

LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature First Regular Session - 2025

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 361

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATIONS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 55-3203, IDAHO CODE, TO DEFINE TERMS AND TO REVISE A DEFINITION; AMENDING CHAPTER 32, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-3204A, IDAHO CODE, TO PROVIDE FOR A PERIOD OF DECLARANT CONTROL; AMENDING CHAPTER 32, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-3204B, IDAHO CODE, TO PROVIDE FOR RESTRICTIONS ON BOARD MEMBERSHIP AND TO PROVIDE FOR PROXY VOTES; AMENDING SECTION 55-3205, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURE OF FEES AND FINANCIAL DISCLOSURES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature recognizes the significant and rapid population growth in the State of Idaho that has occurred for more than a decade and the corresponding increase of residential developments and homeowner's associations. The Legislature finds and declares that this legislation is necessary to protect the property rights, reasonable expectations, and welfare of the citizens and residents of this state who own property and are members of homeowner's associations.

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

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

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

(2) "Community manager" means a person or agent who provides for or otherwise engages in the management of a common interest community or the management of a homeowner's association.

(3) "Declarant" means an individual or entity filing a declaration in association with a residential subdivision.

(4) "Declaration" means an instrument filed in the real property records of a county that includes restrictive covenants governing a residential subdivision.

~~(3)~~ (5) "Financial disclosure" means the accounting records of the organization that are kept, disclosed, and made available for inspection in accordance with part 11, chapter 30, title 30, Idaho Code, and the governing documents of the homeowner's association.

~~(4)~~ (6) "Governing documents" means a written instrument by which the homeowner's association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the homeowner's association. Governing documents includes but is not limited to articles of incor-

poration, bylaws, a plat, rules of the homeowner's association, and any declaration of covenants, conditions, and restrictions.

~~(5)~~ (7) (a) "Homeowner's association" means any incorporated or unincorporated residential association:

(i) In which membership is based on owning or possessing an interest in real property; and

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

(b) "Homeowner's association" includes the following persons who may or may not be members of a homeowner's association or serve on the board of a homeowner's association:

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

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

~~(6)~~ (8) "Member" or "membership" means any person or entity owning or possessing an interest in residential real property or a lot within the physical boundaries of an established homeowner's association.

(9) "Owner" means a person who holds record title to property in a residential subdivision and includes an agent of a person who holds record title to property in a residential subdivision.

~~(6)~~ (10) "Transfer fee" means a fee, charge, or assessment, as that term is described in chapter 31, title 55, Idaho Code, charged by the homeowner's association and payable to the homeowner's association upon the transfer of an interest in real property that is under the jurisdiction of the homeowner's association.

SECTION 3. 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 55-3204A, Idaho Code, and to read as follows:

55-3204A. HOMEOWNER'S ASSOCIATIONS -- POWERS -- DUTIES -- ENFORCEMENT. For any homeowner's association formed after July 1, 2025, the following provisions shall apply:

(1) (a) The governing documents may provide for a period of declarant control of the homeowner's association, during which a declarant, or persons designated by the declarant, may appoint and remove board members and officers of the homeowner's association. If the governing documents permit owner election of board members or officers during the period of declarant control, such board members or officers elected by owners may not be removed by the declarant.

(b) Regardless of the period of declarant control provided by the governing documents, on or before one hundred eighty (180) days after the date on which seventy-five percent (75%) of the lots are conveyed to owners other than the declarant or a builder in the business of constructing homes that purchased the lots from the declarant for the purpose of selling completed homes built on the lots, at least one-third (1/3) of the positions on the homeowner's association board shall be offered for members elected by owners other than the declarant.

1 (c) Once ninety-five percent (95%) of a development is built and occu-
2 pied, the declarant shall begin the process of turning over full con-
3 trol of the homeowner's association to the owners and shall complete the
4 process within twelve (12) months of such date.

5 (2) The provisions in subsection (1) of this section shall apply to the
6 transfer of board control and do not affect other declarant rights as set
7 forth in the declaration. The declarant shall retain architectural review
8 authority during the period of declarant control, except as otherwise speci-
9 fied in the declaration.

