

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 138

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO FORCIBLE ENTRY AND UNLAWFUL DETAINER; AMENDING SECTION 6-303,
2 IDAHO CODE, TO REVISE A PROVISION REGARDING DEFAULT OF PAYMENT AND TO
3 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 6-304, IDAHO CODE, TO RE-
4 VISE PROVISIONS REGARDING SERVICE OF NOTICE; AMENDING SECTION 6-310,
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING AN UNLAWFUL DETAINER ACTION;
6 AMENDING SECTION 6-311, IDAHO CODE, TO REVISE A PROVISION REGARDING A
7 CONTINUANCE IN AN UNLAWFUL DETAINER ACTION; AMENDING SECTION 6-311A,
8 IDAHO CODE, TO REVISE PROVISIONS REGARDING JUDGMENT ON TRIAL BY A COURT;
9 AMENDING SECTION 6-311C, IDAHO CODE, TO PROVIDE FOR AN ORDER OF RESTI-
10 TUTION; REPEALING SECTION 6-311E, IDAHO CODE, RELATING TO AN ACTION FOR
11 DAMAGES, COMPLAINT, AND SUMMONS; AMENDING SECTION 6-320, IDAHO CODE,
12 TO PROVIDE FOR TENANT REMEDIES FOR DEFICIENT CONDITION OF RESIDENTIAL
13 RENTAL UNITS AND TO PROVIDE A CODE REFERENCE; AMENDING SECTION 6-321,
14 IDAHO CODE, TO REMOVE LANGUAGE REGARDING A SIGNED STATEMENT, TO PROVIDE
15 FOR CERTAIN REQUIREMENTS REGARDING SECURITY DEPOSITS AND TO MAKE TECH-
16 NICAL CORRECTIONS; AMENDING SECTION 6-323, IDAHO CODE, TO PROVIDE COR-
17 RECT CODE REFERENCES; AMENDING SECTION 6-324, IDAHO CODE, TO REMOVE A
18 PROVISION REGARDING TREBLE DAMAGES AND TO MAKE TECHNICAL CORRECTIONS;
19 AMENDING CHAPTER 3, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
20 TION 6-325, IDAHO CODE, TO PROVIDE FOR ABANDONMENT OF PREMISES IN CER-
21 TAIN INSTANCES; AMENDING CHAPTER 3, TITLE 6, IDAHO CODE, BY THE ADDITION
22 OF A NEW SECTION 6-326, IDAHO CODE, TO PROVIDE FOR THE ABANDONMENT OF
23 PERSONAL PROPERTY; AND AMENDING CHAPTER 3, TITLE 6, IDAHO CODE, BY THE
24 ADDITION OF A NEW SECTION 6-327, IDAHO CODE, TO PROVIDE FOR A CRIME VIC-
25 TIM'S RIGHTS TO NEW LOCKS AND TO TERMINATE A RENTAL AGREEMENT IN CERTAIN
26 INSTANCES.
27

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

29 SECTION 1. That Section 6-303, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 6-303. UNLAWFUL DETAINER DEFINED. A tenant of real property, for a
32 term less than life, is guilty of an unlawful detainer:

33 1. When he continues in possession, in person or by subtenant, of the
34 property, or any part thereof, after the expiration of the term for which it
35 is let to him, without the permission of his landlord, or the successor in
36 estate of his landlord, if any there be; but in case of a tenancy at will, it
37 must first be terminated by notice, as prescribed in the civil code.

38 2. Where he continues in possession, in person or by subtenant, with-
39 out permission of his landlord, or the successor in estate of his landlord,
40 if any there be, after default in the payment of rent or any other amount
41 due, pursuant to the lease or agreement under which the property is held,
42 and three (3) days' notice, in writing, requiring its payment, stating the

1 amount which is due, or possession of the property, shall have been served
 2 upon him, and if there be a subtenant in actual occupation of the premises,
 3 also upon such subtenant. Such notice may be served at any time within one
 4 (1) year after the rent becomes due. In all cases of tenancy upon agricul-
 5 tural lands, where the tenant has held over and retained possession for more
 6 than sixty (60) days after the expiration of his term without any demand of
 7 possession or notice to quit by the landlord, or the successor in estate of
 8 his landlord, if any there be, he shall be deemed to be holding by permission
 9 of the landlord, or the successor in estate of his landlord, if any there be,
 10 and shall be entitled to hold under the terms of the lease for another full
 11 year, and shall not be guilty of an unlawful detainer during said year, and
 12 such holding over for the period aforesaid shall be taken and construed as a
 13 consent on the part of a tenant to hold for another year.

