

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 520

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO HOMEOWNERS' ASSOCIATIONS AND MANAGEMENT BODIES OF CONDOMINIUMS;
2 AMENDING SECTION 55-115, IDAHO CODE, TO REQUIRE HOMEOWNERS' ASSOCIA-
3 TIONS TO PROVIDE STATEMENTS OF PROPERTY OWNERS' ACCOUNTS WITHIN A SPEC-
4 IFIED TIME AFTER RECEIPT OF A REQUEST, TO PROVIDE THAT STATEMENTS SHALL
5 BE WITHOUT COST TO OWNERS AND TO PROVIDE FOR CONTENT OF STATEMENTS;
6 AMENDING SECTION 55-1507, IDAHO CODE, TO PROVIDE THAT CONDOMINIUM BY-
7 LAWS SHALL PROVIDE THAT STATEMENTS OF ACCOUNT SHALL BE PROVIDED WITHIN A
8 SPECIFIED TIME TO UNIT OWNERS AFTER NOTICE BY A UNIT OWNER, TO REVISE THE
9 REQUIREMENTS FOR CONTENT OF NOTICE AND TO MAKE TECHNICAL CORRECTIONS;
10 AND AMENDING CHAPTER 15, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW
11 SECTION 55-1528, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF UNIT OWNERS'
12 ACCOUNTS WITHIN A SPECIFIED TIME AFTER RECEIPT OF REQUEST BY A UNIT
13 OWNER, TO PROVIDE THAT STATEMENTS SHALL BE WITHOUT COST TO THE OWNERS
14 AND TO PROVIDE FOR CONTENT OF STATEMENTS.
15

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

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

19 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in
20 this section:

21 (a) "Homeowner's association" shall have the same meaning as in section
22 45-810(6), Idaho Code.

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

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

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

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

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

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

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

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

6 (3) No homeowner's association may add, amend or enforce any covenant,
7 condition or restriction in such a way that limits or prohibits the rental,
8 for any amount of time, of any property, land or structure thereon within
9 the jurisdiction of the homeowner's association, unless expressly agreed to
10 in writing at the time of such addition or amendment by the owner of the af-
11 fected property. Nothing in this section shall be construed to prevent the
12 enforcement of valid covenants, conditions or restrictions limiting a prop-
13 erty owner's right to transfer his interest in land or the structures thereon
14 as long as that covenant, condition or restriction applied to the property at
15 the time the homeowner acquired his interest in the property.

16 (4) Attorney's fees and costs shall not accrue and shall not be assessed
17 or collected by the homeowner's association until the homeowner's associa-
18 tion has complied with the requirements of subsection (2) of this section and
19 the member has failed to address the violation as prescribed in subsection
20 (2) (c) of this section. A court of competent jurisdiction may determine the
21 reasonableness of attorney's fees and costs assessed against a member. In an
22 action to determine the reasonableness of attorney's fees and costs assessed
23 by the homeowner's association against a member, the court may award reason-
24 able attorney's fees and costs to the prevailing party.

25 (5) A homeowner's association or its agent shall provide a property
26 owner a statement of the property owner's account not more than three (3)
27 business days after receipt of a request by the owner or the owner's agent,
28 received by the homeowner's association's manager, president, board member,
29 or other agent, or any combination thereof. A homeowner's association shall
30 provide such statement of account without cost to the owner. The statement
31 of account shall include, at a minimum, the amount of annual charges against
32 the property, the date when said amounts are due, and any unpaid assessments
33 or other charges due and owing from such owner at the time of the request.

34 SECTION 2. That Section 55-1507, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 55-1507. CONTENTS OF ~~BY-LAWS~~ BYLAWS. The ~~by-laws~~ bylaws referred to in
37 section 55-1506, Idaho Code, when required, shall provide for at least the
38 following:

39 (a) The election from among the unit owners of a board of managers, the
40 number of persons constituting such board, and that the terms of at least one
41 third (1/3) of the members of the board shall expire annually; the powers and
42 duties of the board; the compensation, if any, of the members of the board;
43 the method of removal from office of members of the board; and whether or not
44 the board may engage the services of a manager or managing agent.

45 (b) Method of calling meetings of the unit owners; what percentage of
46 the unit owners, if other than a majority, shall constitute a quorum.

47 (c) Election of a president from among the board of managers, who shall
48 preside over the meetings of the board of managers and of the unit owners.

1 (d) Election of a secretary, who shall keep the minutes of all meetings
2 of the board of managers and of the unit owners and who shall, in general,
3 perform all the duties incident to the office of secretary.

4 (e) Election of a treasurer, who shall keep the financial records and
5 books of account.

6 (f) Maintenance, repair and replacement of the common elements and pay-
7 ments therefor, including the method of approving payment vouchers.

8 (g) Method of estimating the amount of the annual budget, and the manner
9 of assessing and collecting from the unit owners their respective shares of
10 such estimated expenses, and of any other expenses lawfully agreed upon.

11 (h) That ~~upon 10 days'~~ after notice to received by the manager or board
12 of managers and ~~payment of a reasonable fee within three (3) business days~~
13 thereafter, any unit owner shall be furnished a statement of his account set-
14 ting forth the amount of any unpaid assessments or other charges due and ow-
15 ing from such owner and other amounts set forth in section 55-1528, Idaho
16 Code.

17 (i) Designation and removal of personnel necessary for the mainte-
18 nance, repair and replacement of the common elements.

19 (j) Such restrictions on and requirements respecting the use and main-
20 tenance of the units and the use of the common elements, not set forth in the
21 declaration, as are designed to prevent unreasonable interference with the
22 use of their respective units and of the common elements by the several unit
23 owners.

24 (k) Method of adopting and of amending administrative rules and regula-
25 tions governing the operation and use of the common elements.

26 (l) The percentage of votes required to modify or amend the ~~by-laws~~
27 bylaws, but each one of the particulars set forth in this section shall al-
28 ways be embodied in the ~~by-laws~~ bylaws.

29 SECTION 3. That Chapter 15, Title 55, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 55-1528, Idaho Code, and to read as follows:

32 55-1528. STATEMENT OF ACCOUNT. A management body or its agent shall
33 provide a unit owner a statement of the unit owner's account not more than
34 three (3) business days after receipt of a request by the unit owner or
35 the unit owner's agent, received by the management body, the management
36 body's manager, president, board member, or other agent, or any combination
37 thereof. A management body shall provide such statement of account without
38 cost to the owner. The statement of account shall include, at a minimum, the
39 amount of annual charges against the property, the date when said amounts
40 are due, and any unpaid assessments or other charges due and owing from such
41 owner at the time of the request.