

1 SB106  
2 155339-2  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 14-JAN-14  
6 PFD: 01/13/2014

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8 SYNOPSIS: This bill would create the Alabama  
9 Homeowners' Association Act to govern homeowners'  
10 associations responsible for the maintenance of  
11 common areas of a residential development and with  
12 the authority to levy assessments that are  
13 enforceable as liens against real property.

14 This bill would require the declarant of a  
15 real property residential development to disclose  
16 financial and other information relating to the  
17 development to the board of directors of a  
18 homeowners' association.

19 This bill would require a homeowners'  
20 association to maintain detailed records of  
21 receipts and expenditures affecting the operation  
22 and administration of the association, and would  
23 authorize the inspection of these records by  
24 members of the association under certain  
25 conditions.

26 This bill would provide for annual, open  
27 meetings, including special or emergency meetings,

1 by the association and notice to members of future  
2 meetings of the association.

3 This bill would require the board of  
4 directors of a homeowners' association to establish  
5 a reasonable method for lot owners to communicate  
6 among themselves and with the board of directors  
7 regarding any matter concerning the association.

8 This bill would require a homeowners'  
9 association to register annually with the Alabama  
10 Real Estate Commission and would authorize the  
11 commission to develop alternative dispute  
12 resolution programs to address disputes between  
13 associations and lot owners.

14 This bill would authorize a homeowners'  
15 association to adopt and enforce rules regarding  
16 the use of the common areas and any other areas of  
17 responsibility assigned to the association by the  
18 declaration, including the power to assess charges  
19 against any member for any violation of the  
20 declaration or association rules.

21 This bill would authorize a homeowners'  
22 association to initiate a suit in circuit court to  
23 recover assessed charges or to obtain injunctive or  
24 other relief for violations of the declaration or  
25 association rules, or to pursue arbitration of  
26 disputes or other means of alternative dispute

1 resolution, if authorized by the declaration or  
2 bylaws.

3 This bill would provide that an association  
4 will have a lien on every lot for unpaid  
5 assessments levied against that lot provided that  
6 the lien is properly recorded and notice is  
7 afforded to the owner of the lot.

8 This bill would also provide that a judgment  
9 enforcing a lien may include reimbursement for  
10 costs, interest, and reasonable attorney's fees of  
11 the prevailing party.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 Relating to certain homeowners' associations; to  
18 define terms; to require the declarant of a real property  
19 residential development to disclose financial and other  
20 information relating to the development to the board of  
21 directors of a homeowners' association; to require a  
22 homeowners' association to maintain detailed records of  
23 receipts and expenditures affecting the operation and  
24 administration of the association; to provide for the  
25 inspection of records by members under certain conditions; to  
26 provide for open meetings of the association; to provide for  
27 notice of meetings to members of the association; to provide

1 for the recording of meetings; to require an association to  
2 establish reasonable methods of communication between members  
3 and the board of directors; to require registration with the  
4 Alabama Real Estate Commission; to authorize registration  
5 fees; to require the commission to develop alternative dispute  
6 resolution methods to address disputes between associations  
7 and lot owners; to authorize a homeowners' association to  
8 adopt and enforce rules regarding the use of the common areas  
9 and any other areas of responsibility assigned to the  
10 association by the declaration; to authorize the association  
11 to assess charges for certain violations of the declaration  
12 and association rules; to authorize a homeowners' association  
13 to initiate a suit in circuit court to recover assessed  
14 charges or to obtain injunctive or other relief for  
15 violations; to provide for additional alternative dispute  
16 resolution methods; to provide for liens on a lot for unpaid  
17 assessments; and to provide for judgments enforcing liens and  
18 releases for satisfaction of liens.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and may be cited  
21 as the Alabama Homeowners' Association Act.

22 Section 2. For the purposes of this act, the  
23 following terms shall have the following meanings:

24 (1) ASSOCIATION. A homeowners' association.

25 (2) BOARD OF DIRECTORS. The executive body of a  
26 homeowners' association, or a committee which is exercising  
27 the power of the executive body by resolution or bylaw.

1           (3) COMMON AREA. Property within a development which  
2 is owned, leased, or required by the declaration to be  
3 maintained or operated by a homeowners' association for the  
4 use of its members and designated as common area in the  
5 declaration.

6           (4) DECLARANT. The person or entity signing the  
7 declaration and its successors or assigns who may submit  
8 property to a declaration.