14 3. Where he continues in possession in person, or by subtenants, after
 15 a neglect or failure to perform other conditions or covenants of the lease or
 16 agreement under which the property is held, including any covenant not to as-
 17 sign or sublet, than the one for payment of rent, and three (3) days' notice,
 18 in writing, requiring the performance of such conditions or covenants, or
 19 the possession of the property, shall have been served upon him, and if there
 20 be a subtenant in actual occupation of the premises, also upon such sub-
 21 tenant. Within three (3) days after the service of the notice, the tenant, or
 22 any subtenant in actual occupation of the premises, or any mortgagee of the
 23 term, or other person interested in its continuance, may perform the condi-
 24 tions or covenants of the lease, or pay the stipulated rent, as the case may
 25 be, and thereby save the lease from forfeiture: provided, if the covenants
 26 and conditions of the lease, violated by the lessee, ~~can not~~ cannot after-
 27 ward be performed, then no notice, as last prescribed herein, need be given
 28 to said lessee or his subtenant demanding the performance of the violated
 29 covenant or conditions of the lease. A tenant may take proceedings similar
 30 to those prescribed in this chapter, to obtain possession of premises let to
 31 an undertenant, in case of his unlawful detention of the premises underlet
 32 to him.

33 4. A tenant or subtenant, assigning or subletting, or committing waste
 34 upon, the demised premises contrary to the covenants of his lease, thereby
 35 terminates the lease, and the landlord, or his successor in estate, shall,
 36 upon service of three (3) days' notice to quit upon the person or persons
 37 in possession, be entitled to restitution of possession of such demised
 38 premises under the provisions of this chapter.

39 5. If any person is, or has been, engaged in the unlawful delivery, pro-
 40 duction or use of a controlled substance on the premises of the leased prop-
 41 erty during the term for which the premises are let to the tenant. For pur-
 42 poses of this chapter, the terms "delivery," "production," and "controlled
 43 substance" shall be defined as set forth in section 37-2701, Idaho Code.

44 SECTION 2. That Section 6-304, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

46 6-304. SERVICE OF NOTICE. The notices required by the preceding sec-
 47 tion may be served ~~either~~:

48 1. By delivering a copy to the tenant personally; ~~or,~~

1 2. If he be absent from his place of residence and from his usual place
2 of business, by leaving a copy with some person of suitable age and discre-
3 tion at either place, and sending a copy through the mail addressed to the
4 tenant at either place; or

5 3. ~~If he be absent from his place of residence, or, if such place of res-~~
6 ~~idence and or from the place of business cannot be ascertained, or subject of~~
7 ~~the tenancy and a person of suitable age or discretion cannot be found there,~~
8 ~~then by affixing a copy in a conspicuous place on the property, and also de-~~
9 ~~livering a copy to a person there residing, if such person can be found; and~~
10 also sending a copy through the mail addressed to the tenant at the place
11 where the property is situated-; and

12 4. Service upon a subtenant that is subject to the tenancy may be made in
13 the same manner.

14 SECTION 3. That Section 6-310, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 6-310. ACTION FOR POSSESSION -- COMPLAINT -- SUMMONS. (1) In an
17 unlawful detainer action ~~exclusively~~ for possession of a tract of land of
18 five (5) acres or less ~~for the nonpayment of rent, or on the grounds that a~~
19 ~~landlord has reasonable grounds to believe that any person is, or has been,~~
20 ~~engaged in the unlawful delivery, production or use of a controlled sub-~~
21 ~~stance on the leased premises during the term for which the premises are let~~
22 ~~to the tenant, or in the event the tenant is a tenant at sufferance pursuant~~
23 ~~to section 45-1506(11), Idaho Code, it is sufficient to state in the com-~~
24 ~~plaint:~~

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

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

27 (c) That the defendant entered upon the premises, holds the premises,
28 and is ~~in default guilty of the payment of rent or that the landlord has~~
29 ~~reasonable grounds to believe that any person is, or has been, engaged~~
30 ~~in the unlawful delivery, production or use of a controlled substance on~~
31 ~~the leased premises during the term for which the premises are let to the~~
32 ~~tenant an unlawful detainer as defined in section 6-303, Idaho Code;~~

33 (d) That all notices required by law have been served upon the defendant
34 in the required manner or no notice is required because the defendant is
35 a tenant at sufferance pursuant to section 45-1506(11), Idaho Code; and

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

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

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

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

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

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

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

3 (e) That demand has been made to the defendant for surrender of the
4 property, and the defendant has refused to surrender the property to the
5 former occupant or property owner; and

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

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

14 (5) If any property owner files an action for possession against a de-
15 fendant alleged to be occupying the property as a result of forcible detainer
16 when a landlord-tenant relationship existed with the defendant and/or in bad
17 faith, said property owner shall be liable to the defendant for treble dam-
18 ages as enumerated in this chapter.

