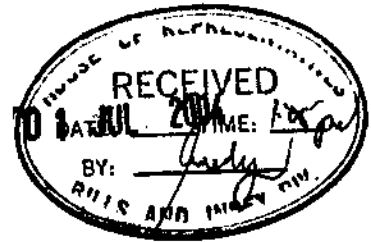


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 227



Introduced by Hon. Rozzano Rufino B. Biazon

EXPLANATORY NOTE

The rise of civil society and people's organizations has never been more apparent than in recent times, when power was wrested from a popularly elected president, after widely perceived acts of corruption moved Filipinos in collective spirit. People demonstrated that they would not put up with more flagrant, unconscionable acts that relegated their welfare to the backseat.

It is indeed about time that people's organizations, non-governmental organizations, civil society groups, and other similar cause-oriented groups are recognized for their untiring efforts in uplifting the plight of the Filipino.

Homeowners' associations are part of these people's organizations that aim to improve, in their own little ways, the quality of life of Filipino citizens, albeit such may be limited to their respective memberships. Though often perceived to be passive, homeowners' associations are actually a potent force in defining and shaping our culture.

The importance to constitutional democracy of people's organizations, such as homeowners' associations, is recognized in at least three provisions in the 1987 Constitution:

In Article II – Declaration of Principles: "Sec. 23. The State shall encourage non-governmental, community-based organizations that promote the welfare of the nation;" and

In Article XIII – Social Justice and Human Right – Role and Rights of People's Organizations: "Sec. 15. The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means;"

And in Sec. 16 of the same Article: "The right of people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged."

The Local Government Code gives flesh to these enunciations in Chapter 4 thereof:

"Sec. 34. *Role of People's and Nongovernmental Organizations.* – Local government units shall promote the establishment and operation of people's and nongovernmental organizations to become active partners in the pursuit of local autonomy.

Sec. 35. *Linkages with People's and Nongovernmental Organizations.* – Local government units may enter into joint ventures and such other cooperative arrangements with people's and nongovernmental organizations to engage in the delivery of certain basic services, capability building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

Sec. 36. *Assistance to People's and Nongovernmental Organizations.* – A local government unit may through its local chief executive and with the concurrence of the sanggunian concerned, provide assistance, financial or otherwise, to such people's and nongovernmental organizations for economic, socially-oriented, or cultural projects to be implemented within its territorial jurisdiction.”

The law clearly empowers people's organizations so that the people may be able to help themselves. In situations where the local government lacks the resources to provide for basic services, it is incumbent upon the residents themselves to find the means to provide for them. In this not uncommon scenario, local government units must be responsive by providing the support necessary to facilitate their attainment. If financial assistance cannot be extended, LGUs are encouraged to exercise their authority to grant tax exemption privileges as stated in Sec. 192 of the Code: “Local government units may, through ordinances duly approved, grant tax exemptions, incentives or reliefs under such terms and conditions as they may deem necessary.” It is envisioned that fund-raising initiatives of homeowners' associations that will be spent for various community services, which should have otherwise been shouldered by the government, shall be exempted from payment of tax.

In summary, this bill aims to promote, support and enhance the important roles of homeowners' associations in society and the nation and the economy, and vis-à-vis the State. Specifically, this bill will try to remove ambiguities concerning the role, rights and powers of homeowners' associations by defining and delimiting the same. It will also define the relationship between members and officers of homeowners' associations, and the relationship between homeowners' associations and local government units, as well as between homeowners' associations and concerned national agencies.

It is hoped that this bill will answer the clamor of many residents' associations for a measure that will bring peace of mind and better quality of life, not only for its members but also for the general populace.

In view of the foregoing premises, passage of this bill is earnestly sought.


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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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AN ACT
GRANTING THE MAGNA CARTA FOR HOMEOWNERS' ASSOCIATIONS,
AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title. – This Act shall be known as the “Magna Carta for Homeowners’ Associations.”

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State to recognize and promote the roles of homeowners’ associations, in serving the needs and interests of its members and the communities surrounding them, in complementing the efforts of local government units in providing vital and basic services to our citizens, and in helping implement local and national government policies, programs, rules and ordinances; and to foster the growth and active participation of homeowners’ associations in the development of the nation.

SECTION 3. Definition of Terms. – For purposes of this Act, the following terms shall mean:

(1) Homeowners’ association, residents’ association, or association – a corporation, unincorporated association, or other legal entity, duly registered with the Housing and Land Use Regulatory Board (HLURB), each member of which is an owner of a residential real property located within the association’s jurisdiction, as described in the governing documents, and by virtue of membership or ownership of property is obligated to pay real property taxes, insurance premiums, maintenance costs, etc.

