

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 626

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO RENTAL APPLICATIONS; AMENDING CHAPTER 3, TITLE 6, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 6-321A, IDAHO CODE, TO PROVIDE FOR RE-
3 STRICTIONS ON THE USE OF RENTAL APPLICATION FEES AND BACKGROUND CHECK
4 FEES BY LANDLORDS, PROPERTY MANAGERS, OR OWNERS; AMENDING SECTION
5 6-320, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTIONS FOR DAMAGES
6 AND SPECIFIC PERFORMANCE BY A TENANT OR APPLICANT PAYING AN APPLICATION
7 FEE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
8

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

10 SECTION 1. That Chapter 3, Title 6, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 6-321A, Idaho Code, and to read as follows:

13 6-321A. FAIRNESS IN RENTAL APPLICATIONS. (1) An owner or property man-
14 ager may charge a rental application fee to the first applicant who submits a
15 rental application if such owner or property manager:

16 (a) Has a rental unit available; and

17 (b) Discloses, prior to accepting the application, any criteria that
18 the owner or property manager will review as a condition of accepting
19 the applicant as a tenant in the residential unit, including criteria,
20 if applicable, related to the applicant's criminal history, credit
21 score, income, employment or employment history, or rental history.

22 (2) An owner or property manager may also charge application fees for
23 the same rental unit to multiple prospective tenants if the owner or property
24 manager:

25 (a) Has not rented the unit to an applicant under consideration and
26 the application is the first-in-line written backup offer in the event
27 the application under consideration is rejected. In such an instance,
28 the owner or property manager may charge the applicant making the first
29 backup offer an application fee when such application is actually pro-
30 cessed; or

31 (b) Anticipates that future vacancies will become available, and the
32 applicant has agreed in writing to be placed on a waiting list for such
33 anticipated vacancies. In such an instance, an application fee may be
34 charged to the applicant who is the first or second in line on the wait-
35 ing list when such application is actually processed.

36 (3) An owner or property manager shall process only two (2) background
37 checks at a time for an available rental unit and must compare the applicant
38 to pre-existing rental criteria and never to another renter.

39 SECTION 2. That Section 6-320, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 6-320. ACTION FOR DAMAGES AND SPECIFIC PERFORMANCE BY TENANT. (a) A
 2 tenant, or in the case of a violation of section 6-321A, Idaho Code, an ap-
 3 plicant, may file an action against a landlord, or in the case of a violation
 4 of section 6-321A, Idaho Code, the owner or property manager collecting the
 5 application fee, for damages and specific performance for:

6 (1) Failure to provide reasonable waterproofing and weather protection
 7 of the premises;

8 (2) Failure to maintain in good working order electrical, plumbing,
 9 heating, ventilating, cooling, or sanitary facilities supplied by the
 10 landlord;

11 (3) Maintaining the premises in a manner hazardous to the health or
 12 safety of the tenant;

13 (4) Failure to return a security deposit as and when required by law;

14 (5) Breach of any term or provision of the lease or rental agreement ma-
 15 terially affecting the health and safety of the tenant, whether explic-
 16 itly or implicitly a part thereof; and

17 (6) Failure to install approved smoke detectors in each dwelling unit,
 18 ~~to include~~ including mobile homes, under the landlord's control. Upon
 19 commencement of a rental agreement, the landlord shall verify that
 20 smoke detectors have been installed and are in good working order in the
 21 dwelling unit. The tenant shall maintain the smoke detectors in good
 22 working order during the tenant's rental period. For purposes of this
 23 section, an approved smoke detector is a battery-operated device that
 24 is capable of detecting visible or invisible particles of combustion
 25 and that bears a label or other identification issued by an approved
 26 testing agency having a service for inspection of materials and work-
 27 manship at the factory during fabrication and assembly. If the landlord
 28 or the landlord's assignee fails to install working smoke detectors,
 29 the tenant may send written notice by certified mail, return receipt
 30 requested, to the landlord or the landlord's assignee that if working
 31 smoke detectors are not installed within seventy-two (72) hours of re-
 32 ceipt of the letter, the tenant may install smoke detectors and deduct
 33 the cost from the tenant's next month's rent. Smoke detectors purchased
 34 by the tenant and deducted from rent become the property of the landlord
 35 and shall not be removed from the premises; and

36 (7) Violating the provisions of section 6-321A, Idaho Code, with regard
 37 to application fees.

38 Upon filing the complaint, a summons must be issued, served and returned as
 39 in other actions, provided, however, that in an action exclusively for spe-
 40 cific performance, at the time of issuance of the summons, the court shall
 41 schedule a trial within twelve (12) days from the filing of the complaint,
 42 and the service of the summons, complaint, and trial setting on the defendant
 43 shall be not less than five (5) days before the day of trial appointed by the
 44 court. If the plaintiff brings an action for damages under this section, or
 45 combines his action for damages with an action for specific performance, the
 46 early trial provision of this section shall not be applicable, and a summons
 47 must be issued returnable as in other cases upon filing the complaint.

48 (b) In an action under this section, the plaintiff, in his complaint,
 49 must set forth the facts on which he seeks to recover, describe the premises,

1 and set forth any circumstances ~~which that~~ may have accompanied the failure
2 or breach by the landlord, property manager, or owner.

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

9 (d) Before a tenant or applicant paying an application fee shall have
10 standing to file an action under this section, he must give his landlord, or
11 the property manager or owner taking the application fee in the case of a vi-
12 olation of section 6-321A, Idaho Code, three (3) days' written notice, list-
13 ing each failure or breach upon which his action will be premised and written
14 demand requiring performance or cure. If, within three (3) days after ser-
15 vice of the notice, any listed failure or breach has not been performed or
16 cured by the landlord, property manager, or owner, the tenant or applicant
17 paying an application fee may proceed to commence an action for damages and
18 specific performance.

19 (e) The provisions of this section shall not apply to tracts of land of
20 five (5) acres or more used for agricultural purposes.

21 SECTION 3. An emergency existing therefor, which emergency is hereby
22 declared to exist, this act shall be in full force and effect on and after
23 July 1, 2022.