

IN THE SENATE

SENATE BILL NO. 1287

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO HOMEOWNER'S ASSOCIATION LIENS; AMENDING SECTION 45-810, IDAHO  
2 CODE, TO PROVIDE THAT A COPY OF A RECORDED LIEN SHALL BE SERVED ON THE  
3 OWNER OR REPUTED OWNER NO LATER THAN FIVE BUSINESS DAYS FOLLOWING THE  
4 RECORDING OF SUCH LIEN.  
5

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

7 SECTION 1. That Section 45-810, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 45-810. HOMEOWNER'S ASSOCIATION LIENS. (1) Whenever a homeowner's  
10 association levies an assessment against a lot for the reasonable costs  
11 incurred in the maintenance of common areas consisting of real property  
12 owned and maintained by the association, the association, upon complying  
13 with subsection (2) of this section, shall have a lien upon the individual  
14 lot for such unpaid assessments accrued in the previous twelve (12) months.

15 (2) (a) An association claiming a lien under subsection (1) of this  
16 section shall file in the county in which the lot or some part thereof is  
17 located a claim containing:

18 (i) A true statement of the amount due for the unpaid assessments  
19 after deducting all just credits and offsets;

20 (ii) The name of the owner, or reputed owner, if known;

21 (iii) The name of the association; and

22 (iv) A description, sufficient for identification, of the  
23 property to be charged with the lien.

24 (b) When a claim has been filed and recorded pursuant to this section  
25 and the owner of the lot subject to the claim thereafter fails to pay  
26 any assessment chargeable to such lot, then so long as the original  
27 or any subsequent unpaid assessment remains unpaid, such claim shall  
28 automatically accumulate the subsequent unpaid assessments without the  
29 necessity of further filings under this section.

30 (c) The claim shall be verified by the oath of an individual having  
31 knowledge of the facts and shall be recorded by the county recorder. The  
32 record shall be indexed as other liens are required by law to be indexed.

33 (d) Within ~~twenty four (24) hours~~ five (5) business days after  
34 recording a lien on the property, the association shall serve, by  
35 personal delivery to the owner or reputed owner or by certified mail to  
36 the last known address of the owner or reputed owner, a true and correct  
37 copy of the recorded lien.

38 (3) The lien may be continued in force for a period of time not to exceed  
39 one (1) year from the date the claim is filed and recorded under subsection  
40 (2) of this section; provided however, that such period may be extended by  
41 the homeowner's association for not to exceed one (1) additional year by  
42 recording a written extension thereof. For the purpose of determining the

1 date the claim is filed in those cases when subsequent unpaid assessments  
2 have accumulated under the claim as provided in subsection (2) of this  
3 section, the claim regarding each unpaid assessment shall be deemed to have  
4 been filed at the time such unpaid assessment became due. The lien may be  
5 enforced by the board of directors acting on behalf of the association.

6 (4) This section does not prohibit a homeowner's association from  
7 pursuing an action to recover sums for which subsection (1) of this section  
8 creates a lien or from taking a deed in lieu of foreclosure in satisfaction  
9 of the lien.

10 (5) An action to recover a money judgment for unpaid assessments may be  
11 maintained without foreclosing or waiving the lien securing the claim for  
12 unpaid assessments. However, recovery on the action operates to satisfy the  
13 lien, or the portion thereof, for which recovery is made.

14 (6) As used in this section, "homeowner's association" means any  
15 incorporated or unincorporated association:

16 (a) In which membership is based upon owning or possessing an interest  
17 in real property; and

18 (b) That has the authority, pursuant to recorded covenants, bylaws or  
19 other governing instruments, to assess and record liens against the  
20 real property of its members.

21 (7) In order to file a lien as provided in this section, a homeowner's  
22 association that is an unincorporated association must be governed by bylaws  
23 which provide for at least the following:

24 (a) A requirement that the homeowner's association hold at least one  
25 (1) meeting each calendar year;

26 (b) A requirement that notice of any meeting of the homeowner's  
27 association be published and distributed to all members of the  
28 homeowner's association;

29 (c) A requirement that the minutes of all homeowner's association  
30 meetings be recorded;

31 (d) A method of adopting and amending fees; and

32 (e) A provision providing that no fees or assessments of the  
33 homeowner's association may be increased unless a majority of all  
34 members of the homeowner's association vote in favor of such increase.