

The Landlord's Guide to Successful Property Management in Idaho



IDAHO APARTMENT ASSOCIATION

2023



The Idaho Apartment Association is now the Leading Advocate for the Rental Housing Industry in Idaho. The following is a detailed plan of programs and services for members:

- **Monthly Meetings and Events**
- **An annual Education Conference and Trade Show**
- **Publication of an Idaho Landlord Guide**
- **Access to National Apartment Association meetings and benefits**
- **Access to over 20 Idaho state specific forms including an updated rental agreement**
- **Publication of a monthly publication/ newsletter**
- **Website: www.iaahq.com**

For more information about how you can be involved with the Idaho Apartment Association or have any questions, please feel free to contact us.

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Boise, ID 83705

Dear Idaho Rental Operator,

The purpose of this book is to provide you the tools to understand basic landlord/tenant law and best practices that will help them be more successful, and provide better services and options to your tenants and the community.

Managing, leasing, maintaining and servicing tenants directly employs thousands of people in Idaho, and thousands more are contracted with to provide additional services to the buildings housing residential renters. Without people like you who are willing to invest their time, money and effort into rental housing our states economy and society would not function. You should be proud of your tremendous impact!

The forms discussed in this book are available for free to any member of the Idaho Apartment Association. If you aren't a member, you should be. You will be more successful and educated if you connect with the pool of resources that is the IAA, where thousands of members combine large amounts of knowledge about how to be a successful landlord.

Moreover, one of the main functions of the IAA going forward will be to ensure that state and local laws in Idaho remain balanced to ensure that both the landlord and the tenant have rights. Supporting the IAA helps fund the monumental efforts it will take to ensure our laws respect your rights and your role in the community and combat government overreach.

We hope that you will enjoy this book. If you have any questions, please feel free to contact us any time.



Ben Widmyer
*2023 Idaho Apartment
Association Board Chair*



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Idaho Landlord Tenant Law

Under Idaho Law a Landlord is required to ensure that their property meets the following standards:



1. The property must be reasonably waterproof and weather protected.
2. The property must be maintained in a way that is not hazardous to the health or safety of the tenant.
3. A battery operated smoke detector must be installed and tested before the tenant moves in.

Additionally, the landlord has a responsibility to ensure that the following systems are maintained and working if they were part of the property when the tenant moved in:

- Electrical
- Plumbing
- Heating
- Cooling
- Ventilating
- Other sanitary systems



Asset Management

Landlords rarely have a problem with these provisions in the law because they have a vested interest in ensuring that their assets are protected.

For example, not having operational heat in the winter will probably mean that your pipes will freeze and you will have significant damage on your hands. Likewise, failing to install a smoke detector not only puts the tenant's lives at risk, it puts your property at risk of a major fire.

What happens if the landlord doesn't meet these standards?

It depends on which part of the law the landlord is being accused of breaking:

1. If the issue is with a smoke detector not being installed

at move in, the tenant may give you a three day notice by certified mail. If you fail to fix the problem within those three days, then they are entitled to purchase a smoke detector and deduct it from their next month's rent. The smoke detector then becomes your property and must stay in the apartment.



2. If a tenant feels you are not in compliance with other parts of the law, then they have to give you a written notice telling you that you have three days to fix the problem. If you don't fix it within three days, then they can take the issue to the courts, either requesting that you be forced to fix the problem or that you pay them damages.

Tenants can serve you notice three ways:

- Delivering a copy to you (or your property manager) in person
- Leaving a copy with one of your employees at your office
- Sending you (or your property manager) a copy by certified mail

Issues with Utilities

A landlord may not shut off a tenant's utilities because the tenant is behind in rent or in order to force the tenant to vacate the property (of course nothing would prevent a landlord or utility company from shutting off a utility for a reasonable amount of time for repairs to be made).



Because of this, most landlords now have the tenants put as many utilities as possible into their own names. However, it is a good idea to work out a landlord agreement with the utilities so that the landlord is notified if the tenant isn't paying. If you are using a good lease you can evict the tenant for not paying for utilities, and are usually able to get the tenants out of the property before the utilities are shut off.



