

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 589

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-3203, IDAHO CODE,  
2 TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
3 55-3205, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURES, TO  
4 PROHIBIT TRANSFER FEES IN CERTAIN CIRCUMSTANCES, AND TO MAKE A TECHNI-  
5 CAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
6 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) "Financial disclosure" means the accounting records of the organi-  
16 zation that are kept, disclosed, and made available for inspection in accor-  
17 dance with part 11, chapter 30, title 30, Idaho Code, and the governing docu-  
18 ments of the homeowner's association.

19 (3) "Governing documents" means a written instrument by which the home-  
20 owner's association may exercise powers or manage, maintain, or otherwise  
21 affect the property under the jurisdiction of the homeowner's association.  
22 "Governing documents" includes but is not limited to articles of incorpora-  
23 tion, bylaws, a plat, rules of the homeowner's association, and any declara-  
24 tion of covenants, conditions, and restrictions.

25 (4) "Homeowner's association" means any incorporated or unincorpo-  
26 rated association:

27 (a) In which membership is based ~~upon~~ on owning or possessing an inter-  
28 est in real property; and

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

32 (5) "Member" or "membership" means any person or entity owning or pos-  
33 sessed an interest in residential real property or a lot within the physical  
34 boundaries of an established homeowner's association.

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

40 SECTION 2. That Section 55-3205, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

1           55-3205. DISCLOSURE OF FEES AND FINANCIAL DISCLOSURES. (1) A home-  
2 owner's association or its agent must provide a member and the member's  
3 agent, if any, a statement of the member's assessment account no more than  
4 five (5) business days after a written request by the member or the member's  
5 agent is received by the manager, president, board member, or other agent  
6 of the homeowner's association, or any combination thereof. ~~The statement~~  
7 ~~of account must include, at a minimum, the amount of annual charges against~~  
8 ~~the property, the date when said amounts are due, and any unpaid assessments~~  
9 ~~or other charges due and owing from such member at the time of the request.~~  
10 The homeowner's association will be bound by the amounts set forth within  
11 the statement of assessment account. The statement of assessment account  
12 shall include all outstanding assessments, charges, and fees, including  
13 any transfer fee, that are due and owing to the homeowner's association,  
14 including any late fees or interest that may have accrued. Additionally,  
15 the homeowner's association shall provide the amount of any transfer fee  
16 that may be charged upon a transfer of the property. No fee may be charged  
17 by a homeowner's association or its agent for providing a statement of the  
18 member's assessment account. Charging a fee for any statement of the mem-  
19 ber's assessment account required by this section is a violation of the Idaho  
20 consumer protection act, chapter 6, title 48, Idaho Code.

21           (2) A homeowner's association may not charge a transfer fee unless the  
22 authority to do so is expressly stated in the declaration of covenants, con-  
23 ditions, and restrictions. The transfer fee may be charged only by the home-  
24 owner's association, and no portion of the transfer fee may be paid to or al-  
25 located to a third party, including any board member or the homeowner's as-  
26 sociation's agent or manager. On or before January 1 of each year, a home-  
27 owner's association or its agent must provide its members a disclosure of  
28 fees that will be charged to a member ~~in connection with any transfer of own-~~  
29 ~~ership of his property.~~ Fees imposed by a homeowner's association for the  
30 calendar year following the disclosure of fees may not exceed the amount set  
31 forth on the annual disclosure, and no surcharge or additional fees may be  
32 charged to any member in connection with any transfer of ownership of his  
33 property.

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

39           (4) Within sixty (60) days of the close of the fiscal year, a home-  
40 owner's association or its agent must provide all members of the organiza-  
41 tion, and ~~the~~ each member's agent, if any, with an up-to-date and reconciled  
42 financial disclosure for the fiscal year.

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