

TITLE 55
PROPERTY IN GENERAL

CHAPTER 32
HOMEOWNER'S ASSOCIATION ACT

55-3201. SHORT TITLE. This chapter shall be known and may be cited as the "Homeowner's Association Act."

[55-3201, added 2022, ch. 323, sec. 4, p. 1039.]

55-3202. LEGISLATIVE INTENT. An increasing number of Idahoans reside within homeowner's associations. To protect the rights of current and subsequent property owners within a homeowner's association, it is the intent of the legislature to ensure the transparent operation and inclusive management of these associations, balancing the rights of all owners within homeowner's associations to promote harmony and respect for community standards and to protect the rights of individuals and neighbors in the community.

[55-3202, added 2022, ch. 323, sec. 4, p. 1039.]

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) "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.

(3) "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 incorporation, bylaws, a plat, rules of the homeowner's association, and any declaration of covenants, conditions, and restrictions.

(4) "Homeowner's association" means any incorporated or unincorporated association:

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

(b) 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.

(5) "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.

[55-3203, added 2022, ch. 323, sec. 4, p. 1039.]

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

(2) An executive session at which members of the homeowner's association are excluded may be held upon a majority vote of the board for the following purposes:

- (a) To consider matters of personnel, hiring, bid review, or contract negotiation;
- (b) To consider records that are not subject to disclosure under part 11, [chapter 30, title 30](#), Idaho Code;
- (c) To consult with an attorney for the purpose of obtaining legal advice. The mere presence of legal counsel at a board meeting shall not justify entering into executive session;
- (d) To discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings; or
- (e) To discuss sensitive matters related to an individual member's property or assessments, such as violations or delinquent assessments.

(3) All homeowner's associations, whether incorporated or unincorporated, shall:

- (a) Hold a meeting of the membership each calendar year. Such meeting may be conducted in person or, with the approval of a simple majority of the members, be conducted through an electronic or hybrid meeting model;
- (b) Be governed by the provisions of sections [30-30-501](#) and [30-30-505](#), Idaho Code, as those provisions relate to notice of meetings of the homeowner's association. The board may adopt a process for members to choose to receive notice of any meeting of the homeowner's association by electronic means rather than by mail. All dates and information of the notice must remain the same as a mail notice;
- (c) Take minutes from all meetings of the homeowner's association, including membership meetings and board meetings, and preserve such minutes for a minimum of ten (10) years; and
- (d) Determine and establish the amount of assessments in accordance with the governing documents or, in the event the governing documents do not include such language, with the approval of a majority of the members of the homeowner's association.

(4) A board of a homeowner's association may not use its power to adopt rules governing the common property to expand the provisions of the restrictive covenants as they relate to a member's property.

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

(6) Unincorporated homeowner's associations shall be governed by by-laws that provide for at least the following:

- (a) A requirement that the homeowner's association holds at least one (1) meeting each calendar year;
- (b) A requirement that notice of any meeting of the homeowner's association be published and distributed to all members of the homeowner's association;
- (c) A requirement that the minutes of all homeowner's association meetings be taken and preserved;
- (d) A method of adopting and amending fees; and
- (e) A provision that no fees or assessments of the homeowner's association may be increased unless a majority of all members of the homeowner's association vote in favor of the increase.

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

[55-3204, added 2022, ch. 323, sec. 4, p. 1040.]

55-3205. DISCLOSURE OF FEES AND FINANCIAL DISCLOSURES. (1) A homeowner's association or its agent must provide a member and the member's agent, if any, a statement of the member's account no more than five (5) business days after a request by the member or the member's agent is received by the manager, president, board member, or other agent of the homeowner's association, or any combination thereof. The statement of account must include, at a minimum, the amount of annual charges against the property, the date when said amounts are due, and any unpaid assessments or other charges due and owing from such member at the time of the request. The homeowner's association will be bound by the amounts set forth within the statement of account.