(2) Governing documents – articles of incorporation, bylaws, conditions, rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in this Act.

(3) Board of directors or board – the body with primary authority to manage the affairs of the association.

(4) Residential real property – any real property, the use of which is limited by law, to primarily residential or recreational purposes.

(5) Common areas – property owned, or otherwise maintained, repaired or administered in whole or in part by the association, including but not limited to roads, parks, playgrounds, or other facilities.

(6) Common expense – costs incurred by the association to exercise any of the powers provided for in this Act.

(7) Subdivision/Village – a tract or a parcel of land partitioned primarily for residential purposes, into individual lots with or without improvements thereon.

(8) Homeowner – the owner of the lot within a subdivision/village.

SECTION 5. Association Membership. – The membership of the association at all times shall consist exclusively of the owners of all real property over which the association has jurisdiction, both developed and undeveloped. An owner or purchaser of real property within the jurisdiction of the association automatically becomes a member of the association, with full rights to enjoy and use community services and facilities and to participate and vote in association meetings, elections and referendums as long as his/her bona fide membership subsists.

SECTION 6. Rights and Powers of the Association. – An association has the following rights and may exercise the following powers:

(1) Adopt and amend bylaws, rules and regulations;

(2) Adopt and amend budgets for revenues, expenditures and reserves, and impose and collect assessments for common expenses from owners;

(3) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more owners on matters affecting the homeowners' association, but not on behalf of owners involved in disputes that are not the responsibility of the association;

(4) Regulate the use, maintenance, repair, replacement and modification of common areas and cause additional improvements to be made as part of the common areas;

(5) Regulate access to or passage through the subdivision of persons and vehicles for purposes of preserving privacy, internal security, safety and traffic order;

(6) Hire and discharge or contract with managing agents and other employees, agents and independent contractors;

(7) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, and utilities;

(8) Administer and manage the waterworks system of the subdivision, which shall be turned over by the developer upon completion of the subdivision;

(9) Grant easements, leases, licenses, and concessions through or over the common areas and petition for or consent to the vacation of streets and alleys;

(10) Impose and collect any payments, fees, or charges for the use, rental or operation of the common areas;

(11) Impose and collect charges for the late payments of assessments and, after notice and an opportunity to be heard by the board of directors and in accordance with the procedures as provided in the bylaws or rules or regulations adopted by the board of directors, levy reasonable fines in accordance with a previously established schedule adopted by the board of directors and furnished to the owners for violation of the bylaws, rules, and regulations of the association;

(12) Impose height limitations on buildings, edifices, or structures that may be built within the subdivision;

(13) Require the prior approval of the majority of its residents, in the establishment of certain institutions such as, but not limited to, schools, hospitals, markets, grocery stores and other similar establishments that will necessarily affect the character of the subdivision in terms of traffic to be generated, and/or opening the area to outsiders which may result in loss of privacy to its residents;

(14) Petition for the creation of a separate barangay, independently or together with neighboring subdivisions, provided, that all the requirements of the Local Government Code are met;

(15) Exercise any other powers conferred by the bylaws;

(16) Exercise any other powers necessary for the governance and operation of the association.

SECTION 7. Duties and Responsibilities of the Board of Directors/Officers of Homeowners' Associations. – The Board of directors or officers of homeowners' associations have the following duties and responsibilities:

(1) Maintain an accounting system using uniform books of accounts with nomenclatures conforming to standards formulated and prescribed by the HLURB, together with representatives of homeowners' associations. Such books of accounts should be submitted to the HLURB at a prescribed date every year;

(2) Undergo a free orientation by the HLURB on how to conduct meetings, preparation of minutes, handling of accounts, laws and pertinent rules and regulations, within thirty (30) days after election or appointment;

(3) Discharge the duties and responsibilities provided for in the association's bylaws;

(4) To exercise such other powers as may be necessary and proper for the effective enforcement of this Act and to accomplish the purposes for which the association was organized; and to do and perform any and all acts and deeds as are necessary and incidental to the attainment of the purposes of the Association.

The board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors shall exercise the degree of care and loyalty required by such position.

The board shall not act on behalf of the association to amend the articles of incorporation, to take any action that requires the vote or approval of the homeowners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of the board of directors; but the board of directors may fill vacancies in its membership of the unexpired portion of any term.

