
HOUSE BILL No. 1088

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-25.5.

Synopsis: Homeowners associations. Applies the following to a homeowners association (association) established after June 30, 2009: (1) Requires an association to maintain a current roster of all members of the association (members). (2) Requires an association to prepare an annual budget that must be approved by at least 40% of the members. (3) Requires the board of directors of an association (board) to address an item of business if more than 50% of the members petition the board to address the item. (4) Prohibits a board from entering into certain contracts without the approval of the members. (5) Provides that the governing documents of an association must include grievance resolution procedures that provide for the final and binding arbitration of disputes. (6) Provides that the governing documents of an association must allow the termination of the association if at least 90% of the members agree to the termination. (7) Specifies that an unpaid regular annual assessment imposed by a homeowners association on a member is enforceable as a lien on real property owned by the member and all other unpaid assessments are not enforceable as a lien on real property owned by a member. (8) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than one year. (9) Provides certain defenses to a member if the association brings a civil action against the member involving an act in furtherance of the member's right of petition or free speech. Allows an association established before July 1, 2009, to elect to be governed by these provisions.

Effective: July 1, 2009.

Hinkle, Grubb

January 7, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1088



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-25.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2009]:

4 **ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS**

5 **Chapter 1. Applicability**

6 **Sec. 1. This article applies to the following:**

7 (1) **A homeowners association established after June 30, 2009.**

8 (2) **A homeowners association established before July 1, 2009,**

9 **if a majority of the members of the homeowners association**
10 **elect to be governed by this article.**

11 **Chapter 2. Definitions**

12 **Sec. 1. The definitions in this chapter apply throughout this**
13 **article.**

14 **Sec. 2. "Act in furtherance of a person's right of petition or free**
15 **speech under the Constitution of the United States or the**
16 **Constitution of the State of Indiana in connection with a public**
17 **issue" has the meaning set forth in IC 34-7-7-2.**



1 **Sec. 3. "Board"** refers to the board of directors of a
2 homeowners association.

3 **Sec. 4. "Governing documents"** includes:
4 (1) the articles of incorporation and bylaws of a homeowners
5 association; and
6 (2) all adopted amendments to the articles of incorporation
7 and bylaws.

8 **Sec. 5. "Homeowners association"** means a corporation or
9 another entity that:

10 (1) is organized and operated exclusively for the benefit of two
11 (2) or more persons who each own a dwelling in fee simple;
12 (2) acts, in accordance with the articles, bylaws, and other
13 documents governing the corporation or entity, to:

14 (A) acquire, transfer, manage, repair, maintain, or engage
15 in construction on or in the land and improvements on the
16 land related to the use of the dwellings owned by the
17 members of the corporation or entity;

18 (B) purchase insurance to cover a casualty or an activity
19 on or in the land and improvements on the land;

20 (C) engage in an activity incidental to an activity described
21 in clause (A) or (B); or

22 (D) engage in more than one (1) of the activities described
23 in clauses (A) through (C); and

24 (3) is governed by a board that serves the purpose of setting
25 policy and controlling or otherwise overseeing the activities or
26 functional responsibilities of the corporation or entity.

27 **Chapter 3. Homeowners Associations**

28 **Sec. 1. (a)** A homeowners association shall maintain:

29 (1) a current roster of all members of the association; and
30 (2) the mailing address and parcel identification for each
31 member of the association.

32 (b) The homeowners association shall also maintain any
33 electronic mail addresses or facsimile (fax) numbers of those
34 members who have consented to receive notice by electronic mail
35 or facsimile (fax). Electronic mail addresses and facsimile (fax)
36 numbers provided by a member to receive notice by electronic mail
37 or facsimile (fax) shall be removed from the association's records
38 when the member revokes consent to receive notice by electronic
39 mail or facsimile (fax). However, the association is not liable for an
40 erroneous disclosure of an electronic mail address or a facsimile
41 (fax) number for receiving notices.