(2) On or before January 1 of each year, a homeowner's association or its agent must provide its members a disclosure of fees that will be charged to a member in connection with any transfer of ownership of his property. Fees imposed by a homeowner's association for the calendar year following the disclosure of fees may not exceed the amount set forth on the annual disclosure, and no surcharge or additional fees may be charged to any member in connection with any transfer of ownership of his property. No fees may be charged for expeditiously providing a member's statement of account as set forth in this section.

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

(4) Within sixty (60) days of the close of the fiscal year, a homeowner's association or its agent must provide all members of the organization, and the member's agent, if any, with an up-to-date and reconciled financial disclosure for the fiscal year.

[55-3205, added 2022, ch. 323, sec. 4, p. 1041.]

55-3206. VIOLATIONS -- DUE PROCESS AND NOTICE -- LIMITATION ON FINES -- ATTORNEY'S FEES. (1) No fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of a homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions. A majority vote by the board is required before any fine may be imposed on a member for a violation of any covenants and restrictions pursuant to the rules and regulations of the homeowner's association. Written notice must be provided to the member at least thirty (30) days prior to a meeting at which a vote to impose a fine on the member is to be held. Service of the notice must be by personal service or certified mail.

(2) In the event the member begins resolving the violation prior to a meeting held pursuant to subsection (1) of this section, no fine may be imposed as long as the member continues to address the violation in good faith until fully resolved.

(3) No portion of any fine may be used to increase the remuneration of any board member or agent of the board.

(4) Except as may otherwise be provided in this subsection, nothing in this section is intended to affect any statute, rule, covenant, bylaw, provision, or clause that may allow for the recovery of attorney's fees. Attorney's fees and costs may not accrue or be assessed or collected by the homeowner's association until the homeowner's association has complied with the requirements of this section and the member has failed to address the violation as set forth in subsection (2) of this section. A court of competent jurisdiction may determine the reasonableness of attorney's fees and costs assessed against a member. In an action to determine the reasonableness of attorney's fees and costs assessed by the homeowner's association against a member, the court may award reasonable attorney's fees and costs to the prevailing party.

[55-3206, added 2022, ch. 323, sec. 4, p. 1042.]

55-3207. HOMEOWNER'S ASSOCIATION LIENS. (1) A homeowner's association may levy an assessment against a lot for the reasonable costs incurred in the maintenance of common areas consisting of real property owned and maintained by the homeowner's association.

(2) (a) A homeowner's association claiming a lien under subsection (1) of this section must file a claim in the county in which the lot or some part thereof is located. The claim must contain:

- (i) A true statement of the amount due for the unpaid assessments after deducting all just credits and offsets;
- (ii) The name of the lot owner, or reputed owner, if known;
- (iii) The name of the homeowner's association; and
- (iv) A description, sufficient for identification, of the property to be charged with the lien.

(b) When a claim has been filed and recorded pursuant to this section and the owner of the lot subject to the claim thereafter fails to pay any assessment chargeable to such lot, then as long as the original or any subsequent unpaid assessment remains unpaid, such claim shall automatically accumulate the subsequent unpaid assessments without the necessity of further filings under this section.

(c) The claim must be verified by the oath of an individual having knowledge of the facts and must be recorded by the county recorder. The record will be indexed as other liens are required by law to be indexed.

(d) Within five (5) business days after recording a lien on the property, the homeowner's association shall serve, by personal delivery to the owner or reputed owner or by certified mail to the last known address of the owner or reputed owner, a true and correct copy of the recorded lien.

(3) The lien may be enforced by the board acting on behalf of the homeowner's association.

(4) This section does not prohibit a homeowner's association from pursuing an action to recover sums for which subsection (1) of this section creates a lien or from taking a deed in lieu of foreclosure in satisfaction of the lien.

(5) An action to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the claim for unpaid assessments. However, recovery on the action operates to satisfy the lien, or the portion thereof, for which recovery is made.

[55-3207, added 2022, ch. 323, sec. 4, p. 1042.]

55-3208. SOLAR PANELS. (1) No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that prohibits the installation of solar panels or solar collectors on the rooftop of any property or structure within the jurisdiction of the homeowner's association. A homeowner's association may, however, determine the specific location where solar panels or solar collectors may be installed on the roof as long as installation is permitted with an orientation to the south or within forty-five (45) degrees east or west of due south.

