
HOUSE BILL No. 1058

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-17; IC 32-25.5-3.

Synopsis: Homeowners associations. Provides that the statute that authorizes judicial dissolution of nonprofit corporations applies to homeowners associations. Requires a homeowners association to comply with its grievance resolution procedure upon receiving a complaint or grievance from a member. Prohibits the board of directors of a homeowners association from making a material misrepresentation to a member concerning the procedures or application of the procedures to a complaint or grievance. Authorizes the attorney general to bring an action against the board of directors of a homeowners association or the homeowners association to enjoin knowing or intentional violations of the statute governing homeowners associations. Provides for judicial remedies for violations of the statute governing homeowners associations.

Effective: July 1, 2011.

Cheatham

January 5, 2011, read first time and referred to Committee on Judiciary.

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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.

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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 23-17-2-7, AS AMENDED BY P.L.245-2005,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 7. (a) "Corporation" means a public benefit,
4 mutual benefit, or religious corporation incorporated under or subject
5 to this article.

6 (b) The term does not include a foreign corporation.
7 ~~(c) For purposes of IC 23-17-24, the term does not include a~~
8 ~~homeowners association (as defined in IC 34-6-2-58).~~

9 SECTION 2. IC 23-17-24-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A circuit court or
11 superior court may dissolve a corporation as follows:

- 12 (1) In a proceeding by the attorney general if one (1) of the
13 following is established:
14 (A) The corporation obtained the corporation's articles of
15 incorporation through fraud.
16 (B) The corporation has continued to exceed or abuse the
17 authority conferred upon the corporation by law.



1 (C) The corporation is a public benefit corporation **or a**
 2 **homeowners association (as defined in IC 34-6-2-58)** and
 3 the corporate assets are being misapplied or wasted.
 4 (D) The corporation is a public benefit corporation and is no
 5 longer able to carry out the corporation's purposes.
 6 (2) Except as provided in the articles of incorporation or bylaws
 7 of a religious corporation, in a proceeding by fifty (50) members
 8 or members holding at least five percent (5%) of the voting
 9 power, whichever is less, or by a director or a person specified in
 10 articles of incorporation, if one (1) of the following is established:
 11 (A) The directors are deadlocked in the management of the
 12 corporate affairs, and the members, if any, are unable to break
 13 the deadlock.
 14 (B) The directors or those in control of the corporation have
 15 acted, are acting, or will act in a manner that is illegal,
 16 oppressive, or fraudulent.
 17 (C) The members have deadlocked in voting power and have
 18 failed, for a period that includes at least two (2) consecutive
 19 annual meeting dates, to elect successors to directors whose
 20 terms have, or would otherwise have, expired.
 21 (D) The corporate assets are being misapplied or wasted.
 22 (E) The corporation is a public benefit or religious corporation
 23 and is no longer able to carry out the corporation's purposes.
 24 (3) In a proceeding by a creditor if either of the following is
 25 established:
 26 (A) The creditor's claim has been reduced to judgment, the
 27 execution on the judgment returned unsatisfied, and the
 28 corporation is insolvent.
 29 (B) The corporation has admitted in writing that the creditor's
 30 claim is due and owing and the corporation is insolvent.
 31 (4) In a proceeding by the corporation to have the corporation's
 32 voluntary dissolution continued under court supervision.
 33 (b) Before dissolving a corporation, a court must consider the
 34 following:
 35 (1) Reasonable alternatives to dissolution.
 36 (2) If dissolution is in the public interest if the corporation is a
 37 public benefit corporation.
 38 (3) If dissolution is the best way of protecting the interests of
 39 members if the corporation is a mutual benefit corporation.
 40 SECTION 3. IC 32-25.5-3-6, AS ADDED BY P.L.167-2009,
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2011]: Sec. 6. The governing documents must include

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1 grievance resolution procedures that apply to all members of the
 2 homeowners association and the board. **The board must comply with**
 3 **the grievance resolution procedures upon receiving a complaint or**
 4 **grievance from a member. The board may not make a material**
 5 **misrepresentation to a member concerning the procedures or**
 6 **application of the procedures to a complaint or grievance.**

7 SECTION 4. IC 32-25.5-3-8 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2011]: **Sec. 8. (a) The attorney general may bring an action**
 10 **against a board or a homeowners association to enjoin knowing or**
 11 **intentional violations of this article.**

12 **(b) A court in which an action is brought under this section may**
 13 **do the following:**

- 14 **(1) Issue an injunction.**
- 15 **(2) Order the board or the homeowners association to make**
 16 **restitution to the homeowners association or to a member.**
- 17 **(3) Order a board or a homeowners association to reimburse**
 18 **the state for reasonable costs of the attorney general's**
 19 **investigation and prosecution of the violation of this article.**
- 20 **(4) Impose a civil penalty of not more than five thousand**
 21 **dollars (\$5,000) per violation.**

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