SECTION 8. Association Bylaws. – The bylaws of the association shall provide for:

- (1) The number, qualifications, powers and duties, terms of office, and manner of electing and removing the board of directors and officers and filling vacancies;
- (2) Election by the board of directors or officers of the association as the bylaws specify;
- (3) Which, if any, of its powers the board of directors or officers may delegate to other persons or a managing agent;
- (4) Which of its officers may prepare, execute, certify and record amendments to the governing documents on behalf of the association;
- (5) The method of amending the bylaws;
- (6) The list of acts constituting an offense/violation by its officers, and corresponding penalties to be meted to erring officers.
- (7) A list of contributions and fees that may be charged or collected by the association.

SECTION 9. Financial and Other Records. – The homeowners' associations are enjoined to observe the following, with regard to its funds, financial and other records:

(1) The association or its managing agent shall keep financial and other records sufficiently detailed to enable the association to fully declare to each member the true statement of its financial status. All financial and other records of the association, including but not limited to checks, bank records, and invoices, in whatever form they are kept, are the property of the association. Each association managing agent shall turn over all original books and records to the association immediately upon termination of the management relationship with the association, or upon such other demand as is made by the board of director. An association managing agent is entitled to keep association records. All records which the managing agent has turned over to the association shall be made reasonably available for the examination and copying by the managing agent.

(2) All records of the association, including the names and addresses of owners and other occupants of the lots, shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent. The association shall not release the unlisted telephone number of any owner.

(3) A financial statement of the association shall be prepared annually by an independent certified public accountant and submitted to the HLURB.

(4) The funds of the association shall be kept in accounts in the name of the association and shall not be joined with the funds of any other association, or any person responsible for the custody of such funds.

SECTION 10. Relationship with Local Government Units. – The homeowners' associations shall complement, support and strengthen local government units in providing vital services to its members and helping implement local government policies, programs, ordinances, and rules.

Homeowners' associations are encouraged to actively cooperate with local government units in furtherance of their common goals and activities for the benefit of the residents inside and outside of the subdivisions.

Where the local government units lack the resources to provide for basic services, homeowners' associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the local governments in its duties, their association dues and income derived from the rentals of their facilities shall be tax-exempt, *Provided*, that such income and dues will be used for the maintenance of the cleanliness, safety and security of their respective subdivisions/villages.

Local government units shall secure the concurrence of homeowners' associations where proposed rules, zoning and other ordinances, projects and/or programs affecting their jurisdiction and surrounding vicinity are to be implemented, prior to the effectivity or implementation of the same.

SECTION 11. Relationship with National Government Agencies. – The homeowners' associations shall complement, support and strengthen the efforts of the national government agencies in providing vital services to its members and helping implement national government policies and programs.

Homeowners' associations are encouraged to actively cooperate with national government agencies in the furtherance of their common goals and activities for the benefit of the residents inside and outside of the subdivisions.

National government agencies shall secure the concurrence of homeowners' associations where proposed rules, projects and/or programs may affect their welfare.

SECTION 12. Duties and Responsibilities of the Housing and Land Use Regulatory Board (HLURB). – In addition to the powers, authorities and responsibilities vested in it by Republic Act No. 8763, the HLURB shall:

- (1) Conduct free orientation for officers of homeowners' associations regularly;
- (2) Prepare a standard copy of articles and bylaws for homeowners' associations;
- (3) Register all homeowners' associations, federations, confederations or umbrella organizations of homeowners' associations;
- (4) Exercise the same powers over federations, confederations or umbrella organizations of homeowners' associations;
- (5) Formulate, together with at least two (2) representatives of homeowners' associations, the standard nomenclatures to be used for the homeowners' associations' books of accounts;
- (6) Formulate, together with at least two (2) representatives of homeowners' associations, a list of contributions and fees that may be charged or collected by homeowners' associations that will be included in the association's bylaws;
- (7) Formulate, together with at least two (2) representatives of homeowners' associations, the guidelines in regulating the kinds of contributions and fees that may be charged and/or collected by homeowners' associations, other than those provided in the associations' bylaws.

SECTION 13. Penal Provision. – Any person who violates the provisions of this Act shall be punished with a fine of not less than Five Thousand Pesos (P5,000.00) and/or imprisonment of not less than two (2) months but not more than one (1) year, or both at the discretion of the court.

SECTION 14. Separability Clause. – If any provision of this Act is declared invalid or unconstitutional, the remainder of the Act shall remain valid and subsisting.

SECTION 15. Repealing Clause. – All other issuances, laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 16. Implementing Rules and Regulations. – The Department of Interior and Local Government (DILG), and the HLURB shall formulate and promulgate the rules and regulations necessary to implement the provisions of this Act within six (6) months of its effectivity.

SECTION 17. Effectivity. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,