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SENATE

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S. No. **3106**

(In substitution of S. Nos. 182, 1586 and 2072)

Prepared by the Committee on Urban Planning, Housing and Resettlement with Senators Biazon, Zubiri and Santiago as authors

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AN ACT
PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS, AND FOR OTHER
PURPOSES

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

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

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to uphold the constitutional right of the people to form unions, associations or societies, as well as their right not to join such unions, associations or societies, as embodied under Art III, Sec. 8 of the 1987 Constitution. Towards this end, the State recognizes and promotes the rights of homeowners as individuals and as members of the society and shall endeavor to make available resources and assistance that will help them fulfill their roles in serving the needs and interests of their communities to complement the efforts of local government units (LGUs) in providing vital and basic services to the citizens, help implement local and national government policies, programs, rules and ordinances, and, foster the growth and active participation of homeowners in the development of the nation.

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

(1) “Association” refers to the homeowners’ association which is a non-stock, non-profit corporation registered with the Housing and Land Use Regulatory Board (HLURB), or one previously registered with the Home Insurance Guarantee Corp. (now

1 Home Guaranty Corp.) or the Securities and Exchange Commission (SEC), organized
2 by owners or purchasers of a lot in a subdivision/village or other residential real property
3 located within the jurisdiction of the association ; or awardees, beneficiaries, legal
4 occupants and/or lessees of a housing unit and/or lot in a government socialized or
5 economic housing or relocation project and other urban estates; or informal settlers as
6 defined under existing laws in the process of being accredited as beneficiaries or
7 awardees of ownership rights under the Community Mortgage Program (CMP), Land
8 Tenure Assistance (LTA) and other similar programs; wherein said owners, awardees
9 or beneficiaries, by virtue of ownership or some right over the property.

10 (2) "Association member" refers to a homeowner who is a member of the
11 homeowners' association where his/her housing unit or lot is situated.

12 (3) "Board" refers to the Board of Directors or Trustees of an association that
13 exercises, as a collegial body, all the powers, duties, and responsibilities relating to the
14 administration, management, and operation of an association, as defined in this Act
15 and other pertinent laws, rules and regulations;

16 (4) "Common area" refers to the property owned, or otherwise maintained,
17 repaired, administered in whole or in part by an association, including but not limited to
18 parks, playgrounds, clubhouses, multi-purpose halls or other facilities.

19 (5) "Common expenses" refer to the costs incurred by an association in the
20 exercise of its powers as defined in this Act.

21 (6) "Economic housing" refers to a type of housing project with lower interest
22 rates and longer amortization periods, provided to moderately low-income families, as
23 defined under existing laws, rules and regulations.

24 (7) "Homeowner" refers to any of the following:

25 (a) An owner or purchaser of a lot in a subdivision/village within the purview of
26 Presidential Decree (PD) No. 957 and related laws;

27 (b) An awardee, beneficiary, occupant, or lessee of a unit, house and/or lot in a
28 government socialized or economic housing or relocation project and other urban
29 estates; or

30 (c) An informal settler in the process of being accredited as beneficiary or
31 awardee of ownership rights under the CMP, LTA, and other similar programs.

32 (8) "Non-member homeowner" refers to a homeowner who is not a member of
33 the association duly organized in the area where his/her housing unit or lot is situated.

1 (9) "Residential real property" refers to any real property, the use of which is
2 limited by law to primary residential or recreational purposes.

3 (10) "Simple majority" refers to fifty percent (50%) plus one (1) of the total
4 number of association members in good standing.

5 (11) "Socialized housing" refers to housing programs and projects covering
6 houses and lots or home lots only undertaken by the Government or the private sector
7 for the underprivileged and homeless citizens which shall include sites and services
8 development, long-term financing, liberalized terms on interest payments, and other
9 benefits in accordance with the provisions of Republic Act No. (RA) 7279, otherwise
10 known as the Urban Development and Housing Act of 1992 (UDHA).

11 (12) "Subdivision/Village" refers to a tract or parcel of land partitioned into
12 individual lots, with or without improvements thereon, primarily for residential purposes.

13 **SEC. 4. Registration with HLURB.** – An association of homeowners shall
14 register with the HLURB in order to acquire juridical personality.

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16 **CHAPTER II**
17 **HOMEOWNERS**

18 **SEC. 5. Right of A Homeowner Not to Join An Association.** – A homeowner
19 has the right not to join the association where his/her housing unit or lot is situated.
20 However, he/she shall have the right to enjoy such basic services and facilities provided
21 by the association, subject to the payment of necessary fees and other pertinent
22 charges.

