

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 641

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO UNLAWFUL DETAINER; AMENDING SECTION 6-303, IDAHO CODE, TO PRO-  
2 VIDE A PROCESS IN THE EVENT A LANDLORD HAS REASON TO BELIEVE A TENANT IS  
3 ENGAGING IN ILLEGAL DRUG ACTIVITY OCCURRING ON A LEASED PREMISES AND TO  
4 MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.  
5

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

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

9 6-303. UNLAWFUL DETAINER DEFINED. A tenant of real property, for a  
10 term less than life, is guilty of an unlawful detainer:

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

16 2. Where he continues in possession, in person or by subtenant, with-  
17 out permission of his landlord, or the successor in estate of his landlord,  
18 if any there be, after default in the payment of rent, pursuant to the lease  
19 or agreement under which the property is held, and three (3) days' notice, in  
20 writing, requiring its payment, stating the amount which is due, or posses-  
21 sion of the property, shall have been served upon him, and if there be a sub-  
22 tenant in actual occupation of the premises, also upon such subtenant. Such  
23 notice shall also notify the tenant that if a court enters judgment against  
24 him, then he will have seventy-two (72) hours, if he is a residential ten-  
25 ant, and seven (7) days, or longer if granted by the court, if he is a commer-  
26 cial tenant or a tenant with a tract of land five (5) acres or more, to remove  
27 his belongings from the premises before the landlord may remove and dispose  
28 of such property pursuant to section 6-316, Idaho Code. Such notice may be  
29 served at any time within one (1) year after the rent becomes due. In all  
30 cases of tenancy upon agricultural lands, where the tenant has held over and  
31 retained possession for more than sixty (60) days after the expiration of his  
32 term without any demand of possession or notice to quit by the landlord, or  
33 the successor in estate of his landlord, if any there be, he shall be deemed  
34 to be holding by permission of the landlord, or the successor in estate of his  
35 landlord, if any there be, and shall be entitled to hold under the terms of  
36 the lease for another full year, and shall not be guilty of an unlawful de-  
37 tainer during said year, and such holding over for the period aforesaid shall  
38 be taken and construed as a consent on the part of a tenant to hold for another  
39 year.

40 3. Where he continues in possession, in person, or by subtenants, after  
41 a neglect or failure to perform other conditions or covenants of the lease  
42 or agreement under which the property is held, including any covenant not

1 to assign or sublet, other than the one for payment of rent, and three (3)  
2 days' notice, in writing, requiring the performance of such conditions or  
3 covenants, or the possession of the property, shall have been served upon  
4 him, and if there be a subtenant in actual occupation of the premises, also  
5 upon such subtenant. Within three (3) days after the service of the notice,  
6 the tenant, or any subtenant in actual occupation of the premises, or any  
7 mortgagee of the term, or other person interested in its continuance, may  
8 perform the conditions or covenants of the lease, or pay the stipulated rent,  
9 as the case may be, and thereby save the lease from forfeiture: provided,  
10 if the covenants and conditions of the lease, violated by the lessee, can-  
11 not afterward be performed, then no notice, as last prescribed herein, need  
12 be given to said lessee or his subtenant demanding the performance of the  
13 violated covenant or conditions of the lease. A tenant may take proceed-  
14 ings similar to those prescribed in this chapter, to obtain possession of  
15 premises let to an undertenant, in case of his unlawful detention of the  
16 premises underlet to him.

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

23 5. If any person is, or has been, engaged in the unlawful delivery,  
24 production or use of a controlled substance on the premises of the leased  
25 property during the term for which the premises are let to the tenant. For  
26 purposes of this chapter, the terms "delivery," "production," and "con-  
27 trolled substance" shall be defined as set forth in section 37-2701, Idaho  
28 Code. Provided, however, in the event a landlord has reason to believe that  
29 there is illegal drug activity occurring on the premises, and the premises  
30 is located within a hotel or short-term rental where rooms can be rented on  
31 a nightly or weekly basis, the landlord must provide proof that the alleged  
32 illegal activity has taken place via police reports, sworn statements from  
33 neighbors, or signed affidavits, and then provide such proof to the tenant  
34 in support of the allegations. Upon receipt of such information, the tenant  
35 shall be given three (3) business days to submit a corrective action plan.  
36 The parties shall negotiate the terms of the plan with the goal of agreeing on  
37 the plan. Once a plan is agreed to, the matter shall be considered resolved  
38 provided both parties adhere to the corrective action plan. If the action  
39 plan is in place and there are no further complaints for three (3) months,  
40 then the matter shall be considered rectified. If the tenant does not com-  
41 plete and adhere to the corrective action plan, the landlord may pursue  
42 legal action for eviction against the tenant. In the event the tenant fails  
43 to prevail in the proceeding, such tenant shall have (3) days to vacate the  
44 property from the date of the court's order.

45 SECTION 2. An emergency existing therefor, which emergency is hereby  
46 declared to exist, this act shall be in full force and effect on and after its  
47 passage and approval.