

TITLE 55
PROPERTY IN GENERAL

CHAPTER 27
FLOATING HOMES RESIDENCY ACT

55-2701. SHORT TITLE. This chapter shall be known as and may be cited as "The Floating Homes Residency Act."

[55-2701, added 1998, ch. 194, sec. 1, p. 699.]

55-2702. LEGISLATIVE POLICY. The legislature finds and declares that, because of current governmental policy limiting the availability of moorage sites both within and outside a floating home marina, the historic value of existing floating homes moored on the waters of the state, the investment in these floating homes and floating home marinas, and the cost of relocating a floating home, it is necessary that the owners of floating homes within a floating home marina be provided with the unique protection from actual or constructive eviction and the other protections afforded by the provisions of this chapter.

[55-2702, added 1998, ch. 194, sec. 1, p. 699.]

55-2703. GOOD FAITH. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement.

[55-2703, added 1998, ch. 194, sec. 1, p. 699.]

55-2704. DEFINITIONS. (1) "Floating home" means a floating structure which is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling, has no mode or power of its own, is dependent for utilities upon a continuous utility linkage to a source originating on shore, and has a permanent continuous connection to a sewage system on shore.

(2) "Floating home moorage marina" or "moorage" means a waterfront facility for the moorage of one (1) or more floating homes and the land and water premises on which such facility is located.

(3) "Landlord" means the owner of a floating home marina and includes the agent of the landlord.

(4) "Moorage site" means a part of a floating home marina located over water and designed to accommodate one (1) floating home.

(5) "Resident organization" means a tenant or homeowner's association, whether or not incorporated, the membership of which is made up of tenants of the floating home marina and/or owners of a floating home.

(6) "Tenant" means any person who rents a floating home moorage site or the person's agent of record.

[55-2704, added 1998, ch. 194, sec. 1, p. 699.]

55-2705. THIS CHAPTER GOVERNS. This chapter shall regulate and determine legal rights, remedies and obligations arising from any rental agreement between a landlord and tenant regarding a floating home moorage, except

in those instances in which the landlord is renting both the moorage site and the floating home to the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. This chapter does not abrogate any rights the landlord or tenant has under the laws and constitution of the United States and the state of Idaho.

[55-2705, added 1998, ch. 194, sec. 1, p. 699.]

55-2706. RENTAL AGREEMENT. (1) From and after the effective date of this chapter, any landlord offering a moorage site for rent shall provide the prospective tenant with a written agreement. This agreement must be executed by both parties. The provisions of this chapter shall apply to all such agreements to the extent applicable as set forth in this chapter.

(2) The requirements of subsection (1) of this section shall not apply if:

- (a) The floating home marina or a part thereof has been acquired by eminent domain or condemnation for a public works project; or
- (b) An employer-employee relationship exists between a landlord and tenant.

(3) The provisions of this section shall apply to any tenancy in existence on the effective date of this act, but only after expiration of the term of any oral or written rental agreement governing such tenancy, not to exceed twelve (12) months from the effective date of this act. Existing contracts may be perpetuated by agreement of both parties.

(4) A floating home owner shall be offered a rental agreement for:

- (a) A term of twelve (12) months;
- (b) A lesser period as mutually agreed upon by both the floating home owner and the landlord; or
- (c) A longer period as mutually agreed upon by both the floating home owner and the landlord.

(5) A rental agreement may not contain a provision by which the tenant waives his rights under this law.

(6) The rental agreement shall identify a specific moorage site. The moorage site occupied by a floating home shall remain site specific as set forth in the rental agreement unless any moorage site change is agreed upon by the tenant and the landlord.

[55-2706, added 1998, ch. 194, sec. 1, p. 699.]

55-2707. FLOATING HOME MARINA -- RULES AND REGULATIONS. (1) Subject to the provisions of this chapter and to the terms of the rental agreement, the landlord may establish reasonable rules and regulations governing the use and occupancy of a floating home marina. A rule or regulation may be amended at any time with the consent of the tenants or without their consent upon written notice of not less than six (6) months. Written notice of a proposed amendment to a new tenant whose tenancy commences within the required period of notice shall constitute compliance with this subsection where the written notice is given to the tenant before the inception of this tenancy.

(2) The landlord may enter a floating home in case of an apparent or actual emergency, when the tenant has abandoned the floating home, or as otherwise provided in the rental agreement.

(3) Management must disclose the name and address of the marina owner upon the request of the tenant.

[55-2707, added 1998, ch. 194, sec. 1, p. 700.]

55-2708. ADJUSTMENTS TO RENT, SERVICES, UTILITIES OR RULES -- FEES. (1) A landlord may increase or decrease rents only after ninety (90) days' written notice to the tenants.

