

1 SENATE BILL 321

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Harold Pope

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10 AN ACT

11 RELATING TO HOMEOWNER ASSOCIATIONS; REQUIRING THAT NO LESS THAN
12 SEVENTY-FIVE PERCENT OF THE BOARD OF A HOMEOWNER ASSOCIATION BE
13 ELECTED BY LOT OWNERS AFTER SEVENTY-FIVE PERCENT OF LOTS ARE NO
14 LONGER OWNED BY THE DECLARANT; REMOVING EXCEPTIONS FOR MASTER
15 PLANNED COMMUNITIES.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 47-16-8 NMSA 1978 (being Laws 2013,
19 Chapter 122, Section 8) is amended to read:

20 "47-16-8. DECLARANT CONTROL OF BOARD.--

21 A. Subject to the provisions of this section, the
22 declaration shall provide for a period of declarant control of
23 the association, during which period a declarant, or persons
24 designated by the declarant, may appoint and remove the
25 officers and members of the board.

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1 B. Regardless of the period provided in the
2 declaration, the period of declarant control shall terminate no
3 later than the earlier of:

4 (1) sixty days after conveyance of seventy-
5 five percent of the lots that are part of the development and
6 any additional lots that may be added to the development to lot
7 owners other than a declarant;

8 (2) two years after all declarants have ceased
9 to offer lots for sale in the ordinary course of business;

10 (3) two years after a development right to add
11 new lots was last exercised; or

12 (4) the day that the declarant or the
13 declarant's designee, after giving written notice to the
14 association, records an instrument voluntarily terminating all
15 rights to declarant control.

16 ~~[G. Subsection B of this section does not apply to~~
17 ~~a master planned community.~~

18 ~~D.]~~ C. A declarant may voluntarily terminate the
19 right to appoint and remove officers and members of the board
20 before termination of the period of declarant control, but in
21 that event, the declarant may require, for the duration of the
22 period of declarant control, that specified actions of the
23 association or board, as described in a recorded instrument
24 executed by the declarant, be approved by the declarant or the
25 declarant's designee before they become effective.

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1 ~~[E.]~~ D. Not later than sixty days after conveyance
2 of twenty-five percent of the lots that are part of the
3 development, and any additional lots that may be added to the
4 development, to lot owners other than a declarant, at least one
5 member and not less than twenty-five percent of the members of
6 the board shall be elected by lot owners.

7 ~~[F.]~~ E. Not later than sixty days after conveyance
8 of fifty percent of the lots that are part of the development,
9 and any additional lot that may be added to the development, to
10 lot owners other than the declarant, no less than thirty-three
11 percent of the members of the board shall be elected by lot
12 owners other than the declarant.

13 F. On or after January 1, 2024, not later than
14 sixty days after conveyance of seventy-five percent of the lots
15 that are part of the development, and any additional lot that
16 may be added to the development, to lot owners other than the
17 declarant, no less than seventy-five percent of the members of
18 the board shall be elected by lot owners other than the
19 declarant.

20 G. Not later than the termination of a period of
21 declarant control, the lot owners shall elect a board of at
22 least three members, at least a majority of whom shall be lot
23 owners. The board shall elect the officers. The board members
24 and officers shall take office upon election.

25 H. No amendment to the declaration that would

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1 limit, prohibit or eliminate the exercise of a development
2 right shall be effective without the concurrence of the
3 declarant.

4 I. A declarant shall not utilize cumulative or
5 class voting for the purpose of evading any limitation imposed
6 on declarants by the Homeowner Association Act, nor shall lots
7 constitute a class because they are owned by a declarant."

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