original covenants, conditions, or restrictions  
79 adopted by the association.

80 (3) The Secretary of State shall implement and maintain  
81 an electronic database, organized by association name,  
82 accessible by the public through the Secretary of State's  
83 website which provides the capability to search and retrieve  
84 the documents listed in subdivision (2). Any documents filed



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85 with the Secretary of State shall be filed in accordance with  
86 Division 4 of Article 3 of Chapter 4, provided such documents  
87 filed with the Secretary of State pursuant to this chapter  
88 shall not be deemed to provide notice pursuant to Chapter 4.

89 (4) The Secretary of State may adopt rules necessary  
90 for the implementation of this section, including reasonable  
91 fees for the filing of documents.

92 (c) The organizational documents of a homeowners'  
93 association shall provide for all of the following:

94 (1) Methods of efficient communications with the  
95 members of the association unless a different method is  
96 required by Chapter 3 of Title 10A.

97 (2) Rules and regulations for the conduct of any  
98 meetings of the association.

99 (3) The compilation, organization, and maintenance of  
100 full and complete financial records of the association  
101 available to any member at a reasonable time and place upon  
102 the payment of reasonable associated costs.

103 (4) Reasonable rules and regulations for the use,  
104 maintenance, repair, replacement, or modification of any  
105 common areas, if any, including penalties for violations.

106 (5) Power to grant easements, leases, licenses, and  
107 concessions through or over the common areas, if any.

108 (6) Statements regarding the payment of dues and  
109 assessments to be provided to any person having an interest,  
110 upon the payment of reasonable associated costs.

111 (7) Preparation and submission of the annual budgets of  
112 the association to the members.



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113 (8) Any other act a nonprofit corporation is required  
114 to do under law.

115 (d) In addition to the requirements set forth in  
116 subsection (c), the organizational documents of a homeowners'  
117 association may provide for the following:

118 (1) Indemnification and insurance for the association,  
119 its officers, and directors.

120 (2) Fidelity bonds for any person or entity having  
121 custody or control of any funds of the association.

122 (3) Periodic audits of the financial records of the  
123 association.

124 (4) Power to acquire real and personal property for the  
125 benefit of the association and its members.

126 (5) Power to hire and discharge managing agents and  
127 other employees, agents, and independent contractors."

128 "§35-20-7

129 (a) Subject to subsection (b), a ~~A~~ declaration or the  
130 governing documents of a homeowners' association may provide  
131 for a temporary period ~~in~~during which the declarant will  
132 maintain control of the election of directors and officers of  
133 the association and a right to reasonably alter, amend, or  
134 modify the declaration. The period may not exceed five years  
135 following the conveyance of one lot which may be created, to a  
136 lot owner other than the declarant.

137 (b) (1) Not later than 90 calendar days following the  
138 declarant's conveyance of 50 or more lots to lot owners other  
139 than the declarant in a development, at least one member and  
140 not less than 25 percent of the total membership of the board



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141 of directors of the association shall be elected by lot owners  
142 other than the declarant.

143 (2) Not later than 90 days following the declarant's  
144 conveyance of 100 or more lots to lot owners other than the  
145 declarant in a development, not less than 60 percent of the  
146 members of the board of directors of the association shall be  
147 elected by lot owners other than the declarant."

148 Section 2. This act shall become effective on October  
149 1, 2024.