

IN THE SENATE

SENATE BILL NO. 1317

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1
2 RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-115, IDAHO CODE,
3 TO PROVIDE THAT ATTORNEY'S FEES AND COSTS MAY BE COLLECTED, AND A LIEN
4 FILED FOR ATTORNEY'S FEES AND COSTS BY A HOMEOWNER'S ASSOCIATION, ONLY
5 AFTER BEING AWARDED IN AN AMOUNT FOUND TO BE REASONABLE BY A COURT OF
6 COMPETENT JURISDICTION.

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

8 SECTION 1. That Section 55-115, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in
11 this section:

12 (a) "Homeowner's association" shall have the same meaning as in section
13 45-810(6), Idaho Code.

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

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

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

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

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

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

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

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

38 (3) Attorney's fees and costs may be collected, and a lien filed for
39 attorney's fees and costs by a homeowner's association, only after being
40 awarded in an amount found to be reasonable by a court of competent jurisdic-
41 tion.