LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature Second Regular Session - 2016

IN THE SENATE

SENATE BILL NO. 1317

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

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

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

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

55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in this section:
(a) "Homeowner's association" shall have the same meaning as in section 45-810 (6), Idaho Code.
(b) "Board" means the entity that has the duty of governing the association that may be referred to as the board of directors, executive board or any such similar name.
(c) "Member" or "membership" means any person or entity owning or possessing an interest in residential real property or lot within the physical boundaries of an established homeowner's association.
(2) No fine may be imposed for a violation of the covenants and restrictions pursuant to the rules or regulations of the homeowner's association unless the authority to impose a fine is clearly set forth in the covenants and restrictions and:
(a) A majority vote by the board shall be required prior to imposing any fine on a member for a violation of any covenants and restrictions pursuant to the rules and regulations of the homeowner's association.
(b) Written notice by personal service or certified mail of the meeting during which such vote is to be taken shall be made to the member at least thirty (30) days prior to the meeting.
(c) In the event the member begins resolving the violation prior to the meeting, no fine shall be imposed so long as the member continues to address the violation in good faith until fully resolved.
(d) No portion of any fine may be used to increase the remuneration of any board member or agent of the board.
(e) No part of this section shall affect any statute, rule, covenant, bylaw, provision or clause that may allow for the recovery of attorney's fees.
(3) Attorney's fees and costs may be collected, and a lien filed for attorney's fees and costs by a homeowner's association, only after being awarded in an amount found to be reasonable by a court of competent jurisdiction.