55-101. REAL PROPERTY DEFINED. Real property or real estate consists of:
1. Lands, possessory rights to land, ditch and water rights, and mining claims, both lode and placer.
2. That which is affixed to land.
3. That which is appurtenant to land.


55-101A. "LANDS" DEFINED. Lands are the material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance, and include free or occupied space for an indefinite distance upwards as well as downwards, subject to limitations upon the use of airspace imposed and rights in the use of airspace granted, by law.


55-101B. "CONDOMINIUM" DEFINED. A condominium is an estate consisting of (i) an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with (ii) a separate interest in real property, in an interest or interests in real property, or in any combination thereof.


55-102. PERSONAL PROPERTY DEFINED. Every kind of property that is not real is personal.

[55-102, added R.S., sec. 2826; reen. R.C. & C.L., sec. 3057; C.S., sec. 5326; I.C.A., sec. 54-102.]

55-103. WHO MAY OWN PROPERTY. Any person, whether citizen or alien, may take, hold and dispose of property, real or personal.

[55-103, added R.S., sec. 2827; reen. R.C. & C.L., sec. 3058; C.S., sec. 2827; I.C.A., sec. 54-103.]

55-104. INTERESTS IN COMMON. Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, or unless acquired as community property.


55-105. FUTURE INTERESTS -- WHEN VESTED. A future interest is vested when there is a person in being who would have a right, defeasible or inde-
feasible, to the immediate possession of the property upon the ceasing of the immediate or precedent interest.

[55-105, added R.S., sec. 2830; reen. R.C. & C.L., sec. 3061; C.S., sec. 5329; I.C.A., sec. 54-105.]

55-106. CONTINGENT INTERESTS. A future interest is contingent whilst the person in whom, or the event upon which, it is limited to take effect remains uncertain.


55-107. ALTERNATIVE FUTURE INTERESTS. Two (2) or more future interests may be created to take effect in the alternative; so that if the first in order fails to vest, the next in succession shall be substituted for it, and take effect accordingly.

[55-107, added R.S., sec. 2832; reen. R.C. & C.L., sec. 3063; C.S., sec. 5331; I.C.A., sec. 54-107.]

55-108. INHERITANCE BY POSTHUMOUS CHILDREN. When a future interest is limited to successors, heirs, issue or children, posthumous children are entitled to take in the same manner as if living at the death of their parent.


55-109. TRANSFER AND DEVOLUTION OF FUTURE INTERESTS. Future interests pass by succession, will and transfer in the same manner as present interests.


55-110. POSSIBILITIES. A mere possibility, such as the expectancy of an heir apparent, is not to be deemed an interest of any kind.

[(55-110) R.S., sec. 2835; reen. R.C. & C.L., sec. 3066; C.S., sec. 5334; I.C.A., sec. 54-110.]

55-111. NO RULE AGAINST PERPETUITIES. There shall be no rule against perpetuities applicable to real or personal property.


55-111A. SUSPENSION OF POWER OF ALIENATION -- FUTURE INTEREST BY POWER OF APPOINTMENT. (1) The absolute power of alienation of property cannot be suspended by any limitation or condition whatever, for a longer permissible period than during the continuance of the lives of the persons in being at the creation of the limitation or condition, and twenty-five (25) years thereafter. No trust heretofore or hereafter created, either testamentary or inter vivos, shall be declared void, but shall be so construed as to eliminate
parts violating the above provisions, and in such a way that the testators or trustors wishes are carried out to the greatest extent permitted by this section; and there shall be no presumption that a person is capable of having children at any stage of adult life.

(2) If a future interest or trust is created by exercise of a power of appointment, the permissible period is computed from the time the power is exercised if the power is a general power including a testamentary general power or from the time the power is created if the power is not a general power.

(3) Notwithstanding the provisions of subsection (1) of this section, there is no suspension of the power of alienation of property by a trust or by equitable interests under a trust if the trustee has power to sell, either express or implied, or if there is an unlimited power to terminate in one (1) or more persons in being.

(4) Furthermore, the provisions of subsection (1) of this section shall not limit transfers, outright or in trust, for charitable purposes or transfers to charitable entities.


55-112. FUTURE INTERESTS DEFEATED. A future interest, depending on the contingency of the death of any person without successors, heirs, issue or children, is defeated by the birth of a posthumous child of such person capable of taking by succession.


55-113. FUTURE INTERESTS NOT DEFEATED. No future interest can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent interest, nor by any destruction of such precedent interest by forfeiture, surrender, merger or otherwise.

[(55-113) R.S., sec. 2838; reen. R.C. & C.L., sec. 3069; C.S., sec. 5337; I.C.A., sec. 54-113.]

