

# SENATE BILL REPORT

## ESHB 1471

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As Reported By Senate Committee On:  
Law & Justice, March 30, 1995

**Title:** An act relating to homeowners' associations.

**Brief Description:** Regulating homeowners' associations.

**Sponsors:** House Committee on Law & Justice (originally sponsored by Representatives Padden and Appelwick).

**Brief History:** Passed House 3/9/95, 82-13.

**Committee Activity:** Law & Justice: 3/28/95, 3/30/95 [DPA].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended.

Signed by Senators Smith, Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

**Staff:** Dick Armstrong (786-7460)

**Background:** A homeowners' association is an organization formed in a planned unit community or given homeowners' area to provide management and maintenance for common areas in the community, such as parks, lakes, roads, and community centers. Often these associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations typically impose and collect assessments on each owner of property in the community for the maintenance and repair of the common areas. In addition, homeowners' associations may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules.

Currently, there is no statutory law that specifically addresses the organization, management, and powers of homeowners' associations. Homeowners' associations may organize as nonprofit associations governed by their own rules and procedures. In addition, homeowners associations may organize as nonprofit corporations.

**Summary of Amended Bill:** A new chapter is created governing the formation and administration of homeowners' associations. A "homeowners' association" is a corporation, each member of which is an owner of residential real property located within the association boundaries and who is obligated to pay real property taxes, insurance premiums, maintenance costs, or improvement costs for real property other than that which is owned by the member. The membership of an association consists exclusively of the owners of all real property over which the association has jurisdiction.

The powers of an association include the power to: (1) adopt bylaws; (2) adopt budgets and impose assessments for common expenses; (3) make contracts and incur liabilities; (4) regulate the use and maintenance of common areas; (5) acquire, and convey interests in real property; and (6) impose charges for late payments of assessments and levy reasonable fines for violation of the bylaws of the association.

Officers and directors of an association must act in all instances on behalf of the association and must exercise the degree of care and loyalty required of an officer or director of a nonprofit corporation. The board of directors cannot act on behalf of the association to amend the articles of incorporation; take any action that requires the vote or approval of the owners; terminate the association; elect members of the board of directors; or determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

Any budget adopted by the board of directors must be ratified by the owners of the association. The budget is ratified unless a majority of the owners reject the budget.

The bylaws provide for: (1) the number, qualifications, powers and duties, terms of office, and manner of election of the board of directors; (2) the manner of election of the officers by the board of directors; (3) which powers the officers or directors may delegate to a managing agent; and (4) the method of amending the bylaws.

The association must hold at least one meeting per year, and special meetings may be called by the president, a majority of the board of directors, or by owners having 10 percent of the votes in the association. Notice of the special meetings must be mailed at least 14 days, and no more than 60 days, in advance of the meeting and must contain the time, place and purpose of the meeting.

All meetings of the board of directors must be open for observation by all owners of record and their authorized agents. The board may meet in closed executive session to consider certain matters upon an affirmative vote in open session. All actions passed or agreed to in closed session become effective only after the board reconvenes and votes on the action in open meeting.

The association is required to keep financial records and prepare an annual financial statement. All records of the association are available for examination by all owners.

A violation of the act entitles an aggrieved party to any equitable or legal remedies and, if appropriate, an award of attorney fees. Claims for relief must be brought within six months from the occurrence of the violation.

**Amended Bill Compared to Substitute Bill:** Owners can vote in person or by proxy. The board is not statutorily required to refund or credit surplus monies to each owner. For associations with assessments of over \$50,000, the audit must be done by an "independent" CPA. Claims must be brought within six months from the time of the occurrence of the violation. Financial statements of an association do not have to be done in "accordance with generally accepted accounting principles."

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** The bill is essentially the same as the Senate bill which was heard previously in this committee. The bill will address problems that residential homeowners associations are having; right now the associations are practically unregulated. The associations sometimes take advantage of uninformed owners and such owners suffer major consequences. Adjustments need to be made in the bill to protect small associations from some of the bookkeeping details.

**Testimony Against:** None.

**Testified:** Ralph Munro, Secretary of State (pro); Glen Hudson, Realtors (with concerns).