

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 321

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO PROPERTY RIGHTS; AMENDING CHAPTER 3, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-310A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING A LIMITED ALTERNATIVE REMEDY TO REMOVE UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL PROPERTY; AMENDING CHAPTER 36, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3621, IDAHO CODE, TO PROVIDE FOR THE CRIME OF MAKING FALSE STATEMENTS TO DETAIN REAL PROPERTY; AMENDING CHAPTER 36, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3622, IDAHO CODE, TO PROVIDE FOR THE CRIME OF FRAUDULENT SALE OR LEASE OF RESIDENTIAL REAL PROPERTY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 3, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-310A, Idaho Code, and to read as follows:

6-310A. LIMITED ALTERNATIVE REMEDY TO REMOVE UNAUTHORIZED PERSONS FROM RESIDENTIAL REAL PROPERTY. (1) The legislature finds that the right to exclude others from entering, and the right to direct others to immediately vacate, residential real property are the most important real property rights. The legislature further finds that existing remedies regarding unauthorized persons who unlawfully remain on residential real property fail to adequately protect the rights of the property owner and fail to adequately discourage theft and vandalism. The intent of this section is to quickly restore possession of residential real property to the lawful owner of the property when the property is being unlawfully occupied and to thereby preserve property rights while limiting the opportunity for criminal activity.

(2) A property owner or the owner's authorized agent may request from the sheriff of the county in which the property is located the immediate removal of a person or persons unlawfully occupying a residential dwelling pursuant to this section if all of the following conditions are met:

(a) The requesting person is the property owner or authorized agent of the property owner;

(b) The real property that is being occupied includes a residential dwelling;

(c) An unauthorized person or persons have unlawfully entered and remain or continue to reside on the property owner's property;

(d) The real property was not open to members of the public at the time the unauthorized person or persons entered;

(e) The property owner has directed the unauthorized person to leave the property;

(f) The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner;

(g) The unauthorized person or persons are not immediate family members of the property owner; and

(h) There is no pending litigation related to the real property between the property owner and any known unauthorized person.

(3) To request the immediate removal of an unlawful occupant of a residential dwelling, the property owner or the owner's authorized agent must submit a complaint by presenting a completed and verified "Complaint to Remove Persons Unlawfully Occupying Residential Real Property" to the sheriff of the county in which the real property is located. The submitted complaint must be in substantially the following form:

COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING  
RESIDENTIAL REAL PROPERTY

I, the owner or authorized agent of the owner of the real property located at ... .., declare under the penalty of perjury that (initial each box):

1. .... I am the owner of the real property or the authorized agent of the owner of the real property.

2. .... I purchased the property on .....

3. .... The real property is a residential dwelling.

4. .... An unauthorized person or persons have unlawfully entered and are remaining or residing unlawfully on the real property.

5. .... The real property was not open to members of the public at the time the unauthorized person or persons entered.

6. .... I have directed the unauthorized person or persons to leave the real property, but they have not done so.

7. .... The person or persons are not current or former tenants pursuant to any valid lease authorized by the property owner, and any lease that may be produced by an occupant is fraudulent.

8. .... The unauthorized person or persons sought to be removed are not owners or co-owners of the property and have not been listed on the title to the property unless the person or persons have engaged in title fraud.

9. .... The unauthorized person or persons are not immediate family members of the property owner.

10. .... There is no litigation related to the real property pending between the property owner and any person sought to be removed.

11. .... I understand that a person or persons removed from the property pursuant to this procedure may bring a cause of action against me for any false statements made in this complaint, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney's fees.

12. .... I am requesting the sheriff to immediately remove the unauthorized person or persons from the residential property.

13. .... A copy of my valid government-issued identification is attached, or I am an agent of the property owner, and documents ev-

1       identencing my authority to act on the property owner's behalf are at-  
2       tached.

3       I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT  
4       IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS  
5       PETITION ARE BEING MADE UNDER PENALTY OF PERJURY.

6       ... (Signature of Property Owner or Agent of Owner) ...

7       (4) Upon receipt of the complaint, the sheriff shall verify that the  
8       person submitting the complaint is the record owner of the real property or  
9       the authorized agent of the owner and appears otherwise entitled to relief  
10      pursuant to the provisions of this section. If verified, the sheriff shall,  
11      without delay, serve a notice to immediately vacate on all the unlawful occu-  
12      pants and shall put the owner in possession of the real property. Service may  
13      be accomplished by hand delivery of the notice to an occupant or by posting  
14      the notice on the front door or entrance of the dwelling. The sheriff shall  
15      also attempt to verify the identities of all persons occupying the dwelling  
16      and note the identities on the return of service. If appropriate, the sher-  
17      iff may arrest any person found in the dwelling for trespass, outstanding  
18      warrants, or any other legal cause.

19      (5) The sheriff is entitled to the same fee for service of the notice to  
20      immediately vacate as if the sheriff were serving a writ of possession. Af-  
21      ter the sheriff serves the notice to immediately vacate, the property owner  
22      or authorized agent may request that the sheriff stand by to keep the peace  
23      while the property owner or agent of the owner changes the locks and removes  
24      the personal property of the unlawful occupants from the premises to or near  
25      the property line. When such a request is made, the sheriff may charge a rea-  
26      sonable hourly rate, and the person requesting the sheriff to stand by and  
27      keep the peace is responsible for paying the reasonable hourly rate set by  
28      the sheriff. The sheriff is not liable to the unlawful occupant or any other  
29      party for loss, destruction, or damage of property. The property owner or  
30      the owner's authorized agent is not liable to an unlawful occupant or any  
31      other party for the loss, destruction, or damage to the personal property un-  
32      less the removal was wrongful.

33      (6) A person may bring a civil cause of action for wrongful removal un-  
34      der this section. A person harmed by a wrongful removal under this section  
35      may be restored to possession of the real property and may recover actual  
36      costs and damages incurred, statutory damages equal to triple the fair mar-  
37      ket rent of the dwelling, court costs, and reasonable attorney's fees. The  
38      court shall advance the cause on the calendar.

39      (7) The provisions of this section shall not limit the rights of a prop-  
40      erty owner or limit the authority of a law enforcement officer to arrest an  
41      unlawful occupant for trespassing, vandalism, theft, or other crimes.

42      SECTION 2. That Chapter 36, Title 18, Idaho Code, be, and the same is  
43      hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
44      ignated as Section 18-3621, Idaho Code, and to read as follows:

45      18-3621. MAKING FALSE STATEMENTS TO DETAIN REAL PROPERTY. Any person  
46      who, with the intent to detain or remain on real property, knowingly and  
47      willfully presents to another person a false document purporting to be a  
48      valid lease agreement, deed, or other instrument conveying real property  
49      rights commits a misdemeanor.

1       SECTION 3. That Chapter 36, Title 18, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 18-3622, Idaho Code, and to read as follows:

4       18-3622. FRAUDULENT SALE OR LEASE OF RESIDENTIAL REAL PROPERTY. A per-  
5 son who lists or advertises residential real property for sale knowing that  
6 the purported seller has no legal title or authority to sell the property or  
7 who rents or leases the property to another person knowing that he has no law-  
8 ful ownership in the property or leasehold interest in the property commits a  
9 felony.

10       SECTION 4. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after  
12 July 1, 2025.