The Idaho Public Utilities Commission prohibits public utilities from shutting off a customer's gas or electric heat from December to February if a customer can't pay the electric or gas bill and the customer has children, elderly, or ill

people in the home. As a practical matter public utilities usually include all of their customers under a blanket moratorium during those months.

Tenant's responsibilities

Idaho Law requires that renters must maintain the property and follow all rules. Some of the general obligations of renters include:

- Be current on all payments required by rental agreement
- Cooperate in maintaining rental unit, including allowing owner and agents to enter to conduct maintenance
- Comply with board of health rules
- Maintain premises in clean and sanitary condition and not unreasonably burden common areas
- Use plumbing, sanitary, and electrical fixtures as designed
- Occupy rental as designed
- Not increase number of occupants above that specified in agreement without consent of owner
- Comply with the rules of the rental agreement
- Maintain any smoke detectors (including replacing batteries)
- Properly dispose of all garbage
- Prevent injury to others due to actions performed on the property
- Renters may not intentionally destroy or damage any part of rental unit
- Renters may not interfere with peaceful enjoyment of another renter
- Renters may not unreasonably deny access to the apartment to owner for purposes of maintaining premises

What about Mold?

Idaho does not have a government agency that regulates the inspection or abatement of toxic mold within rental property. Furthermore, because of the nature of mold it is usually something that becomes the tenants responsibility to monitor and prevent.

The Idaho Department of Health and Welfare's Indoor Environment Program educates Idahoans about human health risks associated with exposure to indoor contaminants, such as toxic mold, and recommends the following steps:

- Use exhaust fans regularly in the kitchen, bathroom, and laundry room.
- Clean and dust regularly.
- Clean and dry the walls and floors around the sink, bathtub, shower, toilets, windows and patio doors using a common household disinfecting cleaner.
- Ensure the clothes dryer is vented to the outside and clean the lint screen after every use.
- Immediately dry any spills or pet urine on carpeting.
- Immediately report any heating, ventilation, air conditioning or laundry malfunctions.
- Keep doors and windows closed during damp weather.



Fair Housing

In the United States, it is illegal to discriminate against renters who are in protected classes.

That means there are 7 reasons you cannot deny tenants.



However, just because somebody is in a protected class doesn't mean that you can't deny them for a separate legitimate reason. In the next section we will cover the factors that can make renting to some people a risky proposition and some strategies for avoiding risk by having a professional tenant screening process.

For now, however, every one who manages rental property should understand the risk of illegal discrimination. Punitive damages have run to over one million dollars, so penalties are not light.

What are the Penalties for Violating the Fair Housing Act?

There are three kinds of penalties possible for landlords who violate Fair Housing

1. \$10,000 administrative fine first violation
2. Compensatory civil penalties (damages and suffering)
3. Punitive Damages

It is essential that everyone who works with renters understand who is protected and treats everyone the same.

There are two types of discrimination:

- First, Disparate Treatment. This is when someone in a protected class is treated differently.
- Second, Disparate Impact. This is when a neutral policy or procedure has a disproportionately negative impact on someone in a protected class.

What is illegal?

The following activities are unlawful:

- Threatening, coercing, intimidating or interfering with anyone exercising a fair housing right or assisting others who exercise that right.
- Advertising or making any statement that indicates a limitation or preference based on **membership in a protected class.**
- Discriminating in housing due to **membership in a protected class**

Federally Protected Classes

- Race
- Color
- Sex
- Religion
- National Origin
- Disability - The definition of disability under federal law is a person who has any physical or mental impairment that substantially limits one or more major life activities, a person with a record of such physical or mental impairment or a person regarded as having such an impairment.
- Familial Status- The definition of familial status under federal law is households containing one or more people under the age of 18 who live with a parent or guardian, pregnant women, foster families, people in the process of adopting a child under the age of 18, households in the process of acquiring legal custody of a child under the age of 18.

BEWARE: The federal/state fine for a Fair Housing Violation is \$10,000 for a first offense. Civil judgments from lawsuits can run as high as ONE MILLION DOLLARS!
--

In the next section we cover tenant screening using the “First Qualified Applicant” rule to help you avoid discriminating against anyone in these classes. The key to avoiding discrimination is treating everyone the same and understanding common mistakes that may be determined by the government to be discriminatory.