23 **SEC. 6. Nature of Membership in Association.** – Membership in an
24 association shall be voluntary, unless:

25 (1) it is required under the deed of restrictions or as annotation on the title of
26 the property;

27 (2) it is stipulated under the contract for the purchase of a lot in the
28 subdivision project; or

29 (3) it is required for an award under a CMP project or a similar tenurial
30 arrangement.

31 **SEC. 7. Rights of a Non-Member Homeowner.** – A non-member homeowner
32 shall have the right:

33 (1) to avail and enjoy basic community services and facilities provided by the
34 association such as, but not limited to the following: security; street and vicinity lights;

1 maintenance, repairs and cleaning of streets; garbage collection and disposal; and
2 other services that redound to the benefit of all residents in the area, subject to the
3 payment of reasonable fees and charges; and

4 (2) to enjoy all other rights as provided for in the association By-Laws.

5 **SEC. 8. Qualification of a Member.** – A homeowner as defined under this Act,
6 shall be qualified to be a member of an association; *Provided, however,* That a lessee
7 shall have the rights of a homeowner as set forth under this Act upon procurement of a
8 written consent or authorization from the owner of the lot or housing unit.

9 Until such consent or authorization is revoked in writing, the owner of the lot or
10 housing unit is deemed to have waived his/her rights enumerated under Sec. 9 of this
11 Act, except sub-section (2) of the same section which can be simultaneously enjoyed
12 by both the owner and the lessee.

13 For purposes of this Act, the lessee authorized in accordance with this section
14 shall be deemed a homeowner with all the rights enumerated in this Act, including the
15 duties and obligations enumerated under Sections 9, 10, and 11 hereof.

16 **SEC. 9. Rights of a Member.** – An association member has full rights:

17 (1) to avail of and enjoy community services and the use of common areas
18 and facilities;

19 (2) to inspect association books and records during office hours and to be
20 provided upon request with annual reports, including financial statements;

21 (3) to participate, vote and be eligible for any elective or appointive office of
22 the association subject to the qualifications as provided for in the By-Laws;

23 (4) to participate in association meetings, elections and referenda, as long as
24 his/her bona fide membership subsists; and

25 (5) to enjoy all other rights as may be provided for in the association By-Laws.

26 **SEC. 10. Duties of a Member.** – A member shall have the following duties:

27 (1) to pay membership fees, dues and special assessments;

28 (2) to attend meetings of the association; and

29 (3) to support and participate in projects and activities of the association.

30 **SEC. 11. Delinquent Member.** – The By-Laws shall provide for guidelines and
31 procedures in determining who is a delinquent member, or a member not in good
32 standing, and to prescribe the administrative sanctions to such member. The right to

1 due process shall be observed in cases where administrative sanctions are imposed on
2 a delinquent member.

3 4 CHAPTER III

5 HOMEOWNERS' ASSOCIATION

6 **SEC. 12. *Rights and Powers of the Association.*** – In addition to the powers
7 and attributes of an association as an artificial being under the General Provisions of
8 the Corporation Code, an association has the following rights and may exercise the
9 following powers:

10 (1) Subject to consultation and with the approval of a simple majority of the
11 members, adopt and amend the Articles of Incorporation and By-laws, rules and
12 regulations, subject to existing laws and regulations;

13 (2) Subject to consultation and with the approval of a simple majority of the
14 members, prepare, adopt and amend budgets for revenues, expenditures and reserves;

15 (3) In behalf of its members, institute, defend, or intervene in litigation and/or
16 administrative proceedings affecting the welfare of the association and the community
17 as a whole;

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

21 (5) Subject to existing laws and regulations, limit access to or passage of
22 persons and vehicles through subdivision/village roads, for purposes of preserving
23 privacy, tranquility, internal security, safety and traffic order;

24 (6) Hire, discharge or contract with managing agents and other employees,
25 agents and independent contractors to ensure the full functioning and operation of the
26 association;

27 (7) Subject to consultation with and the approval of a simple majority of the
28 association members, acquire, hold, encumber and convey in its own name any right,
29 title to or interest in real or personal property;

30 (8) In the absence of a duly franchised local water utility company or
31 cooperative, administer and manage the waterworks system of the subdivision, if any,
32 which shall be turned over by the developer upon completion of the subdivision;

1 (9) Grant leases, concessions and authority to use common areas and
2 petition for or consent to the vacation of streets and alleys; *Provided*, That the said
3 grant of leases, concessions and authority shall not be applicable to access roads,
4 main interconnecting roads, alleys and sidewalks within the subdivision;