19 SECTION 4. That Section 6-311, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 6-311. CONTINUANCE. In an unlawful detainer action ~~exclusively as~~
22 provided in section 6-310, Idaho Code, for possession of a tract of land of
23 five (5) acres or less for the nonpayment of rent or any other amount due or if
24 a landlord has alleged that the landlord has reasonable grounds to believe
25 that any person ~~is,~~ or has been, engaged in the unlawful delivery, produc-
26 tion, or use of a controlled substance during the term for which the premises
27 are let to the tenant, or if the person is in possession of the property and is
28 a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho
29 Code, no continuance shall be granted for a longer period than two (2) days
30 unless the defendant applying therefor gives an undertaking to the adverse
31 party with good and sufficient security, to be approved by the court, con-
32 ditioned for the payment of the rent that may accrue if judgment is rendered
33 against the defendant.

34 SECTION 5. That Section 6-311A, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 6-311A. JUDGMENT ON TRIAL BY COURT. (1) In an unlawful detainer action
37 ~~exclusively~~ for possession of a tract of land of five (5) acres or less for
38 the nonpayment of rent or any other amount due or on the grounds that the
39 landlord has reasonable grounds to believe that a person is, or has been, en-
40 gaged in the unlawful delivery, production, or use of a controlled substance
41 on the leased premises during the term for which the premises are let to the
42 tenant, or for forcible detainer, or if the tenant is a tenant at suffer-
43 ance pursuant to subsection (11) of section 45-1506, Idaho Code, the action
44 shall be tried by the court without a jury. If, after hearing the evidence
45 the court concludes that the complaint is not true, it shall enter judgment
46 against the plaintiff for costs and disbursements. If the court finds the
47 complaint true or if judgment is rendered by default, it shall render a ~~gen-~~

1 ~~eral~~ an order of restitution and a judgment against the defendant and in fa-
2 vor of the plaintiff, for:

3 (a) Restitution of the premises and the costs and disbursements of
4 the action, which order shall direct the tenant to vacate the premises,
5 remove the tenant's personal property, and restore possession of the
6 premises to the plaintiff, or be forcibly removed by a sheriff or con-
7 stable within three (3) calendar days following service of the order;
8 and

9 (b) Damages resulting to the plaintiff from any of the following:
10 (i) Waste of the premises during the defendant's tenancy, if
11 waste is alleged in the complaint and proved at trial;
12 (ii) The amounts due pursuant to the lease or agreement, if al-
13 leged in the complaint;
14 (iii) Treble damages as provided in section 6-317, Idaho Code;
15 (iv) The costs and disbursements of the action; and
16 (v) Reasonable attorney's fees to the prevailing party.

17 (2) If the court finds the complaint true in part, it shall render judg-
18 ment for the restitution of such part only, and the costs and disbursements
19 shall be taxed as the court deems just and equitable. No provision of this
20 law shall be construed to prevent the bringing of an separate action for dam-
21 ages not yet awarded in proceedings provided in this section; or to prevent
22 the plaintiff from amending the complaint for damages or applying by motion
23 to the court to augment the judgment for damages to the premises if discov-
24 ered after possession of the premises is restored to the plaintiff.

25 SECTION 6. That Section 6-311C, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 6-311C. ~~FORM ORDER OF EXECUTION RESTITUTION.~~ An order of restitution
28 may be served at the trial as provided by section 6-310, Idaho Code, if the
29 defendant appears. If the defendant fails to appear, an order of restitution
30 may be served by the plaintiff or an agent of the plaintiff by posting such in
31 a conspicuous place on the premises subject of the order of restitution. The
32 execution, ~~should judgment~~ order of restitution, should it be rendered,
33 may be in the following form:

34 STATE OF IDAHO

35 ss.

36 County of

37 TO THE DEFENDANT, SHERIFF OR ANY CONSTABLE OF THE COUNTY:

38 WHEREAS, a certain action for the possession of the following described
39 premises, to-wit:

.....
.....
40 lately tried before the above entitled court, wherein was plaintiff and
41 was defendant, ~~judgment~~ an order for restitution was rendered on the
42 day of, A.D., .., that the plaintiff have restitution of the
43 premises, ~~and also that he recover the costs and disbursements in the sum of~~
44 ~~\$.....~~. The defendant is hereby directed to vacate the premises, remove the
45 defendant's personal property, and restore possession of the premises to the
46 plaintiff, or be forcibly removed by a sheriff or constable after three (3)
47 calendar days of service of this order.

