

# SENATE BILL REPORT

## SB 5547

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As of February 11, 2005

**Title:** An act relating to the dissolution of homeowners' associations.

**Brief Description:** Authorizing the dissolution of homeowners' associations.

**Sponsors:** Senators Roach and Johnson.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 2/9/05.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Staff:** Jennifer Arnold (786-7471)

**Background:** The Homeowners' Association Act was created by the legislature in 1995. It governs the formation and legal administration of an association and includes laws addressing the association's powers, organizational structure, meeting and notice requirements, as well as financial record keeping requirements. In addition to the Act, the governing documents, (articles of incorporation, bylaws, declaration of covenants, and other related items over which the association has authority), mandate many of the association's powers.

Except for the display of outdoor flags and financial record keeping requirements, the provisions of the Homeowners' Association Act only apply when the governing documents are not in conflict with the Act or silent on the matter.

Under current law, there is no statutory provision providing a process for the dissolution and subsequent distribution of assets of a homeowners' association.

**Summary of Bill:** A homeowners' association may be dissolved by a majority vote of the owners in person or by proxy at an annual or special meeting, if the following conditions are met, provided that the association's governing documents do not provide otherwise:

- the board of directors is served by an association owner written notice, which alleges facts that if true, would more probably than not establish that the board failed to comply with the Homeowners' Association Act;
- 30 days after being served, the board of directors has not corrected the alleged failure; and
- the board of directors is served written notice by an association owner of the board's failure to correct the alleged error and a demand by the owner that notice of a meeting to vote on the association dissolution and disposition of assets must be provided to the association members, as provided under the rules for notice in the Homeowners' Association Act. The notice of the meeting must contain, as an agenda item, substantially

the following wording: "Shall the association be BOTH dissolved AND disposition of the assets and liabilities be referred to a disinterested third party?"

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** A process for dissolution is needed for homeowners' associations that are not working, as the bylaws and covenants are completely outdated in light of the fact that the area has completely changed since their creation.

**Testimony Against:** This would take away an owner's vested rights and run afoul of common law. It is unfair to allow a simple majority to dissolve an association. Further, on dissolution, assets and liabilities should be distributed to a "similar organization," rather than a "disinterested third party" to avoid an impossible outcome.

**Who Testified:** PRO: Senator Roach, prime sponsor; Virgil Coop; Cathy Greenman, Prairie Ridge Maintenance Company.

CON: Robert Wilson-Hoss; Terry Leahy, Washington State Community Associations Institute.