

By: Representative Yancey

To: Banking and Financial  
ServicesHOUSE BILL NO. 953  
(As Sent to Governor)

1 AN ACT TO REGULATE MANAGING AGENTS OF HOMEOWNERS ASSOCIATIONS  
2 REGARDING THEIR DEPOSIT AND MANAGEMENT OF ASSOCIATION FUNDS; TO  
3 PROVIDE CERTAIN DEFINITIONS FOR THE ACT; TO REQUIRE TRANSFERS OF  
4 FUNDS ABOVE A CERTAIN AMOUNT TO BE AUTHORIZED BY PRIOR WRITTEN  
5 BOARD APPROVAL; TO PROHIBIT THE MANAGING AGENT FROM COMMINGLING  
6 THE FUNDS OF THE ASSOCIATION WITH THE MANAGING AGENTS OWN MONEY OR  
7 WITH THE MONEY OF OTHERS THAT THE MANAGING AGENT RECEIVES OR  
8 ACCEPTS; TO PROVIDE THAT CURRENTLY COMMINGLED FUNDS SHALL BE  
9 SEPARATED BY A CERTAIN DATE; TO REQUIRE THE MANAGING AGENT TO  
10 PROVIDE TO THE HOMEOWNERS ASSOCIATION CERTAIN FINANCIAL  
11 INFORMATION RELATING TO THE FUNDS OF THE ASSOCIATION BEFORE EVERY  
12 REGULAR MEETING AND UPON REQUEST OF THE ASSOCIATION; TO PROVIDE  
13 THE BOARD OF A HOMEOWNERS ASSOCIATION TO CONDUCT CERTAIN PERIODIC  
14 FINANCIAL REVIEWS; TO AUTHORIZE SPECIAL OR REGULARLY SCHEDULED  
15 MEETINGS TO BE HELD BY ELECTRONIC TRANSMISSION OR BY OTHER MEANS  
16 OF REMOTE COMMUNICATION; TO REQUIRE HOMEOWNERS ASSOCIATIONS TO  
17 MAINTAIN FIDELITY BOND COVERAGE FOR ITS DIRECTORS AND OFFICERS; TO  
18 PROVIDE THAT IF THE ASSOCIATION USES A MANAGING AGENT OR  
19 MANAGEMENT COMPANY, THE ASSOCIATION'S FIDELITY BOND COVERAGE SHALL  
20 ADDITIONALLY INCLUDE DISHONEST ACTS BY THAT PERSON OR ENTITY AND  
21 ITS EMPLOYEES; TO PROVIDE THAT THE BOND REQUIREMENT SHALL NOT  
22 APPLY IF A MAJORITY OF THE MEMBERS OF THE ASSOCIATION VOTE NOT TO  
23 HAVE IT; AND FOR RELATED PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1.** (1) A managing agent who accepts or receives  
26 funds belonging to a homeowners association shall deposit those  
27 funds that are not placed into an escrow account with a bank or  
28 savings association or into an account under the control of the



29 association, into a trust fund account maintained by the managing  
30 agent in a bank or savings association. All funds deposited by  
31 the managing agent in the trust fund account shall be kept in a  
32 financial institution and insured by the Federal Deposit Insurance  
33 Corporation, and shall be maintained there until disbursed in  
34 accordance with written instructions from the association entitled  
35 to the funds.

36 (2) At the written request of the board of the homeowners  
37 association, the funds the managing agent accepts or receives on  
38 behalf of the association may be deposited into a checking or  
39 interest-bearing account in a bank or savings association provided  
40 all of the following requirements are met:

41 (a) The account is in the name of the managing agent as  
42 trustee for the association or in the name of the association.

43 (b) All of the funds in the account are covered by  
44 insurance provided by the Federal Deposit Insurance Corporation.

45 (c) The funds in the account are kept separate,  
46 distinct, and apart from the funds belonging to the managing agent  
47 or to any other person for whom the managing agent holds funds in  
48 trust.

49 (d) The managing agent discloses to the board of the  
50 homeowners association the nature of the account, how interest  
51 will be calculated and paid, whether service charges will be paid  
52 to the depository and by whom, and any notice requirements or  
53 penalties for withdrawal of funds from the account.