(2) Rental rates shall at all times be reasonable. Factors to be considered in determining whether a change in rent is reasonable are as follows:

(a) The rent provided in previous and current rental agreements between the landlord and tenant;

(b) The rent charged by comparable marinas, taking into account such factors as location, facilities, condition, services and other relevant factors;

(c) The landlord's costs associated with owning, controlling and maintaining the marina, including the uplands, to the extent reasonably necessary to support the marina facilities which serve the floating home, moorage area and the landlord's need for realizing a reasonable rate of return over such costs;

(d) The availability and costs of alternative long-term float home moorage sites;

(e) The need to maintain price stability in a market restricted by state regulation of navigable waters and limited availability of float home moorage sites;

(f) The opportunity costs, if any, borne by the landlord by not converting the floating home marina, including uplands, to other uses; and

(g) Any other circumstances justifying a rental rate.

(3) If twenty-five percent (25%) or more of the tenants within a marina, or the [the] marina owner, assert that a moorage rental increase is unreasonable under any circumstances, the dispute shall be resolved by arbitration. The tenants must appoint a single party to act as their agent in the arbitration proceeding.

(a) The tenants' agent and the marina owner shall mutually agree upon one (1) or more arbitrators. If the parties cannot mutually agree upon one (1) or more arbitrators, the parties may petition the district court in the judicial district in which the marina in question is situated, which shall appoint an arbitrator or panel of arbitrators for the parties.

(b) In determining what constitutes a reasonable increase in a moorage rental rate the arbitrator shall consider and make written findings on each of the factors set forth in subsection (2) of this section.

(c) The arbitrator shall afford any party to the arbitration an opportunity to be heard, if requested, as provided herein.

(i) A hearing may be requested by a party requesting arbitration by including the request for hearing in the request for arbitration;

(ii) Other parties to the arbitration may request a hearing within five (5) business days after service upon them of the request for arbitration;

(iii) The hearing may be informal in nature provided the arbitrator adopts a hearing procedure that reasonably affords each party to the arbitration an opportunity to be heard;

(iv) The arbitrator shall issue written findings and conclusions within sixty (60) days of the appointment of the arbitrator, unless such time is extended by the written stipulation of the par-

ties or upon a finding by the arbitrator that additional time is reasonably required;

(v) The costs of arbitration and the fees of the arbitrator shall be paid one-half (1/2) by the tenants and one-half (1/2) by the marina owner.

(4) Except as provided herein, rental increases shall be uniform throughout the floating home marina. Notwithstanding the foregoing provision:

(a) When rents within a floating home marina are structured by reason of slip or floating home size, amenities, slip location or otherwise, rental increases shall be uniform among all floating homes in the same rent tier; and

(b) A rental agreement may include an escalation clause for a pro rata share of any increase or decrease in the floating home marina's property taxes, utility assessments or other services as included in the monthly rental charge, after the effective date of such a change.

(5) No fees may be charged except for rent, services and utilities actually provided.

(6) No fees can be charged for services unless the services are listed in the rental agreement or unless ninety (90) days' notice is given.

(7) A tenant shall not be charged a fee for the enforcement of any of the rules and regulations of the floating home marina, except as provided in the rental agreement or rules and regulations of the floating home marina.

(8) Unless the tenant specifically requests the service from the landlord in writing, a tenant shall not be charged a fee for entry, installation, hookup or improvements as a condition of tenancy except for an actual fee or cost imposed by a local governmental ordinance or requirement directly related to the occupancy of the specific moorage site where the floating home is located and incurred as a portion of the development of the floating home marina as a whole. However, reasonable improvements and maintenance requirements may be included in the floating home marina rules and regulations. The landlord shall not require a tenant or prospective tenant to purchase, rent or lease goods or services for improvements from any person, company or corporation.

(9) Where the landlord provides master meter utilities to a tenant, the cost of the utilities must be separately stated each billing period along with the opening and closing meter readings. The landlord must also post the current rates charged by the utility in at least one (1) conspicuous place in the floating home marina.

(10) The landlord shall maintain year round facilities for garbage and trash disposal from the floating home marina.

(11) The landlord shall maintain entry lights and common area lighting, if any, in good working order.

(12) The landlord shall not prevent the ingress or egress to watercraft moorage contained within a floating home.

[55-2708, added 1998, ch. 194, sec. 1, p. 700; am. 2008, ch. 303, sec. 1, p. 842.]

55-2709. EVICTION FROM MARINA. The landlord shall not terminate or refuse to renew a tenancy, except for a reason specified in this chapter and upon the giving of not less than ninety (90) days' written notice to the tenant in the manner prescribed by this section, to remove the floating home from the floating home marina within a period of not less than ninety (90)

days, which period shall be specified in the notice. A copy of this notice shall be served upon the legal owner of the floating home either by:

- (1) Personally serving a copy of the notice upon the legal owner; or
- (2) Mailing a copy of the notice to the last known address of the legal owner and posting the notice conspicuously upon the floating home residence.