42 (c) The mailing addresses and parcel identifications maintained

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1 by a homeowners association under subsection (a):
 2 (1) shall be made available to a member of the homeowners
 3 association upon request;
 4 (2) may be used by a member of the homeowners association
 5 only for a purpose related to the operation of the homeowners
 6 association; and
 7 (3) may not be used by a member of the homeowners
 8 association for personal reasons.
 9 (d) Except as provided in subsection (c), a homeowners
 10 association may not sell, exchange, or otherwise transfer
 11 information maintained by the homeowners association under this
 12 section to any person.
 13 Sec. 2. If more than fifty percent (50%) of the members of a
 14 homeowners association petition the board to address an item of
 15 business, including the amendment of any governing documents,
 16 the board shall address the petitioned item on an agenda:
 17 (1) at its next regular board meeting or at a special meeting of
 18 the board; and
 19 (2) not later than sixty (60) days after the receipt of the
 20 petition.
 21 Sec. 3. (a) A homeowners association shall prepare an annual
 22 budget.
 23 (b) The annual budget must reflect:
 24 (1) the estimated revenues and expenses for the budget year;
 25 and
 26 (2) the estimated surplus or deficit as of the end of the current
 27 budget year.
 28 (c) The homeowners association shall provide each member of
 29 the homeowners association with:
 30 (1) a copy of the proposed annual budget; or
 31 (2) a written notice that a copy of the proposed annual budget
 32 is available upon request at no charge to the member;
 33 before the homeowners association meeting held under subsection
 34 (d).
 35 (d) A homeowners association budget must be approved:
 36 (1) at a meeting of the homeowners association members; and
 37 (2) by the affirmative vote of at least forty percent (40%) of
 38 the members of the homeowners association.
 39 Sec. 4. (a) A board may not enter into any contract that would
 40 result in a new assessment or the increase in an existing assessment
 41 payable by the members of the homeowners association in the
 42 amount of more than five hundred dollars (\$500) per year for each

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1 member of the homeowners association unless:
 2 (1) the board holds at least two (2) homeowners association
 3 meetings concerning the contract; and
 4 (2) the contract is approved by the affirmative vote of at least
 5 two-thirds (2/3) of the members of the homeowners
 6 association.
 7 (b) A board shall give notice of the first homeowners association
 8 meeting held under subsection (a):
 9 (1) to each member of the homeowners association; and
 10 (2) at least seven (7) calendar days before the date the meeting
 11 occurs.
 12 Sec. 5. (a) The governing documents must include grievance
 13 resolution procedures that apply to all members of the
 14 homeowners association and the board.
 15 (b) The procedures described in subsection (a) must provide for
 16 the final and binding arbitration of disputes concerning the
 17 administration of the homeowners association and interpretation
 18 of the governing documents.
 19 Sec. 6. (a) The governing documents must include provisions
 20 that allow the termination of the homeowners association if at least
 21 ninety percent (90%) of the members of the homeowners
 22 association agree to the termination.
 23 (b) The approval of a termination under subsection (a) must be
 24 evidenced by an agreement:
 25 (1) signed by at least ninety percent (90%) of the members of
 26 a homeowners association; and
 27 (2) filed with the clerk of the circuit court that has jurisdiction
 28 in the county in which the real property governed by the
 29 homeowners association is located.
 30 (c) The provisions described in subsection (a) must provide that,
 31 after an agreement is filed with the clerk of the circuit court under
 32 subsection (b), the homeowners association remains in existence
 33 only:
 34 (1) to wind up the association's affairs; and
 35 (2) until all the liabilities and obligations of the association
 36 have been discharged.
 37 Sec. 7. (a) A regular annual assessment:
 38 (1) that is imposed by a homeowners association on a member
 39 of the homeowners association; and
 40 (2) that is unpaid by the member;
 41 is enforceable as a lien on real property owned by the member.
 42 (b) An assessment that is not described in subsection (a):

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1 **(1) that is imposed by a homeowners association on a member**
 2 **of the homeowners association; and**
 3 **(2) that is unpaid by the member;**
 4 **is not enforceable as a lien on real property owned by the member.**
 5 **Sec. 8. A homeowners association may not suspend the voting**
 6 **rights of a member for nonpayment of regular annual assessments**
 7 **unless:**
 8 **(1) the governing documents provide for suspension; and**
 9 **(2) the assessments are delinquent for more than one (1) year.**
 10 **Sec. 9. (a) If a homeowners association brings a civil action**
 11 **against a member of the association involving an act in furtherance**
 12 **of the person's right of petition or free speech under the**
 13 **Constitution of the United States or the Constitution of the State of**
 14 **Indiana in connection with a public issue, the defense established**
 15 **by IC 34-7-7 is available to the member in that action.**
 16 **(b) A homeowners association may not expend association**
 17 **money prosecuting a civil action described in subsection (a) against**
 18 **a member.**

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