9           (5) DECLARATION. Any instrument, however  
10 denominated, recorded in the office of the judge of probate in  
11 the county in which the development or any part thereof is  
12 located which satisfies both of the following:

13           a. Imposes on the association maintenance or  
14 operational responsibilities for the common area.

15           b. Creates the authority in the association to levy  
16 an assessment on lots, the owners or occupants of the lots, or  
17 other entities to provide for maintenance or services for the  
18 benefit of some or all of the lots, the owners or occupants of  
19 the lots, or the common area.

20           "Declaration" includes any amendment or supplement  
21 to the instruments described in this definition. "Declaration"  
22 does not include a declaration of a condominium, real estate  
23 cooperative, time-share project, or campground.

24           (6) DEVELOPMENT. Real property located within this  
25 state subject to a declaration that contains both lots,  
26 primarily designed for residential use or are occupied for  
27 recreational purposes, and common areas with respect to which

1 any person, by virtue of ownership of a lot, is a member of an  
2 association and is obligated to pay assessments provided for  
3 in a declaration.

4 (7) HOMEOWNERS' ASSOCIATION. An incorporated or  
5 unincorporated entity upon which responsibilities are imposed  
6 and to which authority is granted in a declaration.

7 (8) LOT. Any plot or parcel of land designated for  
8 separate ownership or occupancy shown on a recorded  
9 subdivision plat for a development or the boundaries of which  
10 are described in the declaration or in a recorded instrument  
11 referred to or expressly contemplated by the declaration,  
12 other than a common area.

13 Section 3. (a) This act applies to all developments  
14 subject to a declaration, as defined by this act.

15 (b) This act does not apply to either of the  
16 following:

17 (1) A community that is composed of property  
18 primarily intended for commercial, industrial, or other  
19 nonresidential use.

20 (2) Any association that is subject to regulation  
21 under Chapters 8 or 8A, Title 35, Code of Alabama 1975.

22 Section 4. (a) Beginning upon the initial selection  
23 of the board of directors of the association and continuing  
24 thereafter, the declarant shall provide to the board of  
25 directors or its designated agent all of the following:

26 (1) All association books and records held by or  
27 controlled by the declarant, including without limitation,

1 minute books and rules, including all amendments, which may  
2 have been adopted.

3 (2) An accurate and complete statement of receipts  
4 and expenditures from the date of the recording of the  
5 association documents to the end of the regular accounting  
6 period immediately succeeding the first election of the board  
7 of directors by the home owners, not to exceed 60 days after  
8 the date of the election

9 (3) A separate accounting of any dues paid to the  
10 association.

11 (4) The number of lots subject to the declaration.

12 (5) The number of lots that may be subject to the  
13 declaration upon completion of development.

14 (6) A copy of the latest available approved plans  
15 and specifications for all improvements in the project or  
16 as-built plans if available.

17 (7) All association insurance policies which are  
18 currently in force.

19 (8) Written unexpired warranties of the contractors,  
20 subcontractors, suppliers, and manufacturers, if any, relative  
21 to all common area improvements.

22 (9) Any contracts in which the association is a  
23 contracting party.

24 (10) A list of manufacturers of paints, roofing  
25 materials, and other similar materials if specified for use on  
26 the association property.

1           (11) A list of development costs relating to a  
2 common area under the administration of the homeowners'  
3 association.

4           (12) The number of members of the board of directors  
5 and number of directors appointed by the declarant together  
6 with names and contact information of members of the board of  
7 directors.

8           (b) If the association is managed by a common  
9 interest community manager in which the declarant, or its  
10 principals, has no pecuniary interest or management role, the  
11 common interest community manager shall provide the documents  
12 and information required by subdivisions (1), (2), (7), and  
13 (9) of subsection (a).

14           Section 5. (a) The association shall keep detailed  
15 records of receipts and expenditures affecting the operation  
16 and administration of the association. All financial books and  
17 records shall be kept in accordance with generally accepted  
18 accounting practices.

19           (b)(1) Subject to subsections (c) and (e) and  
20 provided that the request is for a proper purpose related to  
21 his or her membership in the association, all books and  
22 records kept by or on behalf of the association shall be  
23 available for examination and copying by a member in good  
24 standing or his or her authorized agent, including, but not  
25 limited to, the association's membership list and addresses,  
26 which may not be used for purposes of pecuniary gain or  
27 commercial solicitation.

1           (2) The right of examination shall exist without  
2 reference to the duration of membership and may be exercised  
3 only during reasonable business hours or at a mutually  
4 convenient time and location and upon five days' written  
5 notice reasonably identifying the purpose for the request and  
6 the specific books and records of the association requested.

