

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 158, As Amended

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-115, IDAHO CODE,  
2 TO PROVIDE FOR CERTAIN PROHIBITED CONDUCT BY HOMEOWNER'S ASSOCIATIONS,  
3 TO PROVIDE THAT A HOMEOWNER'S ASSOCIATION MAY ADOPT CERTAIN RULES, AND  
4 TO PROVIDE AN EXCEPTION.  
5

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

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

9 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in  
10 this section:

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

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

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

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

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

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

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

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

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

37 (3) No homeowner's association may add, amend or enforce any covenant,  
38 condition or restriction in such a way that limits or prohibits the rental,  
39 for any amount of time, of any property, land or structure thereon within  
40 the jurisdiction of the homeowner's association, unless expressly agreed to  
41 in writing at the time of such addition or amendment by the owner of the af-  
42 fected property. Nothing in this section shall be construed to prevent the

1 enforcement of valid covenants, conditions or restrictions limiting a prop-  
2 erty owner's right to transfer his interest in land or the structures thereon  
3 as long as that covenant, condition or restriction applied to the property at  
4 the time the homeowner acquired his interest in the property.

5 (4) No homeowner's association may add, amend, or enforce any covenant,  
6 condition, or restriction in such a way that prohibits the installation of  
7 solar panels or solar collectors on the rooftop of any property or struc-  
8 ture thereon within the jurisdiction of the homeowner's association; pro-  
9 vided however, that a homeowner's association may determine the specific lo-  
10 cation where solar panels or solar collectors may be installed on the roof  
11 as long as installation is permitted within an orientation to the south or  
12 within forty-five (45) degrees east or west of due south. A homeowner's as-  
13 sociation may adopt reasonable rules for the installation of solar panels or  
14 solar collectors consistent with an applicable building code or to require  
15 that panels or collectors be parallel to a roof line, conform to the slope of  
16 the roof, and that any frame, support bracket, or visible piping or wiring be  
17 painted to coordinate with the roofing material. The provisions of this sub-  
18 section shall apply only to rooftops that are owned, controlled, and main-  
19 tained by the homeowner.

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