

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

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Section 11-52-33, Code of Alabama 1975,
9 relating to municipal subdivision development; to provide that
10 nothing in the section shall impair or limit a valid and
11 enforceable contract for the purchase or sale of any lot in a
12 proposed subdivision within the jurisdiction of a municipal
13 planning commission; and to add a new Section 11-24-2.1 to the
14 Code of Alabama 1975, to allow the county engineer to
15 authorize the developer to secure pre-sale agreements for a
16 proposed subdivision development in the unincorporated areas
17 of the county under certain circumstances.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§11-52-33.

22 "(a) Where the regulation of a subdivision
23 development is the responsibility of the municipal planning
24 commission, if the owner or agent of the owner of any land
25 located within a subdivision conveys, transfers, or sells ~~or~~
26 ~~agrees to sell or negotiates to sell~~ any land by reference to
27 or exhibition of or by other use of a plat of a subdivision

1 before the plat has been approved by the ~~municipal planning~~
2 ~~commission~~ appropriate commission, department, or agency of
3 any municipality or county requiring such approval and
4 recorded or filed in the office of the appropriate county
5 probate office, the owner or agent shall forfeit and pay a
6 penalty of one hundred dollars (\$100) for each lot or parcel
7 so transferred ~~or sold or agreed or negotiated to be sold~~, and
8 the description of the lot or parcel by metes and bounds in
9 the instrument of transfer or other document used in the
10 process of selling or transferring shall not exempt the
11 transaction from the penalties or from the remedies provided
12 in this section.

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

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

26 "(d) Nothing in this section shall impair, impede,
27 or prohibit any person or entity from entering into any

1 otherwise valid and enforceable contract for the purchase or
2 sale of any lot within any proposed subdivision prior to its
3 approval."

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

6 §11-24-1.1.

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

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

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

7 (c) Any pre-sale agreements secured by the developer
8 under authority of this section shall clearly state that any
9 final sale of the property shall not take place until and
10 unless the developer has obtained a permit to develop pursuant
11 to the requirements of Section 11-24-2. Any pre-sale
12 agreements executed in violation of this chapter shall be
13 punishable by fines as set out in Section 11-24-3.

14 Additionally, the failure to comply with this section shall
15 result in the county engineer revoking the authority granted
16 to secure pre-sale agreements for the proposed development.

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

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 14-JAN-14

Read for the second time and placed
on the calendar with 1 substitute
and..... 06-FEB-14

Read for the third time and passed
as amended..... 13-FEB-14

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk