

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 76

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HOMEOWNER'S ASSOCIATIONS; PROVIDING LEGISLATIVE INTENT; AMEND-
2 ING SECTION 55-3203, IDAHO CODE, TO DEFINE TERMS AND TO MAKE A TECHNICAL
3 CORRECTION; AMENDING CHAPTER 32, TITLE 55, IDAHO CODE, BY THE ADDITION
4 OF A NEW SECTION 55-3212, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
5 HOMEOWNER'S ASSOCIATION RESTRICTIONS ON GROWING AND RAISING FOOD; AND
6 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

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

9 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
10 permit and encourage programs and policies that sustain greater local food
11 security and to improve access to healthy foods. Farming is a natural right.
12 The purpose of this act is to protect the inherent rights of citizens to sus-
13 tain themselves on their own property by growing and raising food and to en-
14 courage the protection of sustainable cultivation of fresh produce and pro-
15 tein at all levels of production in Idaho, including properties contained
16 within the jurisdiction of homeowner's associations.

17 SECTION 2. That Section 55-3203, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 55-3203. DEFINITIONS. As used in this chapter:

20 (1) "Accessory buildings" includes but is not limited to:

21 (a) Structures for plant protection, such as hoop houses, greenhouses,
22 high tunnels, low tunnels, caterpillar tunnels, shade structures, and
23 insect netting; and

24 (b) Operations buildings, such as sheds, farm stands, garages, and out-
25 buildings.

26 (2) "Apiculture" means the keeping or propagation of honeybee colonies
27 for the collection of honey or other bee products.

28 (3) "Aquaculture" means the cultivation and keeping of marine or fresh-
29 water organisms, such as aquatic plants, fish, and other aquatic animals,
30 under controlled conditions for use as a food source or in the use of aquapon-
31 ics plant production.

32 (4) "Backyard domesticated homesteading food animals" includes but is
33 not limited to:

34 (a) Poultry, such as chickens, ducks, geese, guineas, and turkeys;

35 (b) Meat animals, such as guinea pigs, rabbits, goats, swine, and cat-
36 tle; and

37 (c) Dairy animals, such as goats, sheep, and cattle.

38 (5) "Board" means the entity that has the duty of governing the home-
39 owner's association and may be referred to as a board of directors, executive
40 board, or any other such similar name.

1 (6) "Composting" means the mixing of organic matter, such as leaves,
 2 garden waste, and animal manure, for the production of compost for use in the
 3 growing of food.

4 (27) "Financial disclosure" means the accounting records of the organ-
 5 ization that are kept, disclosed, and made available for inspection in ac-
 6 cordance with part 11, chapter 30, title 30, Idaho Code, and the governing
 7 documents of the homeowner's association.

8 (8) "Garden" means any plot of ground or elevated soil bed on residen-
 9 tial property where vegetables, herbs, fruits, flowers, pollinator plants,
 10 leafy greens, or other edible plants are cultivated.

11 (39) "Governing documents" means a written instrument by which the
 12 homeowner's association may exercise powers or manage, maintain, or oth-
 13 erwise affect the property under the jurisdiction of the homeowner's asso-
 14 ciation. "Governing documents" includes but is not limited to articles of
 15 incorporation, bylaws, a plat, rules of the homeowner's association, and any
 16 declaration of covenants, conditions, and restrictions.

17 (410) "Homeowner's association" means any incorporated or unincorpor-
 18 ated association:

19 (a) In which membership is based upon owning or possessing an interest
 20 in real property; and

21 (b) That has the authority, pursuant to recorded covenants, bylaws, or
 22 other governing documents, to assess and record liens against the real
 23 property of its members.

24 (511) "Member" or "membership" means any person or entity owning or pos-
 25 sessing an interest in residential real property or a lot within the physical
 26 boundaries of an established homeowner's association.

27 (12) "Vermiculture" means the cultivation of earthworms, mealworms, or
 28 other organisms for use as animal feed or to convert waste to nutrient and
 29 beneficial microorganisms for use in soil compost.

30 SECTION 3. That Chapter 32, Title 55, Idaho Code, be, and the same is
 31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 32 ignated as Section 55-3212, Idaho Code, and to read as follows:

33 55-3212. GROWING AND RAISING FOOD. (1) No homeowner's association
 34 may add, amend, or enforce any covenant, condition, or restriction that
 35 prohibits or has the effect of prohibiting an owner of property within the
 36 jurisdiction of the homeowner's association from engaging in apiculture,
 37 vermiculture, aquaculture, the growing of gardens, composting, the raising
 38 of backyard domesticated homesteading food animals, or constructing or us-
 39 ing accessory buildings, if performed according to the provisions of this
 40 section and if otherwise permitted by state law and local ordinances, on any
 41 part of the property owned by him. An owner may also delegate the rights
 42 guaranteed by this section to his tenant, agent, or contractor.

43 (2) Animals must be appropriately housed on the property, protected,
 44 and contained by animal-appropriate fencing.

45 (3) A person exercising rights set forth in this section may perform op-
 46 erations and activities necessary for raising, growing, washing, packaging,
 47 and storing fruits, vegetables, other plant products, and food or dairy ani-
 48 mals.

1 (4) A homeowner's association may prohibit the construction of acces-
2 sory buildings, as defined in section 55-3203, Idaho Code, that occupy more
3 than sixty percent (60%) of the area of a required backyard, less any set-
4 backs, for homes located within its jurisdiction inside city limits.

5 SECTION 4. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after
7 July 1, 2023.