Exemptions

You do not have to comply with Fair Housing Law if you own less than 4 rental units or if you own a four-plex and live in one unit. You are never exempt from Fair Housing Law if you have a professional license for real estate (like a realtor, appraiser or mortgage broker).

So if you only own a basement apartment, YES you can choose not to rent to families with children. If you rent rooms in your home (and don't own four or more units) you can do whatever you want.

NOTE: You can NEVER advertise a discriminatory statement, no matter how many units you have.

Avoiding Disability Discrimination

In Idaho, the protected classes with the most complaints and violations are Disability and Familial Status.

Someone with a disability has the right under the law to make a request for a reasonable accommodation. This would include the right to request rent reminders (for mental disabilities), reserved accessible parking (for physical disabilities involving mobility) and other reasonable requests that would make renting easier for someone who is disabled. By far the most common accommodation request, which property managers are required to allow, is the request for a service animal, companion animal or assistive animal.



Someone with a disability also has the right under the law to make a request for a reasonable modification to the property. Similar to an accommodation, a modification is a change to the physical property rather than to a rule. All reasonable modifications have to be allowed, however the renter has the responsibility to:

1. Pay for the modification

2. Ensure the modification conforms with city code, and property standards
 3. Return the property to its' original condition after they leave
- When receiving a request for a reasonable accommodation or modification have the tenant fill out a formal request and approve when they return it filled out correctly.

Avoiding Familial Status Discrimination

It is appropriate to have reasonable limits on the number of people that can live in a rental home. However, for when you are renting to households with children in the home, the Department of Housing and Urban Development (HUD) has ruled that landlords must allow 2 per bedroom, plus one more in the rest of the unit. So in a studio or one bedroom, you could set 3 as your maximum number of renters. In a 2 bedroom the maximum could be 5, and so on and so forth.

Two other common problems with familial status discrimination involve steering and rules. Steering occurs when managers discourage household with kids from renting upper floor units or near areas they want to have adults, like near the swimming pool. Don't do this. It would be a ticket to a \$10,000 fine. When setting rules, you should make sure they don't have disproportionately negative effects on families. For instance, a rule that the swimming pool has "adult swim hours" when families can't go is discriminatory. Requiring adult supervision on a playground may also be discriminatory.

NOTE: For health and safety reasons it may be ok to limit access to certain amenities like a swimming pool by age, but consult an attorney before setting any rules in these areas.



Dealing with Requests for Assistance Animals

It is ok for property owners to have a no pet policy. Pet owners are not a protected class. But if a current or prospective renter asks at any time for a service animal, companion animal, comfort animal (all called assistance animals) the manager should immediately have the person requesting the accommodation fill

out a Assistance Animal Form (copies can be obtained from IAA).

The form requires the party requesting the accommodation to specify what accommodation they are requesting, to identify the animal, to explain how that accommodation is related to a disability (for instance “having an assistance animal helps stabilize my bi-polar disorder”) and who is the health or licensed professional that will attest that they do have a disability and do need the requested accommodation.



Once you have this form filled out, it is sent directly to the doctor. If it is returned, allow the animal or accommodation. If it isn't, you do not have to allow the accommodation.

CAUTION!

Do not charge someone with a service, companion or **assistive** animal a deposit or any additional rents or fees. This action would be discriminatory because it would make it harder for someone with a disability to rent from you.

Criminal History and Fair Housing



On April 4, 2016 HUD issued a Guidance relating to using Criminal History on applicants for rental housing. This Guidance was based upon a recent Supreme Court decision on disparate impact. The Government says may be a disparate impact (see page 5) upon minorities and thus, violate the Fair Housing Act for a landlord to utilize criminal history to deny an applicant.

The Guidance suggests that:

- Arrests cannot be the sole basis for excluding an applicant.
- Landlords must have an important and verifiable legitimate business interest to deny an applicant for a prior conviction.
- Applicants should have the ability to appeal for a review of a denial and provide mitigating circumstances and information.

