

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control Department or Agency Secretary of State

Rule No. 820-5-1

Rule Title: Procedures for Implementing the Alabama Homeowners' Association Act

X New            Amend            Repeal            Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

John H. Merrill  
John H. Merrill  
Secretary of State

Date July 13, 2016

(DATE FILED)  
(STAMP)

APA-2  
11/96

Office of the Secretary of State  
Administrative Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Secretary of State

RULE NO. & TITLE: 820-5-1 Procedures for Implementing the  
Alabama Homeowners' Association Act

INTENDED ACTION: New Rules

SUBSTANCE OF PROPOSED ACTION: Provide procedures for  
implementing the Alabama Homeowners' Association Act (Act 2015-  
292), codified at Code of Alabama 1975, sections 35-20-1 et seq.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

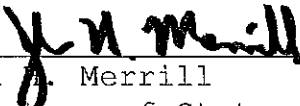
Views may be presented orally or in writing and should be  
addressed to Jean Brown, Office of the Secretary of State,  
P.O. Box 5616, Montgomery, AL 36103; (334)242-7202

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

March 3, 2016

CONTACT PERSON AT AGENCY:

Jean Brown  
Office of the Secretary of State  
State Capitol Suite E-201  
Montgomery, AL 36130 (334)242-7202

  
\_\_\_\_\_  
John J. Merrill  
Secretary of State

APA-2  
07/04

STATE OF ALABAMA  
OFFICE OF THE SECRETARY OF STATE

PROCEDURES FOR IMPLEMENTING THE ALABAMA HOMEOWNERS'  
ASSOCIATION ACT

NEW RULES

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**820-5-1-.01 Applicability.** These rules shall apply to homeowners' associations recorded in the office of the judge of probate on or after January 1, 2016, and any homeowners' association formed prior to that time if the association, by a majority of its members, elects to be governed by the Alabama Homeowners' Association Act, codified at Code of Alabama 1975, sections 35-20-1 et seq. (hereinafter "the Act").

**820-5-1-.02 Organization.** On or after January 1, 2016, a homeowners' association created pursuant to a declaration as that term is defined in Code of Alabama 1975, section 35-20-2(5), shall be organized as a nonprofit corporation pursuant to Chapter 3 of Title 10A, and shall be governed in all respects as a nonprofit corporation.

**820-5-1-.03 Filing Requirements.** In addition or supplemental to any other filing required in Chapter 3 of Title 10A, all homeowners' associations governed by these rules shall file the documents required by Code of Alabama 1975, section 35-20-5(b)(2).

**820-5-1-.04 Amended or Restated Formation Documents.** If, pursuant to Code of Alabama 1975, section 35-20-3, a homeowners' association formed prior to January 1, 2016, elects by a majority of its members to be governed by the Act, the association shall file amended and restated formation documents.

**820-5-1-.05 Required Forms for Domestic and Foreign Homeowners' Associations.** The Office of the Secretary of State will provide on its website fillable forms that shall be used for both domestic and foreign homeowners' associations. The use of said forms shall be mandatory to ensure proper coding of the entity type.

**820-5-1-.06 Filing Fees.** The filing fees for documents relating to a homeowners' association governed by the Act shall be as follows:

(a) The fees for filing all documents defined in Code of Alabama 1975, section 10A-1-4.31 relating to a homeowners' association shall be the fees listed in that statute and shall be allocated in accordance with the provisions of section 10A-1-4.31.

(b) The fee for any additional or supplemental filing required pursuant to Code of Alabama 1975, section 35-20-5(b)(2) shall be \$50.00. This fee shall be placed in a separate fund within the Secretary of State's Office and the funds shall be used to administer the Secretary of State's duties under the Act.

(c) Any and all filing fees paid to a county, whether authorized by a general law, local law, or any other statutory authority, shall not be affected by this rule.

**Authors:** Jean Brown, R. Joel Laird, Jr.

**Statutory Authority:** Code of Alabama 1975, sections 35-20-5(b)(4).

**History:** New Rules: Filed January 13, 2016.