



April 1, 2011

**ENGROSSED
HOUSE BILL No. 1058**

DIGEST OF HB 1058 (Updated March 29, 2011 1:11 pm - DI 106)

Citations Affected: IC 32-25.5.

Synopsis: Homeowners associations. Authorizes the attorney general to bring an action against the board of directors of a homeowners association or individual members of a homeowners association if the attorney general makes certain findings. Provides for judicial remedies for violations of the statute governing homeowners associations.

Effective: July 1, 2011.

Cheatham, Hinkle

(SENATE SPONSORS — BRAY, YODER, ZAKAS, YOUNG R)

January 5, 2011, read first time and referred to Committee on Judiciary.
January 24, 2011, amended, reported — Do Pass.
January 27, 2011, read second time, ordered engrossed. Engrossed.
January 31, 2011, read third time, passed. Yeas 90, nays 8.

SENATE ACTION

February 17, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
March 31, 2011, reported favorably — Do Pass.

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April 1, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1058

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 32-25.5-1-1, AS ADDED BY P.L.167-2009,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1. **(a)** This article applies to the following:

- 4 (1) A homeowners association established after June 30, 2009.
- 5 (2) A homeowners association established before July 1, 2009:
 - 6 (A) if a majority of the members of the homeowners
 - 7 association elect to be governed by this article; or
 - 8 (B) if the number of members required by the homeowners
 - 9 association's governing documents elect to be governed by this
 - 10 article if a different number of members other than the number
 - 11 established in clause (A) is required by the governing
 - 12 documents.

13 **(b) IC 32-25.5-3-8 applies to all homeowners associations.**

14 SECTION 2. IC 32-25.5-3-8 IS ADDED TO THE INDIANA CODE
15 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2011]: **Sec. 8. (a) The attorney general may bring an action**
17 **against a board or an individual member of a board of a**

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1 **homeowners association if the attorney general finds that:**
2 **(1) the association's funds have been knowingly or**
3 **intentionally misappropriated or diverted by a board**
4 **member; or**
5 **(2) a board member has knowingly or intentionally used the**
6 **board member's position on the board to commit fraud or a**
7 **criminal act against the association or the association's**
8 **members.**
9 **(b) A court in which an action is brought under this section may**
10 **do the following:**
11 **(1) Issue an injunction.**
12 **(2) Order the board member to make restitution to the**
13 **homeowners association or to a member.**
14 **(3) Order a board member to be removed from the board.**
15 **(4) Order a board member to reimburse the state for the**
16 **reasonable costs of the attorney general's investigation and**
17 **prosecution of the violation.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1058, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 6, begin a new paragraph and insert:
"SECTION 1. IC 32-25.5-1-1, AS ADDED BY P.L.167-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. **(a)** This article applies to the following:

- (1) A homeowners association established after June 30, 2009.
- (2) A homeowners association established before July 1, 2009:
 - (A) if a majority of the members of the homeowners association elect to be governed by this article; or
 - (B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

(b) IC 32-25.5-3-8 applies to all homeowners associations."

Page 3, line 10, after "board or" insert "**an individual member of a board of**".

Page 3, line 10, delete "to enjoin knowing or" and insert "**if the attorney general finds that:**

- (1) the association's funds have been knowingly or intentionally misappropriated or diverted by a board member; or**
- (2) a board member has knowingly or intentionally used the board member's position on the board to commit fraud or a criminal act against the association or the association's members."**

Page 3, delete line 11.

Page 3, line 15, delete "or the homeowners association" and insert "**member**".

Page 3, line 17, delete "or a homeowners association to reimburse" and insert "**member to be removed from the board.**

- (4) Order a board member to reimburse the state for the reasonable costs of the attorney general's investigation and prosecution of the violation."**

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Page 3, delete lines 18 through 21.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1058 as introduced.)

FOLEY, Chair

Committee Vote: yeas 8, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1058, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1058 as printed January 25, 2011.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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