This means that you cannot deny somebody just because they have a criminal history (after all, if they get fined for fishing without a license, is that really going to make them a bad tenant?). However you can deny somebody who:

- Has a high likelihood of reoffending, going to jail and failing to finish out their lease.
- Has a history of violent crimes or property crimes that present a risk to your property, your other tenants or the neighborhood.
- Is listed on the Sex Offender Registry and impact your ability to rent out other units as well as hurt your reputation in the neighborhood.

If you are asked if you use criminal history as part of your screening process (which you should be doing!) you might want to say something like this:

Criminal history is evaluated as part of the application process. Since each applicant has differing history, only after an application is completed can a determination be made. Denials will only be made for people who present a real risk of being unable to live up to the rental agreement or of damaging the reputation of the property.

If you deny somebody only based on their criminal history, you should give them the chance to appeal the denial and maybe

*****These Instructions are for instructional purposes only, and should not be given to a resident as part of the Assistance Animal request packet.**

Assistance Animal Forms Instructions

Please read and review before use of these forms.

1. Remember that neither HUD nor any other government agency has "approved" the forms. Usage always has some risk. Also, every case is independent and should be reviewed on its merits and facts.
2. This form is for any Assistance Animal wherein it is not readily apparent the need for the animal. Service animals where the need is apparent need not use this form but should still provide the information on the Animal Identification Form.
3. You can require the information on the animal and ask that the Resident affirm their request for the Assistance Animal.
4. Give them the medical professional form as a guide. If the medical professional does not want to sign it and provides substantially the same information in another format, it must be accepted. Remember to review your policy on who can provide this information.
5. If the Resident provides any documentation from a medical professional or other qualified person, it should be reviewed to make sure it provides sufficient information to confirm the status and nexus. If not, an attempt to get verification of the information needed directly from the person who signed the form should be first attempted.
6. THE HIPAA FORM IS NOT REQUIRED. Many medical professionals will not discuss the patient without the HIPAA form. **Verification does not require the HIPAA form.** Explain to the medical professional that you are merely verifying the information that has already been provided. If you are unable to verify, you should inform the Resident of the problem to see if they cannot get the medical professional to provide the verification. Seek assistance from legal counsel and/or your regional manager in this circumstance.
7. It is the intent of these forms to gather sufficient information and verify that information to determine if a reasonable accommodation should be granted or not.
8. Failure to provide sufficient information may be grounds for denial. Sufficient information would include: a description of the animal, verification from someone that the Resident meets the definition of disabled and that there is a nexus between the disability and the need for the animal, and the other information contained on the Animal Identification Form.
9. **All communities should have animal rules. Persons who obtain an animal by reasonable accommodation generally must abide by those rules (excepting breed restrictions and size & weight restrictions). Those rules should be given to residents with animals.**
10. The forms should not be given out unless someone has filled out an application and is actually attempting to rent.
11. Questions on Assistance Animals from *prospective* residents should be answered.
This Community fully complies with the Fair Housing laws as it applies to disabilities. Persons who desire an accommodation must convey that request to management, who will then attempt to obtain sufficient verified information to determine if the request can be granted and how it can be accommodated. Since every situation is different, each request is treated separately. It is impossible to give a blanket answer on questions of accommodation. If a prospective tenant desires to apply, we will then accept any request and make a full review to see if it can be accommodated.
12. If you have any questions on a request, contact legal counsel.
13. If you think someone is testing your community on reasonable accommodation, contact your regional manager/owner and contact legal counsel.



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*By using this document, Owner/Representative attests they are an IAA member in good standing

Resident's Request for Assistance Animal

The undersigned does hereby request a assistance animal and does hereby attest and state as follows:

1. Handicap Definition I am aware of the requirements of the Fair Housing Act and its definitions which include:

"Handicap" means, with respect to a person –

- (1) a physical or mental impairment which substantially limits one or more of such person's major life activities,*
- (2) a record of having such an impairment, or*
- (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.*

2. Qualification Pursuant to the definition above, I do qualify and am or have been under the care of a medical professional for my disability; or have been so diagnosed with a permanent disability to no longer require medical supervision

3. Impairment I represent that the requested assistance animal is necessary to provide assistance with my disability.

The anticipated length of this disability is _____.

My primary care physician is Dr. _____ whose telephone number is _____.

