

STATEMENT OF PURPOSE

RS25740

This legislation seeks to clarify the notice requirements between an action for unlawful detainer and an action for forcible detainer. An unlawful detainer action is a suit by a landlord to evict a tenant. A forcible detainer action is a suit by a property owner to regain possession from a squatter. Although these actions require proof of different things, one of the requirements for what must be in a complaint for each of these actions is mistakenly the same.

I.C. § 6-310(1)(d) dealing with unlawful detainer actions requires that a complaint state that "all notices required by law have been served upon the defendant." I.C. § 6-310(3)(e) dealing with forcible detainer actions errantly requires a similar "notices required by law have been served" allegation. While notice in writing of nonpayment of rent is required to pursue an unlawful detainer action against a tenant by I.C. § 6-303(2), there is no such requirement in a forcible detainer action since a squatter never paid rent in the first place. Rather, I.C. § 6-302(2) requires proof in forcible detainer actions that the squatter, after demand for surrender has been made, refused to surrender the property to the former occupant or property owner. In forcible detainer cases, there is no requirement that the demand be in the form of a notice or ever be in writing. Thus, I.C. § 6-310(3)(e) should say that the complaint must state that demand for surrender of the property was made and the defendant refused to surrender the property.

FISCAL NOTE

There will be no fiscal impact upon the General Fund, any other state fund or local governments. There is no fiscal impact because the amendment will not require the expenditure of any funds.

Contact:

Sara Thomas, Administrative Director of the Courts
Idaho Supreme Courts
(208) 334-2246
Barry Wood, Senior District Judge
Idaho Supreme Courts
(208) 334-2246

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).