

IN THE SENATE

SENATE BILL NO. 1354, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ACCESSORY DWELLING UNITS; AMENDING SECTION 55-3212, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING ACCESSORY DWELLING UNITS AND TO REMOVE A
3 DEFINITION; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION
4 OF A NEW SECTION 67-6541, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
5 ACCESSORY DWELLING UNITS AND TO PROVIDE A DEFINITION; PROVIDING SEVER-
6 ABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 55-3212, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 55-3212. INTERNAL PROHIBITED CONDUCT -- RESTRICTIONS ON ACCESSORY
12 DWELLING UNITS. (1) No covenant, condition, or restriction may be added,
13 amended, or enforced by a homeowner's association or any other parties in
14 such a way that strictly prohibits internal accessory dwelling units, as
15 defined in subsection (3) of this section. The provisions of this section
16 shall not be construed to protect more than one (1) internal accessory
17 dwelling unit per homestead. No homeowner's association shall add, amend,
18 or enforce any covenant, condition, or restriction in such a way that limits
19 or prohibits accessory dwelling units, as defined in section 67-6541, Idaho
20 Code, on any property, land, or structure thereon within the jurisdiction
21 of a homeowner's association, unless the owner of the affected property
22 expressly agrees in writing to such addition or amendment of a covenant,
23 condition, or restriction. Nothing in this section shall be construed to
24 prevent the enforcement of valid covenants, conditions, or restrictions
25 limiting or prohibiting a property owner's right to transfer an interest
26 in land or the structures thereon where such covenant, condition, or re-
27 striction existed and applied to the property at the time the property owner
28 acquired an interest in the property.

29 (2) Notwithstanding the prohibitions provided in subsection (1) of
30 this section, a homeowner's association may adopt reasonable rules govern-
31 ing the use of ~~internal~~ accessory dwelling units otherwise allowed by law,
32 including but not limited to architectural design consistent with the pri-
33 mary dwelling, size limits, height limits, setback requirements, open space
34 requirements, parking controls, and bedroom requirements.

35 ~~(3) (a) An "internal accessory dwelling unit" means a self-contained~~
36 ~~living unit that:~~

37 ~~(i) Includes its own cooking, sleeping, and sanitation facili-~~
38 ~~ties;~~

39 ~~(ii) Is located within a detached, owner-occupied homestead, as~~
40 ~~defined in section 63-701, Idaho Code, or such homestead's at-~~
41 ~~tached or detached garage; and~~

1 ~~(iii) Is used for the purpose of housing relatives of the owner of~~
 2 ~~the homestead or for the purpose of renting to a residential tenant~~
 3 ~~for a period exceeding thirty (30) days.~~

4 ~~(b) An internal accessory dwelling unit does not include an alternative~~
 5 ~~detached structure, motor home, camper, recreational vehicle, tiny~~
 6 ~~home on wheels, or other such similar dwellings on wheels.~~

7 ~~(4) (3)~~ Nothing in this section shall be construed to restrict a home-
 8 owner's association from adopting a less restrictive definition of acces-
 9 sory dwelling units.

10 ~~(5) (4)~~ The provisions of this section do not apply to any rentals de-
 11 fined in section 63-1803(4), Idaho Code.

12 SECTION 2. That Chapter 65, Title 67, Idaho Code, be, and the same is
 13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 14 ignated as Section 67-6541, Idaho Code, and to read as follows:

15 67-6541. ACCESSORY DWELLING UNITS. (1) No city shall enact or enforce
 16 any ordinance, rule, regulation, or policy that bans accessory dwelling
 17 units in any residential zoning area within its jurisdiction. An accessory
 18 dwelling unit shall be classified as a residential land use for zoning pur-
 19 poses subject to all applicable zoning requirements. "Accessory dwelling
 20 unit" means a self-contained living unit that includes its own cooking,
 21 sleeping, and sanitation facilities and that is located on the same lot as a
 22 single-family primary dwelling. An accessory dwelling unit may be internal,
 23 attached, or detached but does not include a motorhome, camper, recreational
 24 vehicle, tiny home on wheels, or other such similar dwellings on wheels.

25 (2) By February 1, 2027, by resolution or ordinance adopted, amended,
 26 or repealed in accordance with the notice and hearing procedures provided
 27 under section 67-6509, Idaho Code, each city governing board shall amend its
 28 comprehensive plan and land use regulations for all land zoned for single-
 29 family residential uses, except for lands falling within an area defined as a
 30 historic district under section 67-4607, Idaho Code, or designated as a his-
 31 toric property pursuant to section 67-4614, Idaho Code, to:

32 (a) Allow for either one (1) internal accessory dwelling unit within
 33 the single-family dwelling or one (1) detached accessory dwelling unit
 34 per lot in the rear yard or subject to setbacks required of the primary
 35 dwelling;

36 (b) Prohibit requiring any off-street parking or guest parking for any
 37 accessory dwelling unit unless the principal dwelling unit does not
 38 have off-street parking or the street is not paved and designed or con-
 39 structed for on-street parking or unless the principal dwelling unit is
 40 within one-fourth (1/4) mile of transit, an employment area, or commer-
 41 cial services;

42 (c) Prohibit imposing impact fees or utility connection fees on acces-
 43 sory dwelling units that are greater than those imposed on other sin-
 44 gle-family dwellings;

45 (d) Prohibit limiting the size of an accessory dwelling unit to less
 46 than one thousand (1000) square feet or seventy-five percent (75%) of
 47 the size of the primary dwelling;

48 (e) Prohibit an owner-occupancy requirement for the primary dwelling
 49 or for the accessory dwelling unit;

1 (f) Prohibit imposing a limit on building height that is less than the
2 height of an existing single-family primary dwelling on a lot; and

3 (g) Prohibit restrictions for accessory dwelling units that are more
4 restrictive than restrictions for single-family dwellings within the
5 same zoning district with regard to setbacks, lot size, or coverage or
6 building frontage.

7 (3) Accessory dwelling unit projects that meet the jurisdiction's es-
8 tablished land use requirements shall be approved administratively and as a
9 matter of right, without the need for discretionary approval.

10 (4) Any approval standards, special conditions, and procedures for ap-
11 proval adopted by a local government shall be clear and objective and shall
12 not have the effect, either singularly or cumulatively, of discouraging the
13 development of accessory dwelling units through unreasonable cost or delay.

14 (5) Nothing in this section shall prohibit a city from enacting a reg-
15 ulation, standard, or condition that is less restrictive than the require-
16 ments of this section.

17 (6) The provisions of this section shall apply only to cities with a
18 population greater than ten thousand (10,000).

19 (7) The provisions of this section shall not supersede state or local
20 laws that protect public health, safety, and welfare, including:

21 (a) Building codes, fire safety standards, and flood plain regula-
22 tions;

23 (b) Laws regarding water, sewer, storm drainage, road access, and util-
24 ity services necessary to support the required density;

25 (c) Laws regarding environmental hazards, aquifer recharge zones,
26 steep slopes, and critical habitat protections; and

27 (d) Laws and regulations regarding setback requirements for rights-of-
28 way and easements.

29 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
30 to be severable and if any provision of this act or the application of such
31 provision to any person or circumstance is declared invalid for any reason,
32 such declaration shall not affect the validity of the remaining portions of
33 this act.

34 SECTION 4. An emergency existing therefor, which emergency is hereby
35 declared to exist, this act shall be in full force and effect on and after
36 July 1, 2026.