7           (c) Except as provided in subsection (e), books and  
8 records kept by or on behalf of an association may be withheld  
9 from inspection and copying to the extent that they concern  
10 any of the following:

11           (1) Personnel matters relating to specific,  
12 identified persons or a person's medical records.

13           (2) Contracts, leases, and other commercial  
14 transactions to purchase or provide goods or services,  
15 currently in or under negotiation.

16           (3) Pending or probable litigation. For the purposes  
17 of this subdivision, "probable litigation" means those  
18 instances where there has been a specific threat of litigation  
19 from a party or the legal counsel of a party.

20           (4) Matters involving state or local judicial,  
21 administrative, or other formal proceedings for enforcement of  
22 the association documents or rules and regulations  
23 promulgated.

24           (5) Communications with legal counsel that relate to  
25 subdivisions (1) through (4) or that are protected by the  
26 attorney-client privilege or the attorney work product  
27 doctrine.

1 (6) Disclosure of information in violation of law.

2 (7) Meeting minutes or other confidential records of  
3 an executive session of the board of directors.

4 (8) Documentation, correspondence, or management or  
5 board reports compiled for or on behalf of the association or  
6 the board by its agents or committees for consideration by the  
7 board in executive session.

8 (9) Individual lot owner or member files, other than  
9 those of the requesting lot owner, including any individual  
10 lot owner's or member's files kept by or on behalf of the  
11 association.

12 (d) Except as provided in subsection (e), prior to  
13 providing copies of any books and records to a member in good  
14 standing under this section, the association may impose and  
15 collect a charge, reflecting the reasonable costs of materials  
16 and labor, not to exceed the actual costs of the production.  
17 Charges may be imposed only in accordance with a cost schedule  
18 adopted by the board of directors. The cost schedule shall  
19 satisfy all of the following:

20 (1) Specify the charges for materials and labor.

21 (2) Apply equally to all members in good standing.

22 (3) Be provided to a requesting member at the time  
23 the request is made.

24 (e) Notwithstanding subsections (c) and (d), all  
25 books and records of the association, including individual  
26 salary information for all employees and payments to  
27 independent contractors, shall be available for examination

1 and copying upon request by a member of the board of directors  
2 in the discharge of his or her duties as a director.

3 (f) (1) Meetings of the association shall be held in  
4 accordance with the bylaws at least once each year after the  
5 formation of the association. The bylaws shall specify an  
6 officer or his or her agent who, at least 14 days in advance  
7 of any annual or regularly scheduled meeting, and at least  
8 seven days in advance of any other meeting, shall send to each  
9 member notice of the time, place, and purposes of the meeting.  
10 In the event of cancellation of any annual meeting of the  
11 association at which directors are elected, the seven-day  
12 notice of any subsequent meeting scheduled to elect the  
13 directors shall include a statement that the meeting is  
14 scheduled for the purpose of the election of directors.

15 (2) Notice shall be sent by United States mail to  
16 all members at the address of their respective lots unless the  
17 member has provided to an officer or his or her agent an  
18 address other than the address of the member's lot.  
19 Alternatively, notice may be hand delivered by the officer or  
20 his or her agent, provided the officer or agent certifies in  
21 writing that notice was delivered to the member. Except as  
22 provided in subdivision (7) of subsection (c), draft minutes  
23 of the board of directors shall be open for inspection and  
24 copying within 60 days from the conclusion of the meeting to  
25 which the minutes pertain or when the minutes are distributed  
26 to board members as part of an agenda package for the next  
27 meeting of the board of directors, whichever occurs first.

1           Section 6. (a) All meetings of the board of  
2 directors, including any subcommittee or other committee  
3 thereof, shall be open to all members of record. The board of  
4 directors may not use work sessions or other informal  
5 gatherings of the board of directors to circumvent the open  
6 meeting requirements of this section. Minutes of the meetings  
7 of the board of directors shall be recorded and shall be  
8 available as provided in subsection (b) of Section 5.

9           (b) (1) Notice of the time, date, and place of each  
10 meeting of the board of directors or of any subcommittee or  
11 other committee thereof shall be published where it is  
12 reasonably calculated to be available to a majority of the lot  
13 owners.

14           (2) A lot owner may request to be notified on a  
15 continual basis of any meetings. The request shall be made at  
16 least once a year in writing and include the lot owner's name,  
17 address, zip code, and any e-mail address as appropriate.  
18 Notice of the time, date, and place shall be sent to any lot  
19 owner requesting notice as follows:

20           a. By first-class mail or e-mail for meetings of the  
21 board of directors.

