LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 158

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-115, IDAHO CODE, TO PROVIDE FOR CERTAIN PROHIBITED CONDUCT BY HOMEOWNER'S ASSOCIATIONS, TO PROVIDE THAT A HOMEOWNER'S ASSOCIATION MAY ADOPT CERTAIN RULES, AND TO PROVIDE AN EXCEPTION.

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 as 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) No homeowner's association may add, amend or enforce any covenant, condition or restriction in such a way that limits or prohibits the rental, for any amount of time, of any property, land or structure thereon within the jurisdiction of the homeowner's association, unless expressly agreed to in writing at the time of such addition or amendment by the owner of the affected property. Nothing in this section shall be construed to prevent the
enforcement of valid covenants, conditions or restrictions limiting a property owner's right to transfer his interest in land or the structures thereon as long as that covenant, condition or restriction applied to the property at the time the homeowner acquired his interest in the property.

(4) No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that limits or prohibits the installation of solar panels or solar collectors on the rooftop of any property or structure thereon within the jurisdiction of the homeowner's association. A homeowner's association may adopt reasonable rules regarding the placement of solar panels or solar collectors if those rules do not prevent the installation of the device, impair the functioning of the device or restrict its use, or adversely affect the cost or efficiency of the device. The provisions of this subsection shall apply only to rooftops that are owned, controlled, and maintained by the homeowner.

(5) Attorney's fees and costs shall not accrue and shall not be assessed or collected by the homeowner's association until the homeowner's association has complied with the requirements of subsection (2) of this section and the member has failed to address the violation as prescribed in subsection (2)(c) of this section. A court of competent jurisdiction may determine the reasonableness of attorney's fees and costs assessed against a member. In an action to determine the reasonableness of attorney's fees and costs assessed by the homeowner's association against a member, the court may award reasonable attorney's fees and costs to the prevailing party.