4. Request I do hereby request that I be able to reside with a assistance animal at the premises below. I certify that the statements herein are true and have been provided herewith an Animal Identification Form and a Medical Request for a Assistance Animal. I agree that the only animal I will keep for this purpose is listed therein and that I will abide by the rules and regulations of the community regarding animals. I understand that I will not have to pay additional costs or fees for the assistance animal but will be responsible for any damage caused. I request that my medical professional provide verification of the required information to my housing provider to assist in making this determination.

Applicant's Name _____

Premises Address _____

Dated _____

Signature of Applicant



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*By using this document, Owner/Representative attests they are an IAA member in good standing

Animal Identification Form

Type of animal _____ Breed _____

Age _____ Approximate Weight _____ Color _____

Describe any special training or certifications _____

Has the animal ever been reported to authorities (police, animal control) for any incident or for any reason? _____ If yes, please provide details.

Animals may not be in the common areas of the community unless on a leash or an approved device based upon the animal's certification.

Animals may be restricted from specific areas.

The animal's owners are responsible for cleaning up after the animal and for any damage done by the animal.

Animals may not disturb the peaceful and quiet enjoyment of the other tenants.

The Community may have other regulations and rules relating to animals.

I affirm that the animal is in compliance with all state and local laws concerning animals.

I have read the rules and regulations concerning animals (both above and those policies of the community), and agree to their terms.

Resident's signature

Dated

Please provide a photo of the animal.



*By using this document, Owner/Representative attests they are an IAA member in good standing

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Medical Request for Assistance Animal

Name of Person making Request _____

A request has been made to allow an assistance animal to reside with the above named individual. Such request has been made pursuant to the Fair Housing Act. In order to qualify for an assistance animal exemption to the normal rules of the community, the person making the request **must qualify as handicapped as defined**, which is:

“Handicap” means, with respect to a person –
(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
(2) a record of having such an impairment, or
(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

Additionally, the assistance animal must assist the person in dealing with the disability.

Much like a prescription, this request is made because of the professional's opinion that the assistance animal may be necessary to afford the disabled person an equal opportunity to use and enjoy the leased premises. With this request and upon approval, the management of the premises must allow the animal on the premises and is prohibited from charging pet rent or other fees normally charged to persons with pets. Assistance animals are not pets but animals that are determined by competent professionals to be an important and necessary part of treatment or assistance of a disability/handicap.

Professional's Name: _____ Telephone number: _____

I certify that I have sufficient information and have consulted with the Patient in order to make a diagnosis. I certify that the above named person is handicapped as defined above and that the animal described below is, in my professional opinion, necessary to afford an equal opportunity to use and enjoy the leased premises.

Prescribed Animal's Description _____

Expiration Date of this Certification _____

Date

Signature of Medical Provider,
Health or Social Service Professional



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Tenant Screening

Tenant Screening is by far the most important part of being a successful landlord. In order to make money, reduce risk, and have the least amount of problems landlords should implement professional screening procedures.

The Application Process

When your home or apartment is ready and available to rent, and a prospect expresses interest, we recommend that you get a deposit, application fee and have them fully complete a rental application.

Everyone over the age of 18 that will be living in the rental should fill out an application and have a credit/criminal check done on them. You don't need anything but the name of minors. Of course all landlords should increase safeguards that protect personal information of their tenants and applicants.

Security Deposits & Application Fees

Many landlords require a deposit before they will accept the rental application. The purpose of a rental deposit is to assure that the applicant is serious and qualified. If an applicant isn't serious enough about the place to put down a deposit, they may still be shopping and applying around town, wasting landlords' time. If they can't afford to put down the full deposit when they apply, they may struggle to come up with future payments including rent. It is also a good idea to get an application fee from each applicant to pay for the cost of doing a background check on them.