55-114. FUTURE INTERESTS NOT DEFEATED BY PREMATURE DETERMINATION OF PRECEDENT ESTATE. No future interest, valid in its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect; but should such contingency afterward happen, the future interest takes effect in the same manner and to the same extent as if the precedent interest had continued to the same period.

[(55-114) R.S., sec. 2839; reen. R.C. & C.L., sec. 3070; C.S., sec. 5338; I.C.A., sec. 54-114.]

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 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; provided however, that a homeowner's association may determine the specific location where solar panels or solar collectors may be installed on the roof as long as installation is permitted within an orientation to the south or within forty-five (45) degrees east or west of due south. A homeowner's association may adopt reasonable rules for the installation of solar panels or solar collectors consistent with an applicable building code or to require that panels or collectors be parallel to a roof line, conform to the slope of the roof, and that any frame, support bracket, or visible piping or wiring be painted to coordinate with the roofing material. The provisions of this subsection shall apply only to rooftops that are owned, controlled, and maintained by the homeowner.

(5)(a) No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that prohibits or has the effect of prohibiting the display of a political sign.
(b) For the purpose of this subsection, "political sign" means any fixed, ground-mounted display in support of or in opposition to a candidate for office or a ballot measure.
(c) A homeowner's association may adopt reasonable rules, subject to any applicable laws or ordinances, regarding the time, size, place, number, and manner of display of political signs.

(d) A homeowner's association may remove a political sign without liability if the sign:
   (i) Is placed within the common ground;
   (ii) Threatens the public health or safety;
   (iii) Violates an applicable law or ordinance;
   (iv) Is accompanied by sound or music or if any other materials are attached to the political sign.

(e) Except as provided in paragraph (d) of this subsection, a homeowner's association shall not remove a political sign from the property of a homeowner or impose any fine or penalty upon the homeowner unless it has first provided the homeowner three (3) days' written notice that specifically identifies the rule and the nature of the violation.

(6) (a) No homeowner's association may add, amend, or enforce any covenant, condition, or restriction in such a way that prohibits or has the effect of prohibiting the display of:
   (i) The flag of the United States of America;
   (ii) The flag of the state of Idaho;
   (iii) The POW/MIA flag; or
   (iv) An official or replica flag of any branch of the United States armed forces.

(b) A homeowner's association may adopt reasonable rules, subject to applicable laws or ordinances:
   (i) That require:
      1. The flag of the United States of America and the flag of the state of Idaho to be displayed in accordance with 4 U.S.C. 5 et seq.;
      2. A flagpole attached to a dwelling or a freestanding flagpole to be constructed of permanent, long-lasting materials with a finish appropriate to the materials used in the construction of the flagpole and harmonious to the dwelling;
      3. The display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and
      4. That a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;
   (ii) That regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one (1) flagpole per property that:
      1. Is not more than twenty (20) feet in height and, subject to applicable zoning ordinances, easements, and setbacks of record, is located in the front yard of the property; or
      2. Is attached to any portion of a residential structure owned by the property owner and not maintained by the homeowner's association;
   (iii) That govern the size of a displayed flag;
   (iv) That regulate the size, location, and intensity of any lights used to illuminate a displayed flag;
(v) That impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or
(vi) That prohibit a property owner from locating a displayed flag or flagpole on property that is:
1. Owned or maintained by the homeowner's association; or  
2. Owned in common by the members of the association.

(c) A property owner who has a front yard and who otherwise complies with any permitted homeowner's association regulation may elect to install a flagpole in accordance with paragraph (b)(ii) of this subsection.

(7) 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.


55-116. STATEMENT OF ACCOUNT -- DISCLOSURE OF FEES. (1) A homeowner's association or its agent shall provide a property owner and the owner's agent, if any, a statement of the property owner's account not more than five (5) business days after receipt of a request by the owner or the owner's agent received by the homeowner's association's manager, president, board member, or other agent, or any combination thereof. The statement of account shall include, at a minimum, the amount of annual charges against the property, the date when said amounts are due, and any unpaid assessments or other charges due and owing from such owner at the time of the request. The homeowner's association shall be bound by the amounts set forth within such statement of account.

(2) On or before January 1 of each year, a homeowner's association or its agent shall provide property owners within the association a disclosure of fees that will be charged to a property owner in connection with any transfer of ownership of their property. Fees imposed by a homeowner's association for the calendar year following the disclosure of fees shall not exceed the amount set forth on the annual disclosure, and no surcharge or additional fees shall be charged to any homeowner in connection with any transfer of ownership of their property. No fees may be charged for expeditiously providing a homeowner's statement of account as set forth in this section.