

**SB98 ENROLLED**



1 U8R8XG-2  
2 By Senator Givhan  
3 RFD: Fiscal Responsibility and Economic Development  
4 First Read: 21-Mar-23  
5  
6 2023 Regular Session



## SB98 Enrolled

1 Enrolled, An Act,

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4 Relating to nonprofit homeowners' associations;  
5 amending Section 35-20-5, Code of Alabama 1975, to remove the  
6 requirement that certain duplicative filings shall be  
7 submitted to the Secretary of State.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 35-20-5, Code of Alabama 1975, is  
10 amended to read as follows:

11 "§35-20-5

12 (a) On or after January 1, 2016, a homeowners'  
13 association created pursuant to a declaration shall be  
14 organized as a nonprofit corporation pursuant to Chapter 3 of  
15 Title 10A, and shall be governed in all respects as a  
16 nonprofit corporation.

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

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

25 ~~a. Articles of incorporation.~~

26 ~~b.a.~~ b.a. Bylaws, ~~resolutions~~, or other governing documents  
27 of the association.

28 ~~e.b.~~ e.b. The original covenants, conditions, or



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29 restrictions adopted by the association.

30 (3) The Secretary of State shall implement and maintain  
31 an electronic database, organized by association name,  
32 accessible by the public through the Secretary of State's  
33 website which provides the capability to search and retrieve  
34 the documents listed in subdivision (2). Any documents filed  
35 with the Secretary of State shall be filed in accordance with  
36 Division 4 of Article 3 of Chapter 4, provided such documents  
37 filed with the Secretary of State pursuant to this chapter  
38 shall not be deemed to provide notice pursuant to Chapter 4.

39 (4) The Secretary of State may adopt rules necessary  
40 for the implementation of this section, including reasonable  
41 fees for the filing of documents.

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

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

47 (2) Rules and regulations for the conduct of any  
48 meetings of the association.

49 (3) The compilation, organization, and maintenance of  
50 full and complete financial records of the association  
51 available to any member at a reasonable time and place upon  
52 the payment of reasonable associated costs.

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

56 (5) Power to grant easements, leases, licenses, and



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57 concessions through or over the common areas, if any.

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

61 (7) Preparation and submission of the annual budgets of  
62 the association to the members.

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

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

68 (1) Indemnification and insurance for the association,  
69 its officers, and directors.

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

72 (3) Periodic audits of the financial records of the  
73 association.

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

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

78 Section 2. This act shall become effective on the first  
79 day of the third month following its passage and approval by  
80 the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB98  
Senate 06-Apr-23  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 02-May-23

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By: Senator Givhan