22           b. By e-mail for meetings of any subcommittee or  
23 other committee of the board of directors.

24           (3) Reasonable notice of special or emergency  
25 meetings shall be given contemporaneously with the notice  
26 provided members of the association's board of directors or

1 any subcommittee or other committee thereof conducting the  
2 meeting.

3 (4) Unless otherwise exempt as relating to an  
4 executive session pursuant to subsection (c), at least one  
5 copy of all agenda packets and materials furnished to members  
6 of an association's board of directors or subcommittee or  
7 other committee thereof for a meeting shall be made available  
8 for inspection by the membership of the association at the  
9 same time the documents are furnished to the members of the  
10 board of directors or any subcommittee or committee thereof.

11 (5) Any member may record any portion of an open  
12 meeting. The board of directors or subcommittee or other  
13 committee thereof conducting the meeting may adopt rules  
14 relating to the following:

15 a. Placement and use of equipment necessary for  
16 recording a meeting to prevent interference with the  
17 proceedings.

18 b. Notice by a member recording the meeting that it  
19 is being recorded.

20 (6) If a meeting is conducted by telephone  
21 conference or video conference or similar electronic means, at  
22 least two members of the board of directors shall be  
23 physically present at the meeting place included in the  
24 notice. The audio equipment shall be sufficient for any member  
25 in attendance to hear what is said by any member of the board  
26 of directors participating in the meeting who is not  
27 physically present.

1           (7) Except for the election of officers, voting by  
2 secret or written ballot in an open meeting shall be a  
3 violation of this act.

4           (c) (1) Upon the affirmative vote in an open meeting  
5 to assemble in executive session, the board of directors or  
6 any subcommittee or other committee thereof may convene to  
7 consider any of the following:

8           a. Personnel matters.

9           b. Consultation with legal counsel.

10           c. Contracts, pending or probable litigation, and  
11 matters involving violations of the declaration or rules  
12 adopted for which a member, his or her family members,  
13 tenants, guests, or other invitees are responsible.

14           d. Personal liability of members to the association.

15           (2) The motion to convene in executive session shall  
16 state specifically the purpose for the executive session.  
17 Reference to the motion and the stated purpose for the  
18 executive session shall be included in the minutes. The board  
19 of directors shall restrict the consideration of matters  
20 during the portions of meetings to only those purposes  
21 specifically exempted and stated in the motion. The  
22 requirements of this section shall not require the disclosure  
23 of information in violation of law.

24           (d) Subject to reasonable rules adopted by the board  
25 of directors, the board of directors shall provide a  
26 designated period of time during a meeting to allow members an  
27 opportunity to comment on any matter relating to the

1 association. During a meeting at which the agenda is limited  
2 to specific topics or at a special meeting, the board of  
3 directors may limit the comments of members to the topics  
4 listed on the meeting agenda.

5 Section 7. The board of directors shall establish a  
6 reasonable, effective, and free method, appropriate to the  
7 size and nature of the association, for lot owners to  
8 communicate among themselves and with the board of directors  
9 regarding any matter concerning the association.

10 Section 8. (a) The board of directors shall annually  
11 register with the Alabama Real Estate Commission in a form and  
12 at such time as prescribed by rules adopted by the commission.

13 (b) The Alabama Real Estate Commission shall  
14 maintain a list of homeowners' associations registered in this  
15 state and publish the list on its public website.

16 (c) (1) The Alabama Real Estate Commission may  
17 establish a fee for the registration of a homeowners'  
18 association in an amount to be determined by the commission.

19 (2) All registration fees collected shall be  
20 deposited in the State Treasury to the credit of the Real  
21 Estate Commission Revenue Fund and shall be disbursed by the  
22 state Comptroller on order of the executive director at the  
23 direction of the commission.

24 (d) A registration with the commission shall be  
25 valid for one year. If a board of directors fails to register  
26 in accordance with this section and rules adopted by the  
27 commission, the board may not impose or enforce a lien for

1 assessments under Section 12 or pursue an action under Section  
2 10 or 11. A lien for assessments previously recorded during a  
3 period in which the association was validly registered is not  
4 extinguished by a lapse in the association's registration, but  
5 a pending enforcement proceeding related to the lien is  
6 suspended, and an applicable statute of limitation tolled,  
7 until the association is validly registered pursuant to this  
8 section. An association's registration in compliance with this  
9 section revives a previously suspended right without penalty  
10 to the association.