10 (3) If a declarant fails or refuses to comply with subsection (1) of
11 this section, an adversely affected owner may seek injunctive relief to re-
12 quire compliance within thirty (30) days of sending a written notice to the
13 declarant.

14 SECTION 4. That Chapter 32, Title 55, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 55-3204B, Idaho Code, and to read as follows:

17 55-3204B. RESTRICTIONS ON BOARD MEMBERSHIP -- PROXY VOTES. (1) Except
18 during the period of declarant control of the homeowner's association pur-
19 suant to section 55-3204A, Idaho Code, only one (1) owner per lot shall serve
20 concurrently on the board of a homeowner's association.

21 (2) Votes allocated to the owners may be cast under a written proxy duly
22 executed by the owner, pursuant to the provisions of the Idaho nonprofit cor-
23 poration act under part 5, chapter 30, title 30, Idaho Code, except:

24 (a) No single owner may hold proxies representing more than fifty per-
25 cent (50%) of the total votes in the homeowner's association; and

26 (b) A person may not serve on the board of a homeowner's association if
27 the person is a member of the same household in the same primary resi-
28 dence as another board member of the homeowner's association.

29 (3) The provisions of subsection (2) of this section shall not apply to
30 a homeowner's association with fewer than twenty (20) residences or during
31 the declarant control period of the homeowner's association.

32 SECTION 5. That Section 55-3205, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 55-3205. DISCLOSURE OF FEES AND FINANCIAL DISCLOSURES. (1) A home-
35 owner's association or its agent ~~must~~ shall provide a member and the member's
36 agent, if any, a statement of the member's assessment account no more than
37 five (5) business days after a written request by the member or the member's
38 agent is received by the manager, president, board member, or other agent of
39 the homeowner's association, or any combination thereof. The homeowner's
40 association will be bound by the amounts set forth within the statement of
41 assessment account. The statement of assessment account shall include all
42 outstanding assessments, charges, and fees, including any transfer fee,
43 that are due and owing to the homeowner's association, including any late
44 fees or interest that may have accrued. Additionally, the homeowner's asso-
45 ciation shall provide the amount of any transfer fee that may be charged upon
46 a transfer of the property. No fee ~~may~~ shall be charged by a homeowner's as-
47 sociation or its agent for providing a statement of the member's assessment

1 account. Charging a fee for any statement of the member's assessment account
2 required by this section is a violation of the Idaho consumer protection act,
3 chapter 6, title 48, Idaho Code.

4 (2) A homeowner's association ~~may~~ shall not charge a transfer fee
5 unless the authority to do so is expressly stated in the declaration of
6 covenants, conditions, and restrictions. The transfer fee ~~may~~ shall be
7 charged only by the homeowner's association, and no portion of the transfer
8 fee may be paid to or allocated to a third party, including any board member
9 or the homeowner's association's agent or manager. On or before January 1
10 of each year, a homeowner's association or its agent ~~must~~ shall provide its
11 members a disclosure of fees that will be charged to a member. Fees imposed
12 by a homeowner's association for the calendar year following the disclosure
13 of fees ~~may~~ shall not exceed the amount set forth on the annual disclosure,
14 and no surcharge or additional fees ~~may~~ shall be charged to any member in
15 connection with any transfer of ownership of his property.

16 (3) A homeowner's association or its agent ~~must~~ shall provide a member
17 and the member's agent, if any, an ~~up-to-date~~ updated financial disclosure
18 no more than ten (10) business days after a request by the member or the mem-
19 ber's agent is received by the manager, president, board member, or other
20 agent of the homeowner's association, or any combination thereof.

21 (4) Within sixty (60) days of the close of the fiscal year, a home-
22 owner's association or its agent ~~must~~ shall provide all members of the
23 organization, and each member's agent, if any, with an ~~up-to-date~~ updated
24 and reconciled financial disclosure for the fiscal year.

25 (5) Except as otherwise provided in this section, each homeowner's as-
26 sociation shall be subject to the records and reports requirements of the
27 Idaho nonprofit corporation act under part 11, chapter 30, title 30, Idaho
28 Code.

29 SECTION 6. An emergency existing therefor, which emergency is hereby
30 declared to exist, this act shall be in full force and effect on and after
31 July 1, 2025.