

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 166

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ACCESSORY DWELLING UNITS; AMENDING CHAPTER 32, TITLE 55, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 55-3212, IDAHO CODE, TO ESTABLISH  
3 PROVISIONS REGARDING ACCESSORY DWELLING UNITS AND HOMEOWNER'S ASSOCIA-  
4 TIONS; AMENDING CHAPTER 6, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW  
5 SECTION 55-618, IDAHO CODE, TO PROHIBIT CERTAIN RESTRICTIVE COVENANTS  
6 AGAINST ACCESSORY DWELLING UNITS WITHIN DETACHED, OWNER-OCCUPIED HOME-  
7 STEADS; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A  
8 NEW SECTION 67-6540, IDAHO CODE, TO PROHIBIT CERTAIN CITY AND COUNTY OR-  
9 DINANCES REGARDING ACCESSORY DWELLING UNITS WITHIN DETACHED, OWNER-OC-  
10 CUPIED HOMESTEADS AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.  
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12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Chapter 32, Title 55, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 55-3212, Idaho Code, and to read as follows:

16 55-3212. ACCESSORY DWELLING UNITS. No homeowner's association may  
17 add, amend, or enforce any covenant, condition, or restriction in such a way  
18 that creates a general ban of accessory dwelling units, as defined in section  
19 67-6540, Idaho Code, from being located within a detached, owner-occupied  
20 homestead, as defined in section 63-701, Idaho Code, or such homestead's de-  
21 tached or attached garage that is within the jurisdiction of the homeowner's  
22 association.

23 SECTION 2. That Chapter 6, Title 55, Idaho Code, be, and the same is  
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
25 ignated as Section 55-618, Idaho Code, and to read as follows:

26 55-618. ACCESSORY DWELLING UNITS -- RESTRICTIVE COVENANTS PROHIB-  
27 ITED. (1) On and after July 1, 2023, no restrictive covenant may be entered  
28 into that prohibits an accessory dwelling unit, as defined in section  
29 67-6540, Idaho Code, from being situated within a detached, owner-occupied  
30 homestead, as defined in section 63-701, Idaho Code, or such homestead's  
31 detached or attached garage. Any such covenant is hereby declared to be  
32 against public policy and is void and unenforceable. Any person attempting  
33 to create or enforce such a covenant shall be liable for any attorney's fees,  
34 court costs, and any other damages incurred by the other party.

35 (2) This section does not apply to a restrictive covenant against ac-  
36 cessory dwelling units entered into prior to July 1, 2023.

37 SECTION 3. That Chapter 65, Title 67, Idaho Code, be, and the same is  
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
39 ignated as Section 67-6540, Idaho Code, and to read as follows:

1           67-6540.   ACCESSORY DWELLING UNITS. (1) No county or city may enact or  
2 enforce any ordinance that bans accessory dwelling units in any residential  
3 zoning area within its jurisdiction. A county or city may implement rea-  
4 sonable regulations that it deems necessary to safeguard the public health,  
5 safety, and general welfare of its residents. An accessory dwelling unit  
6 shall be classified as a residential land use for zoning purposes subject to  
7 all applicable zoning requirements.

8           (2) An "accessory dwelling unit" means a self-contained living unit  
9 that includes its own cooking, sleeping, and sanitation facilities, and  
10 that is located within a detached, owner-occupied homestead, as defined in  
11 section 63-701, Idaho Code, or the homestead's attached or detached garage.  
12 Accessory dwelling unit does not include a motorhome, camper, recreational  
13 vehicle, tiny home on wheels, or other such similar dwellings on wheels.

14           SECTION 4. An emergency existing therefor, which emergency is hereby  
15 declared to exist, this act shall be in full force and effect on and after its  
16 passage and approval.