5 (10) Subject to consultation with and approval of a simple majority of the
6 association members, impose and collect any reasonable payment, fees, or charges for
7 the use, rental and/or operation of the common areas;

8 (11) Cause compliance with regard to height limitations on buildings, edifices,
9 or structures that may be built within the subdivision, in accordance with the National
10 Building Code, zoning laws, HLURB rules and regulations, and existing local
11 ordinances;

12 (12) Secure the prior approval of the majority of its members in allowing the
13 establishment of certain institutions such as, but not limited to, schools, hospitals,
14 markets, grocery stores and other similar establishments that will necessarily affect the
15 character of the subdivision/village in terms of traffic generation, and/or opening the
16 area to outsiders which may result in the loss of privacy, security, safety, and tranquility
17 to its residents, in accordance with the National Building Code, zoning laws, existing
18 local ordinances and HLURB rules and regulations; *Provided*, That such prior approval ✓
19 shall not be necessary for the establishment of sari-sari stores, home industries and
20 similar small-scale business enterprises within the subdivision/village classified as
21 socialized housing;

22 (13) Petition for the creation of a separate barangay, independently or together
23 with neighboring subdivisions; *Provided*, That all the requirements of the Local
24 Government Code of 1991 are met; and

25 (14) Exercise any other power conferred by its By-Laws and HLURB rules and
26 regulations which are necessary for the governance and operation of the association.

27 **SEC. 13. Board of Directors or Trustees.** – The By-Laws of the association
28 shall provide for the qualifications and number of the directors or trustees that will
29 comprise the Board of Directors or Trustees, hereinafter referred to as the Board.

30 **SEC. 14. Duties and Responsibilities of the Board.** - In addition to the duties
31 and responsibilities stated in the By-Laws of the association, the Board shall have the
32 following duties and responsibilities:

33 (1) Maintain an accounting system using generally accepted accounting
34 principles, and keep books of accounts, which shall be open for inspection to any

1 homeowner and duly authorized representatives of government agencies upon request,
2 during reasonable hours on business days;

3 (2) Collect the fees, dues and assessments that may be provided for in the
4 By-Laws and approved by a majority of the homeowners;

5 (3) Collect reasonable charges for assessments, and after due notice and
6 hearing by the Board in accordance with the procedures as provided in the By-Laws,
7 and rules and regulations adopted by the Board, charge reasonable fines for late
8 payments and for violation of the By-Laws, rules, and regulations of the association, in
9 accordance with a previously established schedule adopted by the Board and furnished
10 to the homeowners;

11 (4) Propose measures to raise funds and the utilization of such funds and
12 submit the same for consideration by the association;

13 (5) Exercise such other powers as may be necessary and proper in
14 accordance with this Act and for the accomplishment of the purposes for which the
15 association was organized.

16 **SEC. 15. Removal of A Director or Trustee.** – Through a signed petition of a
17 simple majority of the association members in good standing, subject to verification and
18 validation of the HLURB, a director/trustee may be removed for causes provided in the
19 By-Laws of the association; *Provided*, That not more than a majority of the members of
20 the Board is sought to be removed. In case a majority of the members of the Board is
21 removed, it shall be considered a dissolution of the entire Board, in which case,
22 Section 16 hereof shall govern.

23 Within sixty (60) days after the removal of a director or trustee, an election shall
24 be called for the purpose of determining who shall hold office for the unexpired term of
25 the removed director/trustee.

26 **SEC. 16. Dissolution of the Board.** – Through a signed petition of two-thirds
27 (2/3) of the association members in good standing, subject to verification and validation
28 of the HLURB, the Board of the association may be dissolved for causes provided in
29 the By-Laws of the association.

30 Within sixty (60) days from the above dissolution, an election for a new Board
31 shall be called for the purpose of determining who shall hold office for the unexpired
32 term of the dissolved Board.

1 Until the new Board members shall have been elected and qualified, the HLURB
2 may designate an interim Board whose members shall not be eligible to run in the
3 election called for the above purpose.

4 **SEC. 17. Prescriptive Period of Removing a Director or Trustee or**
5 **Dissolving a Board.** – Sections 15 and 16 of this Act shall not be applicable if the
6 remaining term of office of the director or trustee or the Board, as applicable, is less
7 than three (3) months.