11 (e) A registration under this section is valid upon  
12 the commission's acceptance of the registration form and  
13 payment of applicable fees.

14 (f) Homeowners' associations formed prior to January  
15 1, 2015, shall register under this section beginning on  
16 January 1, 2015.

17 Section 9. (a) The Alabama Real Estate Commission  
18 may coordinate and assist in the preparation of educational  
19 and reference materials regarding the rights and duties of lot  
20 owners and boards of directors under this act, as well as any  
21 additional information the commission deems appropriate.

22 (b) The commission shall track inquiries and  
23 complaints relating to homeowners' associations and report  
24 annually to the Governor and the Legislature regarding the  
25 number and types of inquiries and complaints received.

26 (c) The commission shall develop an alternative  
27 dispute resolution program to address disputes between

1 homeowners' associations and lot owners. The commission may  
2 charge a fee for participation in the alternative dispute  
3 resolution program, as determined by the commission. Any fee  
4 collected shall be deposited in the State Treasury to the  
5 credit of the Real Estate Commission Revenue Fund and shall be  
6 disbursed by the state Comptroller on order of the executive  
7 director at the direction of the commission.

8 Section 10. (a) Except as otherwise provided in this  
9 act, the board of directors shall have the power to adopt and  
10 enforce rules regarding use of the common areas. Rules may be  
11 adopted by resolution and shall be reasonably published or  
12 distributed throughout the development. A majority of votes  
13 cast, in person or by proxy, at a meeting convened in  
14 accordance with the bylaws and called for that purpose, shall  
15 repeal or amend any rule adopted by the board of directors.  
16 Rules may be enforced by any method normally available to the  
17 owner of private property in this state, including, but not  
18 limited to, application for injunctive relief or damages,  
19 during which the court may award to the association court  
20 costs and reasonable attorney's fees.

21 (b) (1) The board of directors shall have the power,  
22 to the extent the declaration or rules adopted provide, to do  
23 the following:

24 a. To suspend a member's right to use facilities or  
25 services, including utility services, provided directly  
26 through the association for nonpayment of assessments which  
27 are more than 60 days past due, to the extent that access to

1 the lot through the common areas is not precluded and provided  
2 that the suspension will not endanger the health, safety, or  
3 property of any owner, tenant, or occupant.

4 b. Assess penalties against any member for any  
5 violation of the declaration or rules for which the member or  
6 his or her family members, tenants, guests, or other invitees  
7 are responsible.

8 (2) Before any penalty or suspension may be imposed,  
9 a member shall be given an opportunity to be heard and to be  
10 represented by counsel before the board of directors or other  
11 tribunal specified in the documents. Notice of a hearing,  
12 including the penalties or other sanctions that may be  
13 imposed, shall be hand delivered or mailed by registered or  
14 certified mail, return receipt requested, to the member at the  
15 address of record with the association at least 14 days prior  
16 to the hearing. Within seven days of the hearing, the hearing  
17 result shall be hand delivered or mailed by registered or  
18 certified mail, return receipt requested, to the member at the  
19 address of record with the association.

20 (3) The amount of any penalty assessed may not be  
21 limited to the expense or damage to the association caused by  
22 the violation, but may not exceed fifty dollars (\$50) for a  
23 single offense or ten dollars (\$10) per day for any offense of  
24 a continuing nature. The penalty assessed shall be treated as  
25 an assessment against the member's lot for the purposes of  
26 Section 12. However, the total penalty for any offense of a

1 continuing nature shall not be assessed for a period exceeding  
2 90 days.

3 (4) If a suit is filed pursuant to this section or  
4 Section 11, no additional penalty shall accrue after the  
5 filing of the suit. If the court rules in favor of the  
6 association, it shall be entitled to collect the penalty from  
7 the date the action was filed as well as all other penalties  
8 assessed pursuant to this section against the lot owner prior  
9 to the action. In addition, if the court finds that the  
10 violation remains uncorrected, the court may order the lot  
11 owner to abate or remedy the violation.

12 Section 11. (a) Every lot owner and all those  
13 entitled to occupy a lot shall comply with this act and the  
14 declaration. Any lack of compliance shall be grounds for an  
15 action or suit by the association, its board of directors or  
16 managing agent, or one or more aggrieved lot owners, to  
17 recover sums due, for damages or injunctive relief, or for any  
18 other remedy available at law or in equity. Except as provided  
19 in subsection (b), the prevailing party shall be entitled to  
20 recover reasonable attorney's fees, court costs, and interest  
21 on the judgment.

