

IN THE SENATE

SENATE BILL NO. 1310

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PROPERTY; AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW SECTION 55-115, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE  
3 THAT A HOMEOWNER'S ASSOCIATION MAY NOT IMPOSE FINES ON MEMBERS UNLESS  
4 ITS AUTHORITY TO DO SO IS CLEARLY SET FORTH IN THE COVENANTS AND RE-  
5 STRICTIONS; TO PROVIDE A PROCEDURE RELATING TO THE IMPOSITION OF FINES  
6 ON HOMEOWNER'S ASSOCIATION MEMBERS, TO PROVIDE THAT NO FINE SHALL BE  
7 IMPOSED IF A MEMBER BEGINS RESOLVING THE VIOLATION PRIOR TO THE MEETING  
8 SO LONG AS THE MEMBER CONTINUES TO ADDRESS THE VIOLATION IN GOOD FAITH  
9 UNTIL FULLY RESOLVED, TO PROVIDE A RESTRICTION RELATING TO THE USE OF  
10 FINES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT AFFECT CERTAIN AUTHOR-  
11 ITY THAT MAY ALLOW FOR THE RECOVERY OF ATTORNEY'S FEES.  
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13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Chapter 1, Title 55, Idaho Code, be, and the same is  
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
16 ignated as Section 55-115, Idaho Code, and to read as follows:

17 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in  
18 this section:

19 (a) "Homeowner's association" shall have the same meaning as in section  
20 45-810(6), Idaho Code.

21 (b) "Board" means the entity that has the duty of governing the associ-  
22 ation that may be referred to as the board of directors, executive board  
23 or any such similar name.

24 (c) "Member" or "membership" means any person or entity owning or pos-  
25 sessing an interest in residential real property or lot within the phys-  
26 ical boundaries of an established homeowner's association.

27 (2) No fine may be imposed for a violation of the covenants and restric-  
28 tions pursuant to the rules or regulations of the homeowner's association  
29 unless the authority to impose a fine is clearly set forth in the covenants  
30 and restrictions and:

31 (a) A majority vote by the board shall be required prior to imposing any  
32 fine on a member for a violation of any covenants and restrictions pur-  
33 suant to the rules and regulations of the homeowner's association.

34 (b) Written notice by personal service or certified mail of the meeting  
35 during which such vote is to be taken shall be made to the member at least  
36 thirty (30) days prior to the meeting.

37 (c) In the event the member begins resolving the violation prior to the  
38 meeting, no fine shall be imposed so long as the member continues to ad-  
39 dress the violation in good faith until fully resolved.

40 (d) No portion of any fine may be used to increase the remuneration of  
41 any board member or agent of the board.

1 (e) No part of this section shall affect any statute, rule, covenant,  
2 bylaw, provision or clause that may allow for the recovery of attorney's  
3 fees.