8 **SEC. 18. Association By-Laws.** – The By-Laws of the association shall be
9 adopted by a majority of the members of the association. It shall provide for:

- 10 (1) The qualifications for membership;
- 11 (2) The rights, duties and obligations of members;
- 12 (3) The circumstances under which membership is acquired, maintained and
13 lost;
- 14 (4) The time and manner of calling and conducting regular or special
15 meetings of the members;
- 16 (5) The required quorum in meetings of members and the manner of voting
17 therein;
- 18 (6) The qualifications, number, duties, elections, term of office, and
19 compensation of directors or trustees: *Provided*, That the term of office of the members
20 of the Board shall not exceed two (2) years;
- 21 (7) The qualifications, positions, duties, election or appointment, and
22 compensation of other officers and employees of the association: *Provided*, That the
23 term of office of the other officers shall not exceed two (2) years;
- 24 (8) The time, place and manner of calling and conducting regular or special
25 meetings of the directors or trustees;
- 26 (9) The required quorum in meetings of the board of directors or trustees;
- 27 (10) The grounds and procedure for removal of director or trustee, and the
28 manner of filling up vacancies in the Board;
- 29 (11) The grounds and procedure for dissolution of the Board, and the manner
30 of reconstituting the Board;
- 31 (12) The requirements and manner of voting by proxy;

1 (13) The actions for limiting, broadening or denying the right to vote, and the
2 extent thereof;

3 (14) The designation of conditions under which and the time when voting rights
4 may be exercised;

5 (15) The designation of the presiding officer at meetings of directors or
6 trustees and members;

7 (16) The time for holding the regular election of directors or trustees and the
8 mode or manner of giving notice thereof;

9 (17) The creation of election, grievance and audit committees, and such other
10 committees which the association may deem necessary; as well as a conciliation or
11 mediation mechanism for the amicable settlement of disputes among members,
12 directors or trustees, officers and committee members of the association;

13 (18) The dues and fees to be imposed on a regular basis and the manner in
14 which the same may be imposed and/or increased;

15 (19) *Special assessments*;

16 (20) The method of adopting, amending, repealing and abrogating the By-laws;

17 (21) The list of acts constituting an offense/violation by its officers and the
18 corresponding penalties therefor;

19 (22) The penalties for violation of the By-Laws;

20 (23) *Such other matters necessary for the proper or convenient transaction of*
21 *its corporate business and affairs.*

22 **SEC. 19. *General Meeting of an Association.*** – The general meeting of an
23 association shall be held once a year on such date fixed in the By-Laws. Written notice
24 of the general meeting, including the agenda, shall be sent to all members at least two
25 (2) weeks prior to the meeting, unless a different period is required by the By-Laws.

26 **SEC. 20. *Special Meetings of an Association.*** – The Board may call special
27 membership meetings at any time whenever it deems necessary, or as provided in the
28 By-Laws. A written notice, including the agenda shall be sent to all members at least
29 one (1) week prior to the meeting, unless otherwise provided in the By-Laws.

30 **SEC. 21. *Quorum Requirement.*** - A quorum in general membership meetings
31 shall be a simple majority of the members, unless otherwise provided for in the By-
32 Laws.

1 **SEC. 22. Voting Requirement.** – Association members may vote in person or
2 by proxy in all meetings of the association. In case of the latter, authorization to such
3 proxies shall be in writing duly signed by the member, and filed with the association
4 Secretary before the scheduled meeting shall be valid only for the date of the meeting
5 for which it is intended.

6 **SEC. 23. Regular Elections of an Association.** – Regular elections shall be
7 held on the date fixed by the By-Laws; *Provided, however,* That there shall be a regular
8 election every two (2) years.

9 The By-Laws shall contain the date, manner and general procedures for the
10 conduct of elections.

11 **SEC. 24. Referendum, Recall and Other Initiatives.** – The association may,
12 by a vote of two-thirds (2/3) of all its members in good standing, subject to the
13 qualifications set forth in Sec. 6 (2) hereof, call for a referendum, recall or other
14 initiatives. The procedure, manner and grounds for the holding of the same shall be
15 provided for in the By-Laws.

16 **SEC. 25. Financial and Other Records of an Association.** – The association
17 shall observe the following, with regard to its financial and other records:

18 (1) The association shall keep financial and other records sufficient in detail
19 to enable it to fully declare to each member and interested party the true statement of
20 its financial status. All original copies of financial and other records of the association,
21 including but not limited to checks, bank records, and invoices, in whatever form they
22 are kept, are the properties of the association and shall be kept in the association office
23 or by a duly authorized officer in case there is no association office.

24 (2) All records of the association, including the names and addresses of
25 owners and other occupants of the lots, shall be available for examination by all
26 owners, holders of mortgages on the lots, and their respective authorized agents upon
27 reasonable advanced notice, during normal working hours at the office of the
28 association.