22 (b) In actions against a lot owner for nonpayment of  
23 assessments in which the lot owner has failed to pay  
24 assessments levied by the association on more than one lot or  
25 the lot owner has had legal action taken against him or her  
26 for nonpayment of any prior assessment and the prevailing  
27 party is the association or its board of directors or any

1 managing agent on behalf of the association, the prevailing  
2 party shall be awarded reasonable attorney's fees, costs  
3 expended in the matter, and interest on the judgment as  
4 provided in subsection (a), even if the proceeding is settled  
5 prior to judgment. The delinquent owner shall be personally  
6 responsible for reasonable attorney's fees and costs expended  
7 in the matter by the association, whether any judicial  
8 proceedings are filed.

9 (c) A declaration may provide for arbitration of  
10 disputes or other means of alternative dispute resolution,  
11 including any alternative dispute resolution program provided  
12 by the Alabama Real Estate Commission. Any arbitration held in  
13 accordance with this subsection shall be consistent with this  
14 act and state law. The place of any arbitration or alternative  
15 dispute resolution shall be in the county or city in which the  
16 development is located, or as mutually agreed to by the  
17 parties.

18 Section 12. (a) (1) Once perfected, the association  
19 shall have a lien on every lot for unpaid assessments levied  
20 against that lot in accordance with this act and the  
21 declaration. The lien shall be prior to all other subsequent  
22 liens and encumbrances, except any of the following:

23 a. Real estate tax liens on that lot.

24 b. Liens and encumbrances recorded prior to the  
25 recordation of the declaration.

26 c. Sums unpaid on and owing under any mortgage or  
27 deed of trust recorded prior to the perfection of the lien.

1                   (2) This subsection shall not affect the priority of  
2 mechanics' liens.

3                   (b) (1) In order to perfect a lien under this  
4 section, the association shall file a notice of lien, verified  
5 by the oath of the principal officer of the association, in  
6 the office of the judge of probate in the county in which the  
7 development is located. The notice of lien shall be filed  
8 before the expiration of 12 months from the time the first  
9 assessment became due and payable and shall contain all of the  
10 following information:

11                   a. The name of the development.

12                   b. A description of the lot.

13                   c. The names of the owners of the lot.

14                   d. The amount of unpaid assessments currently due or  
15 past due relative to the lot together with the date when each  
16 were due.

17                   e. The date of issuance of the notice of lien.

18                   f. The name of the association and the name and  
19 current address of the person to contact to arrange for  
20 payment or release of the lien.

21                   g. A statement that the association is obtaining a  
22 lien in accordance with the Alabama Homeowners' Association  
23 Act.

24                   (2) The office of the judge of probate in which the  
25 notice of lien is filed shall record and index the lien, in  
26 the names of the persons identified therein as well as in the  
27 name of the association. The cost of recording and releasing

1 the lien shall be taxed against the person found liable in any  
2 judgment or decree enforcing the lien.

3 (c) Prior to filing the notice of lien, the  
4 association shall send a written notice by certified mail to  
5 the property owner at the property owner's last known address,  
6 informing the property owner that a notice of lien will be  
7 filed in the office of the judge of probate. The notice shall  
8 be sent at least 10 days before the actual filing date of the  
9 notice of lien.

10 (d) (1) An association may bring suit to enforce a  
11 lien in the circuit court in the county where the development  
12 is located by filing a verified complaint and sworn affidavit  
13 that the notice of lien has been recorded in compliance with  
14 this section. The summons and complaint, and all other  
15 particulars of suit, shall be made in accordance with the  
16 Alabama Rules of Civil Procedure. All liens claimed under this  
17 section shall be foreclosed as provided for by law.

18 (2) A judgment enforcing a lien under this section  
19 may include reimbursement for costs and reasonable attorney's  
20 fees of the prevailing party. If the association prevails, it  
21 may also recover interest on the amount secured by the lien.

22 (3) Upon full payment of all sums secured by the  
23 lien, the party making payment shall be entitled to a  
24 recordable satisfaction of lien.

25 (4) An action to recover a money judgment for unpaid  
26 assessments may be maintained without waiving the lien  
27 securing the same.

1                   Section 13. Except as provided in Section 8, this  
2                   act does not apply to a homeowners' association created prior  
3                   to the effective date of this act.

4                   Section 14. This act shall become effective on  
5                   January 1, 2015, or its otherwise becoming law.