(2) A homeowner's association may adopt reasonable rules for the installation of solar panels or solar collectors consistent with an applicable building code or to require that panels or collectors be parallel to a roofline, conform to the slope of a roof, and that any frame, support bracket, or visible piping or wiring be painted to coordinate with the roofing material. The provisions of this subsection shall apply only to rooftops that are owned, controlled, and maintained by the homeowner.

[55-3208, added 2022, ch. 323, sec. 4, p. 1043.]

55-3209. POLITICAL SIGNS. (1) Except as otherwise provided in this section, no homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that prohibits or has the effect of prohibiting the display of a political sign.

(2) A homeowner's association may adopt reasonable rules, subject to any applicable laws or ordinances, regarding the time, size, place, number, and manner of display of political signs.

(3) A homeowner's association may remove a political sign without liability if the sign:

- (a) Is placed within the common areas, including limited common areas, other property or improvements owned or maintained by the homeowner's association, or property owned in common by the members of the homeowner's association;
- (b) Threatens the public health or safety;
- (c) Violates an applicable law or ordinance; or
- (d) Is accompanied by sound or music or if any other materials are attached to the political sign.

(4) Except as provided in subsection (3) of this section, a homeowner's association shall not remove a political sign from the property of a member or impose any fine or penalty upon the member unless it has first provided the member three (3) days' written notice that specifically identifies the rule and the nature of the violation.

(5) For the purpose of this chapter, "political sign" means any fixed, ground-mounted display in support of or in opposition to a candidate for office or a ballot measure.

[55-3209, added 2022, ch. 323, sec. 4, p. 1043.]

55-3210. FLAGS. (1) No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that prohibits or has the effect of prohibiting the display of:

- (a) The flag of the United States of America;
- (b) The flag of the state of Idaho;
- (c) The POW/MIA flag; or
- (d) An official or replica flag of any branch of the United States armed forces.

(2) A homeowner's association may adopt reasonable rules, subject to applicable laws or ordinances:

(a) That require:

(i) The flag of the United States of America and the flag of the state of Idaho to be displayed in accordance with 4 U.S.C. 5 et seq.;

(ii) A flagpole attached to a dwelling or a freestanding flagpole to be constructed of permanent, long-lasting materials with a finish appropriate to the materials used in the construction of the flagpole and harmonious to the dwelling;

(iii) The display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and

(iv) That a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(b) That regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one (1) flagpole per property that:

(i) Is not more than twenty (20) feet in height and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property; or

(ii) Is attached to any portion of a residential structure owned by the member and not maintained by the homeowner's association;

(c) That govern the size of a displayed flag;

(d) That regulate the size, location, and intensity of any lights used to illuminate a displayed flag;

(e) That impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or

(f) That prohibit a member from locating a displayed flag or flagpole on property that is:

(i) A common area, including a limited common area;

(ii) Owned or maintained by the homeowner's association; or

(iii) Owned in common by the members of the association.

(3) A member who has a front yard and who otherwise complies with any permitted homeowner's association regulation may elect to install a flagpole in accordance with subsection (2) (b) of this section.

(4) A homeowner's association may not remove a flag permitted by subsection (1) of this section from the property of a member or impose any fine or penalty upon the member unless it has first provided the member three (3) days' written notice that specifically identifies the rule and the nature of the violation.

[55-3210, added 2022, ch. 323, sec. 4, p. 1044.]

55-3211. PROHIBITED CONDUCT -- RENTAL RESTRICTIONS. No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that limits or prohibits the rental, for any amount of time, of any property, land, or structure thereon within the jurisdiction of the homeowner's association, unless expressly agreed to in writing at the time of such addition or amendment by the owner of the affected property. Nothing in this section shall be construed to prevent the enforcement of valid covenants, conditions, or restrictions limiting a property owner's

right to transfer his interest in land or the structures thereon as long as that covenant, condition, or restriction applied to the property at the time the homeowner acquired his interest in the property.

[55-3211, added 2022, ch. 323, sec. 4, p. 1045.]