29 (3) A financial statement of the association shall be prepared annually by an
30 auditor, the treasurer and/or an independent certified public accountant within forty five
31 (45) days from the end of the accounting period; to be posted in the association office,
32 bulletin boards, or other conspicuous places within the subdivision/village, and to be
33 submitted to the HLURB.

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

4 **SEC. 26. Relationship with LGUs.** – Homeowners’ associations shall
5 complement, support and strengthen LGUs in providing vital services to its members
6 and help implement local government policies, programs, ordinances, and rules.

7 Associations are encouraged to actively cooperate with LGUs in furtherance of
8 their common goals and activities for the benefit of the residents of the
9 subdivisions/villages and its environs.

10 Where the LGUs lack resources to provide for basic services, the associations
11 shall endeavor to tap the means to provide for the same. In recognition of the
12 associations’ efforts to assist the LGUs in providing such basic services, association
13 dues and income derived from the rentals of their facilities shall be tax-exempt:
14 *Provided,* That such income and dues will be used for the maintenance of the
15 cleanliness, safety and security of their respective subdivisions/villages and other basic
16 services needed by the members.

17 LGUs shall hold public consultations with the members of the affected
18 associations, or at least their officers, where proposed rules, zoning and other
19 ordinances, projects and/or programs affecting their jurisdiction and surrounding vicinity
20 are to be implemented prior to the effectivity or implementation of such rules, zoning,
21 ordinances, projects or programs.

22 Such public consultations shall conform to the manner as specified in Rule XI,
23 Art. 54 of the Implementing Rules and Regulations of R.A. 7160 otherwise known as
24 the Local Government Code of 1991.

25 **SEC. 27. Relationship with National Government Agencies.** – The
26 associations shall complement, support and strengthen the efforts of the national
27 government agencies in providing vital services to its members and help implement the
28 national government policies and programs.

29 Associations are encouraged to actively cooperate with national government
30 agencies in the furtherance of their common goals and activities for the benefit of the
31 residents of the subdivisions and its environs.

32 National government agencies shall consult the associations where proposed
33 rules, projects and/or programs may affect their welfare.

34

1 b. To deprive any homeowner of his right to avail of or enjoy basic community
2 services and facilities;

3 c. To prevent any homeowner from reasonably exercising his right to inspect
4 association books and records or to request for annual reports annual reports;

5 d. To prevent any member in good standing from participating in association
6 meetings, elections and referenda;

7 e. To deny any member due process in the imposition of administrative
8 sanctions;

9 f. To exercise rights and powers as stated in Sec. 12 without the required
10 consultation and approval of the required number of homeowners or members;

11 g. Unreasonable failure to provide basic services and facilities and to maintain,
12 repair, replace, or modify the such facilities;

13 h. Failure to comply with Sec. 25 of this Act; and

14 i. Other acts analogous to the foregoing.

15 **SEC. 30. Penal Provision.** – Any person who commits any acts prohibited under
16 Sec. 29 hereof shall be punished with a fine of not less than not less than Fifty
17 Thousand Pesos (P50,000.00) but not more than Two Hundred Thousand Pesos
18 (P200,000.00) and permanent disqualification from being elected or appointed as
19 member of the Board, officer or employee in the association, without prejudice to being
20 charged before a regular court for violations of the provisions of the Revised Penal
21 Code, Civil Code and other pertinent laws.

22 If the offense is committed by an association, the members, officers, directors or
23 trustees of the association who have actually participated in, authorized, or ratified the
24 prohibited act shall be held criminally liable.

25 **SEC. 31. Separability Clause.** – If any provision of this Act is declared invalid or
26 unconstitutional, the remainder of the Act shall remain valid and subsisting.

27 **SEC. 32. Repealing Clause.** – All other issuances, laws, decrees, orders, rules
28 and regulations, or parts thereof inconsistent with this Act are hereby repealed or
29 modified accordingly.

30 **SEC. 33. Implementing Rules and Regulations.** –The HLURB shall formulate
31 and promulgate, in consultation with concerned sectors, rules and regulations
32 necessary to implement the provisions of this Act within six (6) months of its effectivity.

1 No rule or regulation shall be issued which tends to undermine the organizational
2 and territorial integrity of any association.

3 **SEC. 34. *Effectivity.*** – This Act shall take effect fifteen (15) days following its
4 publication in the Official Gazette or in at least two (2) national newspapers of general
5 circulation.

6

7 Approved,