[55-2709, added 1998, ch. 194, sec. 1, p. 701.]

55-2710. REASONS FOR EVICTION -- STATEMENT OF EVICTION REASONS IN NOTICE. (1) The grounds for which a tenancy may be terminated and a tenant evicted shall be:

- (a) Conduct by tenant or tenant's guest which constitutes a nuisance to other floating home owners, marina tenants or marina owner;
- (b) Substantial or repeated violation of the reasonable rules and regulations of the marina;
- (c) Nonpayment of rent;
- (d) Other material breach of a rental agreement; or
- (e) Condemnation of the marina.

(2) The landlord shall set forth in a notice of termination the reason relied upon for the termination with sufficient specificity to permit determination of the date, place, witnesses, if any, and circumstances concerning such reason. Reference to a section or subsection or a recital of the language of this chapter shall not constitute compliance with this section.

(3) In the case of termination of the tenancy and eviction for the reasons set out in paragraphs (a), (b), (c) or (d) of subsection (1) of this section, the tenant shall be given written notice to comply which notice may be given by personal service upon a tenant, or if the tenant cannot be found at the marina, then by mailing a copy of the notice by certified mail to the last mailing address provided by the tenant. In the case of personal service, service of the notice shall be deemed effected three (3) days after deposit in the United States mail, postage prepaid by registered mail, return receipt requested. If the tenant does not comply within fifteen (15) days following service, landlord may give notice of termination as provided in this chapter.

[55-2710, added 1998, ch. 194, sec. 1, p. 702.]

55-2711. EVICTION TO MAKE SPACE FOR FLOATING HOME OWNED BY LANDLORD. No tenancy shall be terminated for the purpose of making a moorage site available for the landlord or a person who purchases a floating home from the owner of the floating home marina or his agent.

[55-2711, added 1998, ch. 194, sec. 1, p. 702.]

55-2712. SALE, TRANSFER, OR REMOVAL OF A FLOATING HOME. (1) No landlord shall deny any tenant who owns his floating home the right to sell a floating home on a rented moorage site or require the tenant to remove the floating home for the moorage site solely on the basis of the sale.

(2) The landlord shall not exact a commission or a fee for the sale of a floating home on a rented moorage site unless the landlord has acted as an agent for the seller pursuant to a written agreement. The landlord may act as an agent for the seller only upon the voluntary agreement of the seller.

(3) The new rental agreement must be signed by the landlord and a prospective tenant prior to the sale, transfer, assignment or subletting

of the floating home if the floating home is to remain at the floating home marina. From the date of sale, assignment, transfer or subletting, the new tenant shall be bound by the agreement.

(4) No floating home shall be removed from any floating home marina until the rental payment, including the month when the floating home is removed, is paid, or until the provisions of section [55-2713](#), Idaho Code, have been fully complied with and the landlord notified of the date and time of removal.

(5) A tenant shall notify the landlord in writing ninety (90) days prior to the expiration of a rental agreement of an intention not to renew the rental agreement.

[55-2712, added 1998, ch. 194, sec. 1, p. 702.]

55-2713. NOTICE TO OWNER. (1) Any legal owner of a floating home in order to be protected under this section must notify the landlord in writing of his secured or other legal interest.

(2) If the tenant becomes sixty (60) days in arrears in his rent or at the time of the suspected abandonment by the tenant of a moorage site, the landlord shall notify the legal owner of the floating home of his liability for any costs incurred for the floating home site for such floating home, including rent owing. The legal owner shall be responsible for utilities from the date of notice. Any and all costs shall, after the giving of such notice, become the responsibility of the legal owner of the floating home. The floating home may not be removed from the moorage site without a signed written receipt or agreement from the landlord, owner, or manager showing payment of charges due or agreement with the legal owner for removal of the floating home.

[55-2713, added 1998, ch. 194, sec. 1, p. 703.]

55-2714. TENANT ACTION FOR DAMAGES -- SPECIFIC PERFORMANCE. (1) A tenant of a floating home marina may file an action against a landlord for damages and specific performance for:

(a) Failure to maintain in good working order, to the terminal point of service, electrical, water or sewer services supplied by the landlord;

(b) Maintaining those portions of the premises open to use by the tenant in a manner hazardous to the health or safety of the tenant including, but not limited to, a continuing violation of any of the following:

(i) Any rule adopted by the department of environmental quality governing public drinking water systems;

(ii) Any rule adopted by the department of environmental quality governing hazardous waste;

(iii) Any rule adopted by the public health district in which the floating home marina is located governing wastewater and on-site sewage treatment systems;

(iv) Any provisions of the international fire code, as amended by the provisions of a fire code adopted by the county or municipality in which the floating home marina is located;

(v) Any provisions of the uniform building code, as amended by the provisions of any building code adopted by the state, county or municipality in which the floating home marina is located.