1 In the name of the State of Idaho, ~~you are the sheriff or a constable of~~
2 the county is, therefore, hereby commanded to cause the defendant and his
3 goods and chattels to be forthwith removed from the premises and the plain-
4 tiff is to have restitution of the same. In the event the goods and chattels
5 are not promptly removed thereafter by the defendant ~~you are the sheriff or~~
6 constable is authorized and empowered to cause the same to be removed to a
7 safe place for storage. Plaintiff may elect to be delegated the responsibil-
8 ity for storage of the goods and chattels which shall be deemed abandoned by
9 defendant as provided by Section 6-326, Idaho Code. ~~You~~ The sheriff and con-
10 stable are also commanded to levy on the goods and chattels of the defendant,
11 and pay the costs and disbursements, aforesaid, and all accruing costs, and
12 to make legal service and due return of this writ.

13 WITNESS My hand and official seal (if issued out of a court of record)
14 this day of, A.D., ...

15
16 Clerk of the District Court

17 SECTION 7. That Section 6-311E, Idaho Code, be, and the same is hereby
18 repealed.

19 SECTION 8. That Section 6-320, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 6-320. ~~ACTION FOR DAMAGES AND SPECIFIC PERFORMANCE BY TENANT~~ REMEDIES
22 FOR DEFICIENT CONDITION OF RESIDENTIAL RENTAL UNITS. (a) A tenant may file an
23 action against a landlord for damages and specific performance for:

- 24 (1) Failure to provide reasonable waterproofing and weather protection
25 of the premises;
- 26 (2) Failure to maintain in good working order electrical, plumbing,
27 heating, ventilating, cooling, or sanitary facilities supplied by the
28 landlord;
- 29 (3) Maintaining the premises in a manner hazardous to the health or
30 safety of the tenant;
- 31 (4) Failure to return a security deposit as and when required by law as
32 described in section 6-321, Idaho Code;
- 33 (5) Breach of any term or provision of the lease or rental agreement ma-
34 terially affecting the health and safety of the tenant, whether explic-
35 itly or implicitly a part thereof; and
- 36 (6) Failure to install approved smoke detectors in each dwelling unit,
37 to include mobile homes, under the landlord's control. Upon commence-
38 ment of a rental agreement, the landlord shall verify that smoke detec-
39 tors have been installed and are in good working order in the dwelling
40 unit. The tenant shall maintain the smoke detectors in good working or-
41 der during the tenant's rental period. For purposes of this section, an
42 approved smoke detector is a battery-operated device that is capable of
43 detecting visible or invisible particles of combustion and that bears
44 a label or other identification issued by an approved testing agency
45 having a service for inspection of materials and workmanship at the
46 factory during fabrication and assembly. If the landlord or the land-
47 lord's assignee fails to install working smoke detectors, the tenant
48 may send written notice by certified mail, return receipt requested, to

1 the landlord or the landlord's assignee that if working smoke detectors
2 are not installed within seventy-two (72) hours of receipt of the let-
3 ter, the tenant may install smoke detectors and deduct the cost from the
4 tenant's next month's rent. Smoke detectors purchased by the tenant and
5 deducted from rent become the property of the landlord and shall not be
6 removed from the premises.

7 Upon filing the complaint, a summons must be issued, served and returned
8 as in other actions, provided, however, that in an action exclusively for
9 specific performance, at the time of issuance of the summons, the court shall
10 schedule a trial within twelve (12) days from the filing of the complaint,
11 and the service of the summons, complaint and trial setting on the defendant
12 shall be not less than five (5) days before the day of trial appointed by the
13 court. If the plaintiff brings an action for damages under this section, or
14 combines his action for damages with an action for specific performance, the
15 early trial provision of this section shall not be applicable, and a summons
16 must be issued returnable as in other cases upon filing the complaint.

17 (b) In an action under this section, plaintiff, in his complaint, must
18 set forth the facts on which he seeks to recover, describe the premises, and
19 set forth any circumstances which may have accompanied the failure or breach
20 by the landlord.

21 (c) If, upon the trial, the verdict of the jury, or, if the case be tried
22 without a jury, the finding of the court, be in favor of the plaintiff against
23 the defendant, judgment shall be entered for the amount of the damages as-
24 sessed. Judgment may also be entered requiring specific performance for
25 any breach of agreement showing by the evidence, and for costs and disburse-
26 ments.

