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**Idaho State Bar Real Property Section Presentation: Idaho
Condominiums & Townhomes**

Boise, Idaho

November 5, 2014

Idaho Code Section 55-115 – New Legislation

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 so 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.

Draft Amendment for Discussion:

- a. Notwithstanding and in addition to any other provision or remedy herein, the Association shall have the authority to impose fines on a Member for a violation of this Declaration and/or any Rules or Regulations of the Association in amounts determined from time to time by resolution of the Board.

- b. Prior to imposing a fine, the Board shall meet. Written notice by personal service or certified mail of such meeting shall be made to the Member at least thirty (30) days prior to such meeting.
- c. A majority vote by the Board shall be required prior to imposing any fine.
- d. At such meeting, the Member may be represented by counsel and has the right to be heard.
- e. In the event the Member begins resolving the violation prior to such meeting, no fine shall be imposed so long as the member continues to address the violation in good faith until fully resolved.
- f. Any fine so imposed shall constitute a special assessment against the Member's Unit(s) which may be collected pursuant to the provisions of this Declaration.
- g. For the purposes of this Section, a "fine" is a pecuniary amount intended to deter present and future violations. The term "fine" does not include any costs, charges, expenses, attorney's fees, or other fees related to the violation(s) incurred by the Association or its agents which are chargeable to the Member.
- h. All costs, charges, expenses, attorney's fees, or other fees related to the violation(s) incurred by the Association or its agents which are chargeable to the Member shall become a special assessment against the Member's Unit(s) which may be collected pursuant to the provisions of this Declaration.
- i. All proceeds of all fines shall be placed in the general operating account of the Association.