Conducting background Checks

IAA recommends every landlord do what we call a "Five Finger" background check on all applicants. The five fingers are:

1. Credit
2. Criminal
3. Financial (Income, employment and overall stability)
4. Current Landlord
5. Previous Landlord



APPLICATION TO RENT

Individual applications required from each adult occupant (All sections must be completed) Date _____ Time _____

Last Name _____ First Name _____ Date of Birth _____

Social Security # _____ Driver's License # _____ State _____

Home Phone _____ Work Phone _____ Alt Phone _____

Email Address _____ Anticipated Move-In Date _____

Present Address _____ City _____ State _____ Zip _____

Date In: _____ Date Out: _____ Owner/Representative Name _____ Phone _____

Reason for Leaving _____

Previous Address _____ City _____ State _____ Zip _____

Date In: _____ Date Out: _____ Owner/Representative Name _____ Phone _____

Reason for Leaving _____

Name & Age of Other Applicants

Age	Name	Date of Birth	Social Security # (required if over 18 yrs old)	Drivers License #

1. Present Occupation _____ Employer Name _____

How Long _____ Name of Supervisor _____ Phone # _____

Address _____ City _____ State _____ Zip _____

Current Gross Income _____ * proof of income is required

2. Prior Occupation _____ Employer Name _____

How Long _____ Name of Supervisor _____ Phone # _____

Address _____ City _____ State _____ Zip _____

Financial Obligations: Please list financial obligations and monthly payment _____

Name of Bank _____ Address _____ Checking _____ Savings _____

Emergency Contact: _____ Phone # _____ Relationship _____

Has anyone who will reside in the premises been arrested/convicted/accused of a crime against persons or property, sex crimes, domestic abuse or drug/alcohol related crimes? _____ Filed a petition in Bankruptcy? _____ On Parole/Probation? _____

If so when/why _____

Been evicted? _____ If so when/why _____

Smoke? _____ Have pets? _____ If so what kind _____

Applicant represents that all of the above statements are true and correct and hereby authorizes verification of the above items including but not limited to rental history, criminal reports, and obtaining of credit reports and agrees to furnish additional credit references on request. Applicant also attests that all occupants of the apartment will be legal to reside in the United States.

The undersigned makes application to rent housing accommodations designated as: _____

The rental for which is \$ _____ per month. Upon approval of this application, applicant agrees to sign a rental or lease agreement within 3 days of approval, and to pay all sums due, including deposits, before occupancy. If applicant fails to sign rental agreement in above stated time the landlord reserves the right to deny this application.

An application fee of \$ _____ is non-refundable (an additional fee may be required for alias' or aka's). A deposit of \$ _____ is required and can be refundable according to state and local laws.

All applications will be reviewed in the order received and judged based on the owner's rental criteria. Owner does not discriminate on the basis of race, color, religion, sex, national origin, disability, familial status or source of income.

Dated: _____, 20 _____ Signed _____

Dated: _____, 20 _____ Signed _____

Please return this application to _____

At _____

Verifying all five areas reduces risk significantly. It is easy for an applicant to lie or misrepresent in one or two areas but checking five aspects of their history makes it much less likely they will succeed in hiding bad history or serious concerns from you.

Goals of Tenant Screening

The purpose of tenant screening is to determine if a tenant is a reasonable risk. The four things landlords should look for are tenants who will:

1. Pay on time
2. Not commit crime
3. Not bother the neighbors
4. Won't damage the property



A good screening process can save thousands of dollars in damage, legal costs, lost rent, etc. Don't use your gut instinct or cross your fingers that everything will be ok. Mistakes are too costly. Use the "**First Qualified Applicant Rule**" - take one applicant at a time, compare them to pre-created "rental criteria". Never look for a "best match" or compare applicants to each other.

Rental Criteria

IAA recommends every landlord or property manager create a list of rental criteria, like the sample on the next page, that clarifies what your standards for occupancy will be. Each prospect is then measured up individually against the criteria in order of application. If they qualify, the apartment is rented and a lease should be signed within 24 hours.

Credit Checks

When checking someone's credit, you must have their consent. They give this by signing the rental application (sample on previous page). You never want to accept a credit or criminal report from an applicant. Always use a third party.

The credit report contains many important pieces of information about a tenant's consistency in paying obligations, how much they owe and to whom, if they have judgments against them that could be garnished from their wages (making it impossible to pay rent) their previous addresses, and more. Be sure to not just look

SAMPLE RENTAL CRITERIA

The following standards will be used to judge your application for tenancy. You must meet the following standards to qualify to sign a rental agreement with us. Applicants are judged on the same standards on a first come/first serve basis, one person or family at a time. Any incorrect inconsistencies on the application will result in an automatic denial of the application.

