

Proposed Amendment
Alabama Homeowners' Association Act
(Effective January 1, 2016)

Overview:

Home ownership is often the largest personal investment for Alabama residents. To evaluate one's property investment, association members (homeowners) must be able to hear HOA board discussion and decisions, and examine books and records, including financial records. Alabama HOAs are non-profit corporations, and the board has a fiduciary duty to homeowners. Like a for-profit corporation, owners are financially invested, and their dues enable the HOA board to represent the community; "the board is just helping to lead it." *HOAleader.com*.

Recommendations:

1. *Open board meetings:*

Any board gathering of more than 50% of the officers and/or directors, in person or electronically, shall be open to all association members. Notice shall be sent to each homeowner no later than 10-days or more than 50-days in advance. The exception is Executive Session meetings; however, notice shall be stated regarding the general topic to be discussed (i.e., contracts, personnel, or legal matter). Closed monthly board meetings for non-Executive sessions deprive a homeowner of the protections of due process in this instance to safeguard individual property rights from homeowner association board decisions which may be arbitrary, discriminatory, or biased. Determining to exclude homeowners from the majority of board meetings in which homeowner issues are discussed must be consistent with applicable laws and follow those rules when enforcing restrictions.

2. *Accessibility for the disabled:*

Disabled and/or homebound homeowners must be afforded remote accommodation (audio or preferably Zoom type) accessibility to board meetings. A physician's statement describing the disability under Alabama law may be requested provided it is legally allowable and does not violate state, federal or ethical statutes. This amendment authorizes reasonable accommodations to permit homeowners who are disabled, elderly, or otherwise unable to physically attend or hear board meetings in order to fully participate. Reasonable accommodation shall also be required for the disabled or those not able to travel outside their home.

3. Full records inspection:

Homeowner associations are governed by the Alabama Nonprofit Corporation Law. As such, HOA homeowners are entitled to inspect board books and records including all financial records such as a balance sheet, reserve funds, and statement of review and expenses:

Section 10A-3-2.32

Books and records.

Each nonprofit corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in Alabama a record of the names and addresses of its members entitled to vote, directors and officers. All books and records of a nonprofit corporation may be inspected by any member, director or officer, or his or her agent or attorney, for any proper purpose at any reasonable time.

(Acts 1984, No. 84-290, p. 502, §28; §10-3A-43; amended and renumbered by Act 2009-513, p. 967, §175.)

4. Exceptions:

The requirement for open board meetings shall not apply during the period of Developer Control Prior to the Turnover Date.

5. Applicability:

Retroactive to January 8, 2016, for associations subject to the Alabama Homeowners' Association Act, Effective January 1, 2016.