

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 621, As Amended

BY WAYS AND MEANS COMMITTEE

AN ACT

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

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 the following persons who may
36 or may not be members of a homeowner's association or serve on the board
37 of a homeowner's association:

38 (i) A community manager pursuant to a contract with a homeowner's
39 association; and

40 (ii) An agent or person with explicit or apparent authority to act
41 on behalf of a homeowner's association.

1 ~~(5)~~ (6) "Member" or "membership" means any person or entity owning or
2 possessing an interest in residential real property or a lot within the phys-
3 ical boundaries of an established homeowner's association.

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

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

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

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

15 (b) To consider records that are not subject to disclosure under part
16 11, chapter 30, title 30, Idaho Code;

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

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

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

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

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

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

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

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

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

1 ~~(4)~~ (5) A board of a homeowner's association may not use its power to
2 adopt rules governing the common property to expand the provisions of the re-
3 strictive covenants as they relate to a member's property.

4 ~~(5)~~ (6) All homeowner's associations, whether incorporated or unincor-
5 porated, shall be governed by sections 30-30-502 and 30-30-608, Idaho Code,
6 as those sections relate to the removal of a board member and the process of
7 calling a special meeting for such removal.

8 ~~(6)~~ (7) Unincorporated homeowner's associations shall be governed by
9 bylaws that provide for at least the following:

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

11 (1) meeting each calendar year;

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

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

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

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

21 ~~(7)~~ (8) If a homeowner's association violates any of the provisions of
22 this chapter and a member prevails in a legal action to protect his rights,
23 the member shall be entitled to an award of reasonable attorney's fees.

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