54 (e) No interest earned on funds in the account shall  
55 inure directly or indirectly to the benefit of the managing agent  
56 or the managing agent's employees.

57 (f) Transfers of greater than Ten Thousand Dollars  
58 (\$10,000.00) of an association's total combined reserve and  
59 operating account deposits shall not be authorized from the  
60 account without prior written approval from the board of the  
61 homeowners association.

62 (3) The managing agent shall maintain a separate record of  
63 the receipt and disposition of all funds described in this  
64 section, including any interest earned on the funds.

65 (4) Before every regular meeting of the homeowners  
66 association and any other time upon request of the association,  
67 the managing agent shall provide to the association all of the  
68 information described in Section 2 of this act.

69 (5) The managing agent shall not commingle the funds of the  
70 association with the managing agent's own money or with the money  
71 of others that the managing agent receives or accepts. If the  
72 managing agent has commingled funds on July 1, 2021, the managing  
73 agent shall, no later than September 1, 2021, separate the  
74 commingled funds into separate accounts.

75 (6) The prevailing party in an action to enforce this  
76 section shall be entitled to recover reasonable legal fees and  
77 court costs.



(7) As used in this act, "association" means a homeowners association duly organized as a nonprofit corporation organized under the Mississippi Nonprofit Corporation Act, Section 79-11-101 et seq., and which is exempt from taxation under the federal Income Tax Code.

(8) As used in this act, "managing agent" is any person who, for compensation or in expectation of compensation, exercises control over the assets of a homeowners association. A "managing agent" does not include a regulated financial institution operating within the normal course of its regulated business practice.

**SECTION 2.** (1) Unless the governing documents of the homeowners association impose more stringent standards, the board of a homeowners association shall do all of the following at all regularly scheduled meetings:

(a) Review a current reconciliation of the association's operating accounts.

(b) Review a current reconciliation of the association's reserve accounts.

(c) Review the current year's actual operating revenues and expenses compared to the current year's budget.

(d) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.



102 (e) Review a receipts and disbursements statement for  
103 the association's operating and reserve accounts.

104 (f) Review the check register, monthly general ledger,  
105 and delinquent assessment receivable reports.

106 (2) Unless prohibited by the governing documents of the  
107 homeowners association, the board may hold any special or  
108 regularly scheduled meeting, or any special or regularly scheduled  
109 member meeting, by electronic transmission or other means of  
110 remote communication, or by a combination thereof.

111 (3) For purposes of this section, "remote communication"  
112 means communication via electronic communication, conference  
113 telephone, videoconference, the Internet, or such other means by  
114 which persons not physically present in the same location may  
115 communicate with each other on a substantially concurrent basis.

116 **SECTION 3.** The review requirements of Section 2 of this act  
117 may be met when every individual member of the board, or a  
118 subcommittee of the board consisting of the treasurer and at least  
119 one (1) other board member, reviews the documents and statements  
120 described in Section 2 of this act independent of a board meeting,  
121 so long as the review is ratified at the board meeting subsequent  
122 to the review and that ratification is reflected in the minutes of  
123 that meeting.

124 **SECTION 4.** Notwithstanding any other law to the contrary,  
125 transfers of greater than Ten Thousand Dollars (\$10,000.00) of a  
126 homeowners association's total combined reserve and operating



account deposits shall not be authorized from the association's reserve or operating accounts without prior written board approval. This section shall apply in addition to any other applicable requirements of this act.

**SECTION 5.** (1) Unless the governing documents of the homeowners association require greater coverage amounts, the homeowners association shall maintain fidelity bond coverage for its directors, officers, and employees in an amount that is equal to or more than the combined amount of the reserves of the association and total assessments for the highest balance during the previous year. The association's fidelity bond shall also include computer fraud and funds transfer fraud, which is not required to include cyber coverage. If the association uses a managing agent, the association's fidelity bond coverage must additionally include dishonest acts by that person or entity and its employees.

(2) Notwithstanding the provisions of subsection (1) of this section, if a majority of the members of a homeowners association at a regular or special meeting of the association vote not to maintain fidelity bond coverage for its directors, officers, or employees, the provisions of subsection (1) shall not apply to the association.

**SECTION 6.** This act shall take effect and be in force from and after July 1, 2021.

