

# COMMITTEE REPORT

## MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1071, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 2, delete lines 2 through 5.
- 2 Page 2, line 6, delete "3." and insert "2."
- 3 Page 2, line 8, delete "4." and insert "3."
- 4 Page 2, line 13, delete "5." and insert "4."
- 5 Page 2, line 33, delete "6." and insert "5."
- 6 Page 2, line 40, delete "parcel identification" and insert "**legal**
- 7 **description**".
- 8 Page 3, line 10, delete "parcel identifications" and insert "**legal**
- 9 **descriptions**".
- 10 Page 3, delete lines 23 through 30, begin a new paragraph and
- 11 insert:
- 12 "**Sec. 2. (a) In addition to any other meeting held by a board, a**
- 13 **board shall hold a special meeting of the members of a**
- 14 **homeowners association if at least ten percent (10%) of the**
- 15 **members of the homeowners association submit to the board at**
- 16 **least one (1) written demand for the special meeting that:**
- 17 (1) describes the purpose for which the meeting is to be held;
- 18 and
- 19 (2) is signed by the members requesting the special meeting.
- 20 (b) If a board does not send out a notice of the time and the

1 place for a special meeting not more than thirty (30) days after the  
 2 date the board receives a valid written demand for the special  
 3 meeting under subsection (a), a member of the homeowners  
 4 association who signed the written demand may:

- 5 (1) set the time and place for the special meeting; and  
 6 (2) send out the notice for the special meeting to the other  
 7 members."

8 Page 4, between lines 13 and 14, begin a new paragraph and insert:

9 **"(f) If at least ten percent (10%) of the members of the**  
 10 **homeowners association do not attend a second or subsequent**  
 11 **meeting held under subsection (e), the board may adopt an annual**  
 12 **budget for the homeowners association for the ensuing year in an**  
 13 **amount that does not exceed one hundred ten percent (110%) of**  
 14 **the amount of the last approved homeowners association annual**  
 15 **budget.**

16 (g) For purposes of this section, a member of a homeowners  
 17 association is considered to be in attendance at a meeting if the  
 18 member attends:

- 19 (1) in person;  
 20 (2) by proxy; or  
 21 (3) by any other means allowed under:  
 22 (A) state law; or  
 23 (B) the governing documents of the homeowners  
 24 association."

25 Page 4, line 14, after "(a)" insert "**This section does not apply to a**  
 26 **contract entered into by a board that would resolve, settle, or**  
 27 **otherwise satisfy an act of enforcement against a homeowners**  
 28 **association for violating a state or local law.**

29 (b)".

30 Page 4, line 24, delete "(b)" and insert "(c)".

31 Page 4, line 25, delete "(a):" and insert "(b):".

32 Page 4, line 29, after "(a)" insert "**This section does not apply to**  
 33 **money borrowed by a homeowners association that is needed to:**

- 34 (1) resolve, settle, or otherwise satisfy an act of enforcement  
 35 against the homeowners association for violating a state or  
 36 local law; or  
 37 (2) address an emergency that affects the public health, safety,  
 38 or welfare.

- 1           **(b)**".
- 2           Page 4, line 29, delete "incur" and insert "**borrow money**".
- 3           Page 4, line 30, delete "indebtedness or liability".
- 4           Page 4, line 38, delete "incurring the indebtedness or liability" and
- 5           insert "**borrowing the money**".
- 6           Page 4, line 41, delete "(b)" and insert "**(c)**".
- 7           Page 4, line 42, delete "only".
- 8           Page 4, line 42, after "section" insert "**for each lot, parcel, tract,**
- 9           **unit, or interest in land in the subdivision that is owned by the**
- 10          **person unless the governing documents provide for a different**
- 11          **voting procedure.**".
- 12          Page 5, delete lines 1 through 8.
- 13          Page 5, line 9, delete "(c)" and insert "**(d)**".
- 14          Page 5, line 11, delete "(d)" and insert "**(e)**".
- 15          Page 5, line 14, delete "(e)" and insert "**(f)**".
- 16          Page 5, line 16, delete "(a)".
- 17          Page 5, delete lines 19 through 42.
- 18          Delete page 6.
- 19          Page 7, delete lines 1 through 2.
- 20          Page 7, line 3, delete "10." and insert "7".
- 21          Page 7, line 4, delete "regular annual" and insert "**any**".
- 22          Page 7, line 7, delete "one (1) year." and insert "**six (6) months.**".
- 23          Page 7, delete lines 8 through 22.
- 24          Page 7, after line 38, begin a new paragraph and insert:
- 25          "SECTION 3. IC 32-28-14-9, AS ADDED BY P.L.135-2007,
- 26          SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27          JULY 1, 2009]: Sec. 9. (a) A homeowners association lien under this
- 28          chapter is void if both of the following occur:
- 29                 (1) The owner of the real estate subject to the homeowners
- 30                 association lien or any person or corporation having an interest in
- 31                 the real estate, including a mortgagee or a lienholder, provides
- 32                 written notice to the owner or holder of the lien to file an action
- 33                 to foreclose the lien.
- 34                 (2) The owner or holder of the lien fails to file an action to
- 35                 foreclose the lien in the county where the real estate is located
- 36                 within ~~thirty (30) days~~ **one (1) year** after the date the owner or
- 37                 holder of the lien received the notice described in subdivision (1).
- 38          However, this section does not prevent the claim from being collected

1 as other claims are collected by law.

2 (b) A person who gives notice under subsection (a)(1) by registered

3 or certified mail to the owner or holder of the homeowners association

4 lien at the address given in the recorded statement may file an affidavit

5 of service of the notice to file an action to foreclose the lien with the

6 recorder of the county in which the real estate is located. The affidavit

7 must state the following:

8 (1) The facts of the notice.

9 (2) That more than ~~thirty (30) days~~ **have one (1) year** has passed

10 since the notice was received by the owner or holder of the lien.

11 (3) That an action for foreclosure of the lien is not pending.

12 (4) That an unsatisfied judgment has not been rendered on the

13 lien.

14 (c) The recorder shall record the affidavit of service in the

15 miscellaneous record book of the recorder's office. When the recorder

16 records the affidavit under this subsection, the real estate described in

17 the homeowners association lien is released from the lien.

18 (d) An affidavit recorded under subsection (c) must cross reference

19 the lien."

(Reference is to HB 1071 as reprinted February 21, 2009.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 2.

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**Bray** **Chairperson**