

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 166, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO INTERNAL ACCESSORY DWELLING UNITS; AMENDING CHAPTER 32, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-3212, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING INTERNAL ACCESSORY DWELLING UNITS AND HOMEOWNER'S ASSOCIATIONS AND TO DEFINE A TERM; AMENDING CHAPTER 6, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-618, IDAHO CODE, TO PROHIBIT CERTAIN RESTRICTIVE COVENANTS AGAINST INTERNAL ACCESSORY DWELLING UNITS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 32, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-3212, Idaho Code, and to read as follows:

55-3212. INTERNAL ACCESSORY DWELLING UNITS. (1) No covenant, condition, or restriction may be added, amended, or enforced by a homeowner's association or any other parties in such a way that strictly prohibits internal accessory dwelling units, as defined in subsection (3) of this section. The provisions of this section shall not be construed to protect more than one (1) internal accessory dwelling unit per homestead.

(2) Notwithstanding the prohibitions provided in subsection (1) of this section, a homeowner's association may adopt reasonable rules governing the use of internal accessory dwelling units otherwise allowed by law, including but not limited to size limits, height limits, setback requirements, open space requirements, parking controls, and bedroom requirements.

(3) (a) An "internal accessory dwelling unit" means a self-contained living unit that:

(i) Includes its own cooking, sleeping, and sanitation facilities;

(ii) Is located within a detached, owner-occupied homestead, as defined in section 63-701, Idaho Code, or such homestead's attached or detached garage; and

(iii) Is used for the purpose of housing relatives of the owner of the homestead or for the purpose of renting to a residential tenant for a period exceeding thirty (30) days.

(b) An internal accessory dwelling unit does not include an alternative detached structure, motor home, camper, recreational vehicle, tiny home on wheels, or other such similar dwellings on wheels.

(4) Nothing in this section shall be construed to restrict a homeowner's association from adopting a less restrictive definition of accessory dwelling units.

(5) The provisions of this section do not apply to any rentals defined in section 63-1803(4), Idaho Code.

1 SECTION 2. That Chapter 6, Title 55, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 55-618, Idaho Code, and to read as follows:

4 55-618. INTERNAL ACCESSORY DWELLING UNITS -- RESTRICTIVE COVENANTS
5 PROHIBITED. (1) On and after July 1, 2023, no restrictive covenant may be
6 entered into that prohibits an internal accessory dwelling unit, as defined
7 in section 55-3212, Idaho Code. Any such covenant is hereby declared to be
8 against public policy and is void and unenforceable. Any person attempting
9 to create or enforce such a covenant shall be liable for any attorney's fees,
10 court costs, and any other damages incurred by the other party. The provi-
11 sions of this section shall not be construed to protect more than one (1)
12 internal accessory dwelling unit per homestead.

13 (2) This section does not apply to a restrictive covenant against in-
14 ternal accessory dwelling units entered into prior to July 1, 2023.

15 SECTION 3. An emergency existing therefor, which emergency is hereby
16 declared to exist, this act shall be in full force and effect on and after its
17 passage and approval.