27 (d) In the alternative of bringing an action as provided under this sec-
28 tion, a tenant may elect an alternative remedy of rent abatement or repair
29 and deduct as provided in this section and subject to subsections (e) and (f)
30 of this section.

31 (1) If the tenant chooses rent abatement in the notice as provided
32 in subsection (e) of this section, the tenant's rent is abated as of
33 the date of the notice of deficient condition to the owner; the rental
34 agreement is terminated, and the landlord shall immediately pay to the
35 tenant the entire security deposit the tenant paid under the rental
36 agreement and a prorated refund for any prepaid rent, including any rent
37 the tenant paid for the period after the date on which the tenant gave
38 the landlord notice of the deficient condition.

39 (2) If the tenant chooses the repair and deduct remedy in the notice as
40 provided in subsection (e) of this section, the tenant may correct the
41 deficient condition described in the notice and deduct from future rent
42 the amount the tenant paid to correct the deficient condition, not to
43 exceed an amount equal to two months' rent; and the tenant shall main-
44 tain all receipts documenting the amount the tenant paid to correct the
45 deficient condition and provide a copy of those receipts to the landlord
46 within five (5) calendar days after the beginning of the next rental pe-
47 riod.

48 (e) Before a tenant shall have standing to file an action under this
49 section, and except as provided in section 6-321, Idaho Code, he must give
50 serve upon his landlord ~~three (3) days written notice, listing each failure~~

1 ~~or breach upon which his action will be premised and written demand requiring~~
 2 ~~performance or cure. If, within three (3) days after service of the notice,~~
 3 ~~any listed failure or breach has not been performed or cured by the landlord,~~
 4 ~~the tenant may proceed to commence an action for damages and specific perfor-~~
 5 ~~mance written notice as provided in section 6-323, Idaho Code. The notice~~
 6 ~~required by this section shall:~~

7 (1) Describe the deficient condition;

8 (2) State that the landlord has three (3) calendar days to commence re-
 9 medial action to correct the condition;

10 (3) Provide the landlord permission to enter the rental unit to make
 11 corrective action; and

12 (4) State that the tenant will file a complaint for specific perfor-
 13 mance or lease termination in the event the landlord does not commence
 14 remedial action within three (3) calendar days of service of the notice,
 15 or in the alternative the tenant will select a remedy as provided in sub-
 16 section (d) of this section.

17 (f) A tenant is not entitled to any remedies under this section if the
 18 tenant is not in compliance with all requirements of the lease agreement in-
 19 cluding, but not limited to, all payments required by the lease, or other
 20 material terms of the lease. A tenant is further not entitled to any reme-
 21 dies under this section if the tenant intentionally or negligently caused
 22 the deficient condition or if the tenant unreasonably denies access to, re-
 23 fuses entry to, or withholds consent to enter the rental unit to the land-
 24 lord, agent, or manager for purposes of inspecting the deficient condition
 25 or making repairs to the rental unit.

26 (eg) The provisions of this section shall not apply to tracts of land of
 27 five (5) acres or more used for agricultural purposes.

28 SECTION 9. That Section 6-321, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 6-321. SECURITY DEPOSITS. (1) Amounts deposited by a tenant with a
 31 landlord for any purpose other than the payment of rent shall be deemed secu-
 32 rity deposits. Upon termination of a lease or rental agreement and surrender
 33 of the premises by the tenant all amounts held by the landlord as a security
 34 deposit shall be refunded to the tenant, except amounts necessary to cover
 35 the contingencies specified in the deposit arrangement. The landlord shall
 36 not retain any part of a security deposit to cover normal wear and tear.
 37 "Normal wear and tear" means that deterioration which occurs based upon the
 38 use for which the rental unit is intended and without negligence, careles-
 39 ness, accident, or misuse or abuse of the premises or contents by the tenant
 40 or members of his household, or their invitees or guests.

41 (a) Refunds shall be made within twenty-one (21) days if no time is
 42 fixed by agreement, and in any event, within thirty (30) days after sur-
 43 render of the premises by the tenant. Any refunds in an amount less than
 44 the full amount deposited by the tenant shall be accompanied by a signed
 45 statement itemizing the amounts lawfully retained by the landlord, the
 46 purpose for the amounts retained, and a detailed list of expenditures
 47 made from the deposit.

1 (b) If security deposits have been made as to a particular rental or
2 lease property, and the property changes ownership during a tenancy,
3 the new owner shall be liable for refund of the deposits.