(c) Material breach of any specific term of a rental agreement.

(2) Upon filing the complaint, a summons must be issued, served and returned as in other actions. Provided however, that in an action exclusively for specific performance, at the time of issuance of the summons, the court shall schedule a trial within twelve (12) days from the filing of the complaint, and the service of the summons, complaint and trial setting on the defendant shall be not less than five (5) days before the day of trial appointed by the court. If the plaintiff brings an action for damages with an action for specific performance, the early trial provision shall not be applicable, and a summons must be issued returnable as in other cases upon filing the complaint.

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

(4) If upon the trial, the verdict of the jury, or, if the case be tried without a jury, the finding of the court, be in favor of the plaintiff against the defendant, judgment shall be entered for such special damages as may be proven. General damages may be awarded but shall not exceed five hundred dollars (\$500). Judgment may also be entered requiring specific performance for any breach of agreement shown by the evidence and for costs and disbursements.

(5) Before a tenant shall have standing to file an action under this section, he must give his landlord three (3) days' written notice, listing each failure or breach upon which his action will be premised and written demand requiring performance or cure. If, within three (3) days after service of the notice, any listed failure or breach has not been performed or cured by the landlord, or in the event of damage to the premises or other default not capable of cure within three (3) days and the landlord has not provided written assurance to the tenant that a cure will be effected within a reasonable time, the tenant may proceed to commence an action for damages and specific performance.

(6) The notice required in subsection (5) of this section shall be served either:

- (a) By delivering a copy to the landlord or his agent personally; or
- (b) By leaving a copy with an employee at the usual place of business of the landlord or his agent if the landlord or his agent is absent from his usual place of business; or
- (c) By sending a copy of the notice to the landlord or his agent by certified mail, return receipt requested.

(7) Nothing in this section shall bar either the landlord or the tenant from bringing such civil action for relief to which said party is otherwise entitled.

[55-2714, added 1998, ch. 194, sec. 1, p. 703; am. 2001, ch. 103, sec. 96, p. 335; am. 2002, ch. 86, sec. 12, p. 204.]

55-2715. RETALIATORY CONDUCT BY LANDLORD PROHIBITED. The landlord shall not terminate a tenancy, refuse to renew a tenancy, increase rent or decrease service he normally supplies, or threaten to bring an action for repossession of a floating home site as retaliation against the tenant because the tenant has:

(1) Complained in good faith about a violation of a building, safety or health code or regulation pertaining to a floating home marina to the governmental agency responsible for enforcing the code or regulation.

(2) Complained to the landlord concerning the maintenance or condition of the marina, rent charged, or rules and regulations.

(3) Organized, became a member of or served as an official in a homeowner's association, or similar organization, at a local, regional, state or national level.

(4) Retained counsel or an agent to represent his interests.

[55-2715, added 1998, ch. 194, sec. 1, p. 704.]

55-2716. TENANT ASSOCIATIONS. (1) The tenants in a floating home marina have the right to organize a tenant or homeowner's association to further their mutual interests and to conduct any other business and programs which the association shall determine. When an association is organized it shall notify the landlord.

(2) The landlord must meet and confer with homeowners or their representatives, including any persons designated by a resident organization, within thirty (30) days of a request concerning:

- (a) Rule changes;
- (b) Maintenance of facilities;
- (c) Addition or deletion of services or facilities; or
- (d) Rental agreements.

[55-2716, added 1998, ch. 194, sec. 1, p. 705.]

55-2717. ARBITRATION. The landlord and tenant may agree in writing to submit a controversy under the provisions of this chapter to arbitration through the better business bureau, or similar private association or as otherwise provided in Idaho law.

[55-2717, added 1998, ch. 194, sec. 1, p. 705.]

55-2718. PENALTIES. If upon the trial of any action brought under the provisions of section [55-2714](#), Idaho Code, or those of section [6-303](#), Idaho Code, the court shall find that the defendant acted with malice, wantonness, or oppression, judgment may be entered for three (3) times the amount at which actual damages are assessed.

[55-2718, added 1998, ch. 194, sec. 1, p. 705.]

55-2719. ATTORNEY'S FEES. In any action brought under the provisions of this chapter, or those of section [6-302](#) or [6-303](#), Idaho Code, except in those cases where treble damages are awarded, the prevailing party shall be entitled to an award of attorney's fees.

[55-2719, added 1998, ch. 194, sec. 1, p. 705.]

55-2720. VENUE. Venue for any action arising under this chapter shall be in the district court of the county in which the floating home marina is located.

[55-2720, added 1998, ch. 194, sec. 1, p. 705.]