

IN THE SENATE

SENATE BILL NO. 1120

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO FORCIBLE DETAINER; AMENDING SECTION 6-302, IDAHO CODE, TO REVISE THE DEFINITION OF "FORCIBLE DETAINER" AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 6-310, IDAHO CODE, TO REVISE PROCEDURES IN AN ACTION FOR POSSESSION OF PROPERTY; AMENDING SECTION 6-311A, IDAHO CODE, TO PROVIDE FOR A JUDGMENT FOR FORCIBLE DETAINER; AND AMENDING SECTION 6-317, IDAHO CODE, TO REVISE WHEN TREBLE DAMAGES ATTACH.

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

SECTION 1. That Section 6-302, Idaho Code, be, and the same is hereby amended to read as follows:

6-302. FORCIBLE DETAINER DEFINED. Every person is guilty of a forcible detainer who either:

1. By force, or by menaces and threats of violence, unlawfully holds and keeps possession of any real property, whether the same was acquired peacefully or otherwise; or,

2. Who, ~~in the nighttime, or during the absence of the occupant or property owner~~ of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, ~~for the period of five (5) days,~~ refuses to surrender the same to such former occupant or property owner. The occupant of real property, within the meaning of this subdivision, is one who, within five (5) days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands, regardless of whether the property was inhabited by the occupant of real property.

SECTION 2. That Section 6-310, Idaho Code, be, and the same is hereby amended to read as follows:

6-310. ACTION FOR POSSESSION -- COMPLAINT -- SUMMONS. (1) In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent, or on the grounds that a landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or in the event the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, it is sufficient to state in the complaint:

(1a) A description of the premises with convenient certainty;

(2b) That the defendant is in possession of the premises;

(3c) That the defendant entered upon the premises, holds the premises, and is in default of the payment of rent or that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant;

1 (4d) That all notices required by law have been served upon the defen-  
 2 dant in the required manner or no notice is required because the defendant is  
 3 a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho  
 4 Code; and

5 (5e) That the plaintiff is entitled to the possession of the premises.

6 (2) Upon filing the complaint, a summons must be issued, served and re-  
 7 turned as in other actions, provided, however, that at the time of issuance  
 8 of the summons, the court shall schedule a trial within twelve (12) days from  
 9 the filing of the complaint and the service of the summons, complaint and  
 10 notice of trial setting on the defendant shall be not less than five (5) days  
 11 before the day of trial appointed by the court.

12 (3) In an action for possession against a defendant alleged to be occu-  
 13 pying property as a result of forcible detainer, a property owner shall state  
 14 in a verified complaint:

15 (a) A description of the premises with convenient certainty;

16 (b) That the defendant is in possession of the premises;

17 (c) That the defendant entered upon the premises and holds the premises  
 18 by means of forcible detainer;

19 (d) That neither the property owner nor any agent thereof has ever en-  
 20 tered into a lease or any other similar agreement with the defendant;

21 (e) That all notices required by law have been served upon the defendant  
 22 in the required manner; and

23 (f) That the plaintiff is entitled to the possession of the premises.

24 (4) Upon filing the complaint, a summons must be issued, served and  
 25 returned as in other actions, provided, however, that at the time of issuance  
 26 of the summons, the court shall schedule a trial within seventy-two (72)  
 27 hours from the filing of the complaint, excluding weekends and official hol-  
 28 idays. The service of the summons, complaint and notice of trial setting on  
 29 the defendant shall be not less than twenty-four (24) hours before the time  
 30 of trial appointed by the court.

31 (5) If any property owner files an action for possession against a def-  
 32 endant alleged to be occupying the property as a result of forcible detainer  
 33 when a landlord-tenant relationship existed with the defendant and/or in bad  
 34 faith, said property owner shall be liable to the defendant for treble dam-  
 35 ages as enumerated in this chapter.

36 SECTION 3. That Section 6-311A, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 6-311A. JUDGMENT ON TRIAL BY COURT. In an action exclusively for pos-  
 39 session of a tract of land of five (5) acres or less for the nonpayment of rent  
 40 or on the grounds that the landlord has reasonable grounds to believe that a  
 41 person is, or has been, engaged in the unlawful delivery, production, or use  
 42 of a controlled substance on the leased premises during the term for which  
 43 the premises are let to the tenant, or for forcible detainer, or if the ten-  
 44 ant is a tenant at sufferance pursuant to subsection (11) of section 45-1506,  
 45 Idaho Code, the action shall be tried by the court without a jury. If, af-  
 46 ter hearing the evidence the court concludes that the complaint is not true,  
 47 it shall enter judgment against the plaintiff for costs and disbursements.  
 48 If the court finds the complaint true or if judgment is rendered by default,  
 49 it shall render a general judgment against the defendant and in favor of the

1 plaintiff, for restitution of the premises and the costs and disbursements  
2 of the action. If the court finds the complaint true in part, it shall render  
3 judgment for the restitution of such part only, and the costs and disburse-  
4 ments shall be taxed as the court deems just and equitable. No provision of  
5 this law shall be construed to prevent the bringing of an action for damages.

6 SECTION 4. That Section 6-317, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 6-317. TREBLE DAMAGES. If a landlord or a tenant recovers damages for a  
9 forcible or unlawful entry in or upon, or detention of, any building or other  
10 tract of land, or for an action brought pursuant to section 6-320, Idaho  
11 Code, or for an action brought against a tenant or in bad faith pursuant to  
12 section 6-310(3), Idaho Code, judgment may be entered for three (3) times the  
13 amount at which the actual damages are assessed.