4 (2) If a landlord or the landlord's agent fails to comply with the re-
5 quirements described in subsection (1) of this section, the tenant may serve
6 the landlord or landlord's agent, in accordance with section 6-323, Idaho
7 Code, a notice that states:

8 (a) The names of the parties to the rental agreement;

9 (b) That the landlord has failed to comply with the requirements of sub-
10 section (1) of this section; and

11 (c) The address where the landlord or landlord's agent may send the
12 items described in subsection (1) of this section.

13 (3) Within five (5) business days after the day on which the notice
14 described in subsection (2) of this section is served, the landlord or the
15 landlord's agent shall comply with the requirements described in subsection
16 (1) of this section.

17 (4) If after five (5) business days after service of the notice de-
18 scribed in subsection (2) of this section is served, the landlord or the
19 landlord's agent fails to comply with the requirements described in subsec-
20 tion (1) of this section, the renter may:

21 (a) Recover from the landlord the full security deposit;

22 (b) Recover from the landlord treble damages; and

23 (c) File an action in the appropriate court to enforce compliance with
24 the provisions of this section pursuant to section 6-320, Idaho Code.

25 (5) Nothing in this section shall preclude a landlord or a tenant from
26 recovering other damages to which the landlord or tenant is entitled.

27 (6) A security deposit for a residential rental premises that is man-
28 aged by a third-party manager of a landlord shall be maintained in a trust
29 account at a federally insured financial institution. Such trust account
30 shall be maintained separate from the third-party agent's operating ac-
31 count. The requirements of this subsection shall not apply to a property
32 owner, managers who have common members or principals of the property owner
33 entity, a real estate licensee, or a nonprofit business organization as es-
34 tablished under chapter 30, title 30, Idaho Code.

35 SECTION 10. That Section 6-323, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 6-323. SERVICE OF NOTICE TO LANDLORD. The notice required by sections
38 6-320 ~~de~~ and 6-321, Idaho Code, shall be served either:

39 (1) By delivering a copy to the landlord or his agent personally; or

40 (2) If the landlord or his agent is absent from his usual place of busi-
41 ness, by leaving a copy with an employee at the usual place of business of the
42 landlord or his agent; or

43 (3) By sending a copy of the notice to the landlord or his agent by
44 United States Postal Service certified mail, return receipt requested.

45 SECTION 11. That Section 6-324, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 6-324. ATTORNEY'S FEES. In any action brought under the provisions
2 of this chapter, ~~except in those cases where treble damages are awarded,~~
3 the prevailing party shall be entitled to an award of attorney's fees. For
4 attorney's fees to be awarded in cases requiring the three (3) days' notice
5 as set forth in section 6-303 2., Idaho Code, it shall be necessary that
6 the three (3) days' notice advise the tenant that attorney's fees shall be
7 awarded to the prevailing party.

8 SECTION 12. That Chapter 3, Title 6, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 6-325, Idaho Code, and to read as follows:

11 6-325. ABANDONMENT. Unless otherwise provided in contract, "abandon-
12 ment" is presumed in either of the following situations:

13 (1) The tenant has not notified the landlord that he will be absent from
14 the premises, the tenant fails to pay rent within fifteen (15) days after the
15 due date, and there is no reasonable evidence other than the presence of the
16 tenant's personal property that the tenant is occupying the premises;

17 (2) The tenant has not notified the landlord that he will be absent from
18 the premises, the tenant fails to pay rent when due, the tenant's personal
19 property has been removed from the dwelling unit, and there is no reasonable
20 evidence that the tenant is occupying the premises; or

21 (3) The tenant is absent from the premises as the result of an eviction.

22 SECTION 13. That Chapter 3, Title 6, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 6-326, Idaho Code, and to read as follows:

25 6-326. ABANDONED PERSONAL PROPERTY. (1) Unless otherwise provided
26 in contract, in the event of abandonment or after possession of a rental
27 premises is restored to a landlord pursuant to an order of restitution and
28 the tenant left personal property on the premises, the landlord is entitled
29 to remove the property from the premises, store it for the tenant, and re-
30 cover actual or reasonable moving and storage costs from the tenant.

31 (2) The landlord shall post a copy of a notice in a conspicuous place
32 that the property is considered abandoned.

33 (3) The tenant may retrieve the property within fifteen (15) calendar
34 days from the date of the notice if the tenant tenders payment of all costs of
35 inventory, moving, and storage to the landlord.

