

IN THE SENATE

SENATE BILL NO. 1317, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO HOMEOWNER'S ASSOCIATIONS; AMENDING SECTION 55-115, IDAHO CODE,
2 TO PROVIDE CONDITIONS WHEN ATTORNEY'S FEES AND COSTS MAY ACCRUE AND MAY
3 BE ASSESSED OR COLLECTED.
4

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

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

8 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in
9 this section:

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

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

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

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

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

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

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

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

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

36 (3) Attorney's fees and costs shall not accrue and shall not be assessed
37 or collected by the homeowner's association until the homeowner's associa-
38 tion has complied with the requirements of subsection (2) of this section and
39 the member has failed to address the violation as prescribed in subsection
40 (2) (c) of this section. A court of competent jurisdiction may determine the
41 reasonableness of attorney's fees and costs assessed against a member. In an
42 action to determine the reasonableness of attorney's fees and costs assessed

1 by the homeowner's association against a member, the court may award reason-
2 able attorney's fees and costs to the prevailing party.