

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 82

BY BUSINESS 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 AND TO PROVIDE EXCEPTIONS.
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 as 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) No homeowner's association may add, amend or enforce any covenant,
37 condition or restriction in such a way that limits or prohibits the rental,
38 for any amount of time, of any property, land or structure thereon within
39 the jurisdiction of the homeowner's association, unless expressly agreed to
40 in writing at the time of such addition or amendment by the owner of the af-
41 fected property. Nothing in this section shall be construed to prevent the
42 enforcement of valid covenants, conditions or restrictions limiting a prop-

1 erty owner's right to transfer his interest in land or the structures thereon
2 as long as that covenant, condition or restriction applied to the property at
3 the time the homeowner acquired his interest in the property.

4 (4) No homeowner's association may add, amend, or enforce any covenant,
5 condition, or restriction in such a way that limits or prohibits the instal-
6 lation of solar panels or solar collectors on the rooftop of any property or
7 structure thereon within the jurisdiction of the homeowner's association,
8 unless such restriction reflects a bona fide safety requirement consistent
9 with an applicable building code or recognized safety standard for the pro-
10 tection of persons and property.

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