36 (4) If the property has been in storage for at least fifteen (15) calen-
37 dar days and the tenant has failed to recover the property after notice was
38 posted, the tenant shall pay reasonable costs associated with the inventory,
39 storage, and removal, and the landlord may:

40 (a) Sell the property and apply the proceeds toward any amount the ten-
41 ant owes; or

42 (b) Donate the property to charity if the donation is a commercially
43 reasonable alternative.

44 (5) A tenant may claim abandoned property within fifteen (15) calendar
45 days after the notice described in subsection (2) of this section is posted,
46 and upon payment of costs, inventory, moving, and storage, and by delivery
47 of a written demand with adequate proof of ownership. A landlord shall not

1 be liable for the loss of the abandoned property if the written demand is not
2 received.

3 (6) A tenant has no recourse for damage or loss if the tenant fails to
4 recover any abandoned property as required in this section.

5 (7) Nothing contained in this section shall be in derogation of, or al-
6 ter a landlord's rights to, a lessors' lien or any other contractual liens or
7 rights.

8 (8) A landlord is not required to store the following abandoned per-
9 sonal property:

10 (a) Chemicals, pests, or potentially dangerous or other hazardous ma-
11 terials;

12 (b) Animals of any kind;

13 (c) Gas, fireworks, combustibles, or any item considered to be haz-
14 arduous or explosive; or

15 (d) Garbage, perishable items, plants, or items that when placed in
16 storage might create a hazardous condition or a pest control issue.

17 (9) Items listed in subsection (8) of this section may be properly dis-
18 posed of by the landlord immediately upon determination of abandonment. A
19 tenant may not recover for disposal of abandoned items listed in subsection
20 (8) of this section.

21 SECTION 14. That Chapter 3, Title 6, Idaho Code, be, and the same is
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
23 ignated as Section 6-327, Idaho Code, and to read as follows:

24 6-327. CRIME VICTIM'S RIGHTS TO NEW LOCKS -- CRIME VICTIM'S RIGHT TO
25 TERMINATE RENTAL AGREEMENT. (1) When a crime victim does not live with the
26 perpetrator:

27 (a) A protected tenant who is a crime victim may require the landlord to
28 install a new lock to the tenant's rental if a person who is restrained
29 from contact with a protected tenant by means of a civil protection or-
30 der, criminal no contact order, or other order issued by a court within
31 the prior one hundred eighty (180) days, or is named in a police report
32 from any state or local law enforcement agency written in the prior one
33 hundred eighty (180) days is not a tenant of the same dwelling unit as
34 the protected tenant.

35 (b) A landlord shall change the locks of the protected tenant's rental
36 unit upon written request of the protected tenant, and not later than
37 twenty-four (24) hours after the protected tenant gives the landlord a
38 copy of a court order or police report naming the protected tenant as a
39 protected party or person who has experienced a crime, and shall give
40 the protected tenant a key to the new locks.

41 (c) A landlord may comply with the provisions of paragraph (b) of this
42 subsection by re-keying the lock if the lock is in good working condi-
43 tion or changing the entire locking mechanism with a locking mechanism
44 of equal or greater quality than the lock being replaced.

45 (2) When a crime victim lives with the perpetrator:

46 (a) The provisions of this subsection shall apply if a person who is re-
47 strained from contact with a protected tenant under a court order, ex-
48 cept an ex parte order, is a tenant of the same rental property as the
49 protected tenant.

1 (b) A landlord shall change the locks of a protected tenant's rental
2 unit upon written request of a protected tenant not later than twenty-
3 four (24) hours after the protected tenant gives the landlord a copy of
4 a court order that excludes from the unit the restrained person referred
5 to in paragraph (a) of this subsection.

6 (c) A landlord may comply with the provisions of paragraph (b) of this
7 subsection by re-keying the lock if the lock is in good working condi-
8 tion or changing the entire locking mechanism with a locking mechanism
9 of equal or greater quality than the lock being replaced.

10 (d) If the locks are changed pursuant to this subsection, the landlord
11 is not liable to a person excluded from the unit pursuant to the provi-
12 sions of this subsection except as required under the provisions of this
13 section.

14 (e) A person who has been excluded from a unit under this subsection re-
15 mains liable under the lease with all other tenants of the unit for rent
16 and other charges as provided in the lease.

17 (f) A person who has been excluded from a unit under this subsection
18 who is later acquitted of the charge that led to his exclusion or has any
19 such charge dismissed shall immediately regain access to the unit.

20 (3) A landlord who installs a new lock pursuant to the provisions of
21 this section may retain a copy of the key that opens the new lock.

