

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 621

BY WAYS AND MEANS COMMITTEE

AN ACT

1
2 RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-3203, IDAHO CODE,
3 TO REVISE A DEFINITION, TO DEFINE A TERM, AND TO MAKE TECHNICAL CORREC-
4 TIONS; AMENDING SECTION 55-3204, IDAHO CODE, TO PROVIDE FOR THE DISCLO-
5 SURE OF CERTAIN CONFLICTS OF INTEREST OR FAMILIAL RELATIONSHIPS AND TO
6 MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING
7 AN EFFECTIVE DATE.

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

9 SECTION 1. That Section 55-3203, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 55-3203. DEFINITIONS. As used in this chapter:

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

15 (2) "Community manager" means a person or agent who provides for or oth-
16 erwise engages in the management of a common interest community or the man-
17 agement of a homeowner's association.

18 ~~(2)~~ (3) "Financial disclosure" means the accounting records of the or-
19 ganization that are kept, disclosed, and made available for inspection in
20 accordance with part 11, chapter 30, title 30, Idaho Code, and the governing
21 documents of the homeowner's association.

22 ~~(3)~~ (4) "Governing documents" means a written instrument by which the
23 homeowner's association may exercise powers or manage, maintain, or other-
24 wise affect the property under the jurisdiction of the homeowner's associa-
25 tion. "Governing documents" includes but is not limited to articles of in-
26 corporation, bylaws, a plat, rules of the homeowner's association, and any
27 declaration of covenants, conditions, and restrictions.

28 ~~(4)~~ (5) (a) "Homeowner's association" means any incorporated or unin-
29 corporated association:

30 ~~(a)~~ (i) In which membership is based ~~upon~~ on owning or possessing
31 an interest in real property; and

32 ~~(b)~~ (ii) That has the authority, pursuant to recorded covenants,
33 bylaws, or other governing documents, to assess and record liens
34 against the real property of its members.

35 (b) "Homeowner's association" includes a community manager contract-
36 ing with the homeowner's association or any other agent or person with
37 the explicit or apparent authority to act on behalf of the homeowner's
38 association.

39 ~~(5)~~ (6) "Member" or "membership" means any person or entity owning or
40 possessing an interest in residential real property or a lot within the phys-
41 ical boundaries of an established homeowner's association.

1 SECTION 2. That Section 55-3204, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 55-3204. ADMINISTRATION OF AN INCORPORATED OR UNINCORPORATED HOME-
4 OWNER'S ASSOCIATION. (1) Board meetings must be open to the members of the
5 homeowner's association and any representative or agent designated in a
6 signed writing by a member to represent the member.

7 (2) An executive session at which members of the homeowner's associa-
8 tion are excluded may be held upon a majority vote of the board for the fol-
9 lowing purposes:

10 (a) To consider matters of personnel, hiring, bid review, or contract
11 negotiation;

12 (b) To consider records that are not subject to disclosure under part
13 11, chapter 30, title 30, Idaho Code;

14 (c) To consult with an attorney for the purpose of obtaining legal ad-
15 vice. The mere presence of legal counsel at a board meeting shall not
16 justify entering into executive session;

17 (d) To discuss ongoing or potential litigation, mediation, arbitra-
18 tion, or administrative proceedings; or

19 (e) To discuss sensitive matters related to an individual member's
20 property or assessments, such as violations or delinquent assessments.

21 (3) All homeowner's associations, whether incorporated or unincorpo-
22 rated, shall:

23 (a) Hold a meeting of the membership each calendar year. Such meet-
24 ing may be conducted in person or, with the approval of a simple major-
25 ity of the members, ~~be conducted~~ through an electronic or hybrid meeting
26 model;

27 (b) Be governed by the provisions of sections 30-30-501 and 30-30-505,
28 Idaho Code, as those provisions relate to notice of meetings of the
29 homeowner's association. The board may adopt a process for members to
30 choose to receive notice of any meeting of the homeowner's association
31 by electronic means rather than by mail. All dates and information of
32 the notice must remain the same as a mail notice;

33 (c) Take minutes from all meetings of the homeowner's association, in-
34 cluding membership meetings and board meetings, and preserve such min-
35 utes for a minimum of ten (10) years; and

36 (d) Determine and establish the amount of assessments in accordance
37 with the governing documents or, in the event the governing documents
38 do not include such language, with the approval of a majority of the
39 members of the homeowner's association.

40 (4) At an annual meeting of the homeowner's association, board members
41 shall declare any conflict of interest or familial relationship that exists
42 with respect to such board member and any person or entity who has previously
43 entered into or seeks to enter into a service contract with the homeowner's
44 association.

45 ~~(4)~~ (5) A board of a homeowner's association may not use its power to
46 adopt rules governing the common property to expand the provisions of the re-
47 strictive covenants as they relate to a member's property.

48 ~~(5)~~ (6) All homeowner's associations, whether incorporated or unincor-
49 porated, shall be governed by sections 30-30-502 and 30-30-608, Idaho Code,

1 as those sections relate to the removal of a board member and the process of
2 calling a special meeting for such removal.

3 ~~(6)~~ (7) Unincorporated homeowner's associations shall be governed by
4 bylaws that provide for at least the following:

5 (a) A requirement that the homeowner's association holds at least one

6 (1) meeting each calendar year;

7 (b) A requirement that notice of any meeting of the homeowner's associ-
8 ation be published and distributed to all members of the homeowner's as-
9 sociation;

10 (c) A requirement that the minutes of all homeowner's association meet-
11 ings be taken and preserved;

12 (d) A method of adopting and amending fees; and

13 (e) A provision that no fees or assessments of the homeowner's asso-
14 ciation may be increased unless a majority of all members of the home-
15 owner's association vote in favor of the increase.

16 ~~(7)~~ (8) If a homeowner's association violates any of the provisions of
17 this chapter and a member prevails in a legal action to protect his rights,
18 the member shall be entitled to an award of reasonable attorney's fees.

19 SECTION 3. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after
21 July 1, 2024.