

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Wednesday, March 01, 2023

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Clow, Vice Chairman Ehlers, Representatives Crane(13), Palmer, Barbieri, Dixon(1), Andrus, Furniss, Mitchell, Cornilles, Crane(12), Lanting, Petzke, Redman, Berch, Green, Rubel

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of session the sign-in sheet will be filed with the minutes in the Legislative Library.

Chairman Clow called the meeting to order at 1:33 p.m.

H 157: **Rep. Dixon(24)** explained the purpose of the legislation is to amend existing law to provide charging a fee for the final statement of a unit owner's or member's account is a violation of specific law.

Testifying **in opposition** to **H 157**, **Scott Emerich**, president of Hillsdale Estates HOA, explained there are costs associated with providing the statements and is concerned there would be no limit of repeatedly requested statements. **Brandi Pearson**, Director of Association Management representing the Legislative Action Committee for Idaho Community Association Institute speaking **in opposition** to **H 157** shared concerns the legislation language is not aligned with association language. **Brindee Collins**, Attorney at Law representing Community Associations Institute spoke **in opposition** to **H 157** sharing there is a wide variety of contracts, accounts, closings and communities with different needs. Ms. Collins also explained there are third-party providers who charge fees for their services which need to be paid for by the property owner or would have to be unfairly shifted to the rest of the members of the association. **Mike Madson** representing MGM Management testified **in opposition** to **H 157**, stating the homeowner can obtain a copy of their statement online already with no charge. The legislation is mandating a guarantee document which is associated with additional costs.

In response to committee questions, **Mike Madson** and **Brindee Collins** explained while the statement is accessible for no cost to the homeowner online, if they are requesting an estoppel with a guarantee to show any compliance or collections issues with the property, those incur additional costs from third parties. Mr. Madson also shared the cost to provide such a document will vary for different properties.

In closing, **Rep. Dixon(24)** said when homeowners pay their HOA dues, they expect certain services, one of which should be an accurate statement of account when closing.

In response to committee questions, **Bob Rice** from Land and Title Association explained since the HOA chose the type of contracted engagement with their management company, it is their responsibility to pay those fees.

In response to committee questions, **Rep. Dixon(24)** confirmed the HOAs are now charging for homeowners to obtain an accurate closing statement which was included in the HOA Act passed last year.

MOTION: **Rep. Redman** made a motion to send **H 157** to the floor with a **DO PASS** recommendation.

In support of the motion, **Rep. Green** explained when the information about the HOA Act was brought before the committee last year, they learned homeowners were being given inaccurate information when trying to close out their accounts. She said homeowners should be able to obtain accurate information about their own homes and not be charged for it.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Cornilles and Rubel** requested they be recorded as voting **NAY**. **Rep. Dixon(24)** will sponsor the bill on the floor.

H 158: **Chairman Clow** explained **H 238** replaces **H 158** on today's agenda.

H 238: **Rep. Dixon(24)** shared the changes which were made to **H 158** in order to write **H 238**. She explained the purpose of the legislation is to protect homeowners and to provide a remedy for existing unfair service agreements, while discouraging future unfair and deceptive trade practices in real estate transactions. She further shared service providers offer monetary compensation for the homeowner to make an agreement to sell their home at a later time. She explained some of these agreements last for 40 years and travel with the land. So, if you make an agreement and pass away, heirs are often unaware of the agreement and end up being sued for 3% of the sale price. **Rep. Dixon(24)** said, similar to best practice in real estate sellers agreements which last for one year, the legislation also limits service agreements to one year.

MOTION: **Rep. Rubel** made a motion to send **H 238** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Dixon(24)** will sponsor the bill on the floor.

H 166: **Rep. Nash** explained the purpose of the legislation is to give private property owners the right to have accessory dwelling units ("ADU's") on owner-occupied residential property with certain limitations. ADU's can be basement apartments or mother-in-law suites, attached or detached but subordinate to a primary dwelling. He further shared the legislation preempts general bans of ADUs while still allowing HOAs and cities to regulate them. **Rep. Nash** also explained provisions of the legislation include measures to preserve the character of single-family homes.

In response to committee questions, **Rep. Nash** said he agrees there is a friction between collective rights and individual rights but believes his duty as a representative is to protect the constitutional private property rights of the individual and is not comfortable with enforcing collective property rights to keep individuals out of housing.

Brindee Collins, Attorney at Law representing Community Associations Institute spoke **in opposition** to **H 166** explaining the rights of homeowners to make agreements about living preferences are disregarded by this legislation. She further shared HOAs are the ultimate reflection of local control and this legislation removes it. Testifying **in opposition** to **H 166**, **Scott Emerich**, president of Hillsdale Estates HOA, shared his concern the legislation would allow for the unlimited conversion of garages and outbuildings into apartments. He also explained most people who choose to live in an HOA do so because they want to live in a specific environment and to know it will remain so in the future. **Julie Hart** representing Association of Idaho Cities spoke **in opposition** to **H 166**, sharing concerns about language contained in the bill which may lead to confusion. In addition, she explained about social contract theory which is the right of individuals to join a collective agreement to live in neighborhoods which follow certain rules. Testifying **in opposition** to **H 166**, **Bill Schultz**, president of Kingsbridge HOA shared he purchased a home in an HOA because of the restrictions. He explained his concern about the legislation creating a parking problem in his neighborhood.

In closing, **Rep. Nash** expressed his appreciation to HOAs who shared feedback which helped **H 166** to be a better bill. He also shared he would have been happy to include constructive language feedback from the Association of Idaho Cities had it been given. Rep. Nash also explained HOAs are able to regulate the size and type of ADUs, also concerns about sewer capacity are addressed in the legislation.

MOTION: **Rep. Redman** made a motion to send **H 166** to the floor with a **DO PASS** recommendation.

Speaking **in support** of the motion, **Rep. Barbieri** said with the housing shortage and the need for smaller, more affordable units, this bill provides a good balance.

Speaking **in opposition** of the motion, **Rep. Lanting** said he would prefer the preemption be taken out of the bill and is concerned about the building of ADUs not being considerate of neighbors. Speaking **in opposition** of the motion, **Rep. Cornilles** said he was not comfortable with the language allowing the ADUs to be outside the footprint of the primary dwelling and explained people choose to live in homes because of the restrictive covenants which help to maintain their property value.

Speaking to the motion, **Rep. Furniss** said the committee must be mindful of the unintended consequence of additional pressure additional ADUs would put onto the sewer.

In response to committee questions, **Rep. Nash** said HOAs and local governments would be able to restrict the number of bathrooms and bedrooms on lots which would alleviate capacity concerns. He reminded the committee the intent of the bill is to prevent blanket bans of ADUs, not the ability of HOAs and local governments to regulate them.

VOTE ON MOTION: **Motion carried by voice vote. Reps. Cornilles and Lanting** requested they be recorded as voting **NAY**. **Rep. Nash** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:03 p.m.

Representative Clow
Chair

Michelle Anderson
Secretary