22 (4) Early lease termination by a crime victim:

23 (a) A tenant or co-tenant may terminate a rental agreement or tenancy
24 and quit the premises upon written notification to the owner that a mem-
25 ber of the household is a victim of domestic violence, rape, sexual as-
26 sault, or stalking, if such notification is made within one (1) month
27 of the most recent act of domestic violence, rape, sexual assault, or
28 stalking; or if a member of a tenant's household is reasonably in fear
29 of imminent serious physical harm from domestic violence, rape, sexual
30 assault, or stalking. An owner shall have the right to request proof of
31 the status as a victim of domestic violence, rape, sexual assault, or
32 stalking, including the name of the perpetrator, if known, as provided
33 in paragraph (e) of this subsection.

34 (b) Within one (1) month of written notification to the owner to ter-
35 minate a rental agreement or tenancy pursuant to paragraph (a) of this
36 subsection, a tenant, co-tenant, or any household member who is not the
37 perpetrator of the domestic violence, rape, sexual assault, or stalking
38 shall quit the premises. If the tenant or co-tenant fails to quit the
39 premises within one (1) month, the notice to terminate the rental agree-
40 ment or tenancy shall be void.

41 (c) A tenant or co-tenant to whom this section applies shall be dis-
42 charged from liability for rent or use and occupancy for the remainder
43 of the lease period after the start of the month following the date the
44 tenant vacates the unit pursuant to paragraph (b) of this subsection.
45 Such tenant or co-tenant shall be entitled to a refund of any prepaid
46 rent for any period thereafter. The tenant or co-tenant shall receive
47 a full and specific statement of the basis for retaining any of the se-
48 curity deposit together with any refund due within thirty (30) days of
49 the conclusion of the tenancy and the delivery of full possession of the
50 leased premises by all occupants to the landlord.

1 (d) No other tenant or co-tenant who is a party to the rental agreement
2 shall be released from such tenant's or co-tenant's obligations under
3 the rental agreement or other obligations under this chapter. If the
4 tenant or co-tenant to whom this section applies vacates but leaves be-
5 longings, such belongings shall be deemed abandoned and may be disposed
6 of pursuant to this chapter, unless the tenant or co-tenant indicates
7 in writing the responsibility for such belongings and the action to be
8 taken with respect to such belongings.

9 (e) If relief is sought because of recent or ongoing domestic violence,
10 rape, sexual assault, or stalking, an owner may request that proof be
11 provided to show that a protective order or third-party verification is
12 in effect or was obtained within the prior three (3) months, or that a
13 tenant or co-tenant is reasonably in fear of imminent serious physical
14 harm. Proof of status as a victim of domestic violence, rape, sexual as-
15 sult, or stalking shall be satisfied by production of any of the fol-
16 lowing documents:

17 (i) A copy of a valid civil protection order issued by a court pro-
18 tecting the tenant, co-tenant, or member of the household;

19 (ii) A record from a federal, state, or local court or law en-
20 forcement of an act of domestic violence, rape, sexual assault, or
21 stalking targeting the tenant requesting early termination; or

22 (iii) A written verification from any other qualified third party
23 to whom the tenant, co-tenant, or member of the tenant or co-ten-
24 ant's household reported the domestic violence, rape, sexual
25 assault, or stalking; provided, however, that the verification
26 shall include the name of the organization, agency, clinic, or
27 professional service provider and include the date of the domestic
28 violence, rape, sexual assault, or stalking if known; and provided
29 further, that any adult victim who has the capacity to do so shall
30 provide a statement, under the penalty of perjury, that the in-
31 cident described in such verification is true and correct. Qual-
32 ified third parties include medical providers, licensed mental
33 health workers, and staff of community-based or tribal domestic
34 violence and sexual assault programs.

35 (f) An owner or housing subsidy provider who obtains written proof
36 of status as a victim of domestic violence, rape, sexual assault, or
37 stalking shall keep such documentation and the information contained
38 in the documentation confidential and shall not provide or allow access
39 to such documentation in any way to any other person or agency, unless
40 the victim provides written authorization for the release of such in-
41 formation or unless required by court order, government regulation, or
42 governmental audit requirements. If a landlord willfully violates the
43 provisions of this paragraph, the tenant may recover three (3) times the
44 periodic rent or three (3) times actual damages, whichever is greater;
45 terminate the lease; defend an action for possession on the ground that
46 the landlord violated the provisions of this paragraph; or obtain ap-
47 propriate injunctive relief.

48 (g) An owner may not assess a fee or penalty against a tenant for exer-
49 cising a right granted under this subsection.