\$25 NON-REFUNDABLE APPLICATION FEE: Each applicant over the age of 18 must pay an application fee and consent to have a background check done on them. Co-signers must also pay an application fee and give the same consent as other applicants.

SECURITY DEPOSIT: Applicants must provide a check for the full amount of the security deposit (including any additional deposit amounts for pets or other reasons) for the application to be considered complete. The deposit will be returned if the application is denied.

PHOTO IDENTIFICATION: All applicants over the age of 18 must provide current government issued photo identification at the time of application.

EMPLOYMENT REQUIREMENTS: Employment history should show that the applicant has been employed with their current employer for at least 6 months. Exceptions can be made for recent graduates who provide proof of graduation, current students who provide proof of enrollment, and self-employed applicants who provide a CAP-prepared financial statement or most recent tax return. Applicants with less than 6 months of employment with current employer may be approved if they pay an additional security deposit or have an approved co-signer and provide proof that they have been employed with their current employer for 2 months or were employed with their previous employer for at least 6 months. All employment history will be verified by contacting the employer.

INCOME REQUIREMENTS: The combined income of all persons living in the rental must be at least three times the monthly rent. Applicants who do not have the requisite income will be considered if they provide a co-signer or provide proof of cash reserves equal to at least 12 times the monthly rent.

RENTAL HISTORY: Applicants must provide the name and contact information for their previous two landlords, or all landlords in the last five years. Applicants must also provide all of the addresses they have lived at for the last five years. Applicants will not be approved if they have had any evictions, defaults in lease agreements, late rental payments, or if they owe any money to any other landlord.

CREDIT HISTORY: Your credit must reflect that all accounts are current. Applications for tenancy will be denied if you have filed for bankruptcy in the last 2 years, or if you have any bankruptcies that have not been discharged at least one year prior to the application. All collection accounts must be "paid in full" or "paid as agreed". Applicants with past due accounts or accounts in collections may qualify if they pay an additional security deposit or have an approved co-signer.

CRIMINAL HISTORY: Your application will be rejected if you have been convicted in the last 5 years of any crime against person or property that would present a threat to the owners or neighbors, or the rental property. Applicants on probation or parole must provide contact information for their parole officer. Applicants on a publicly available list of offenders who are required to publish their address will be denied.

MAXIMUM OCCUPANCY: A maximum of 2 people / 1 bedroom, 5 people/ 2 bedroom.

PETS: Pets may be approved if they meet the following requirements: a good reference from the previous landlord for the pet's behavior, a complete veterinary medical history (including immunizations and sterilization) is provided, an additional pet deposit is paid and an additional amount of "pet rent" is agreed upon. The owner reserves the right to deny the application based on the size, species or breed of the pet.

If your application is approved you will be notified. You will have 48 hours from the notification of your approval to sign a lease agreement. If you do not, then other applicants may be considered and given the opportunity to sign a lease.

We are committed to offering equal housing opportunities. We do not discriminate against anyone on the basis of race, color, religion, sex, handicap, family status, source of income, or national origin.

at their credit score but at the types, amounts, and payment history of their individual credit accounts.

To a landlord, the riskiest things on a credit report are generally:

- Bankruptcies
- Judgments and collection accounts
- Evictions, foreclosures, and repossessions (shows using things without paying)
- Utility collection accounts (probably can't get the utilities in their name)



Many landlords have a policy that someone who doesn't have great credit can still qualify by putting down more deposit or having a co-signer.

Be sure you implement it consistently to everyone in order to avoid discrimination complaints.

Criminal Background Verifications

There are many prospective renters who have serious criminal history that may make them a significant risk as a tenant.

Landlords are encouraged to carefully evaluate a renter's criminal background.



Four of the riskiest types of criminal behavior are crimes of violence, drug possession or distribution, property crimes and sex crimes.

Individuals who have been convicted of one of those crimes in the last few years are likely to do it again. It is not uncommon for landlords to require some time to have passed since conviction before they will rent to an individual with certain criminal history. Landlords are encouraged to consider the risk they are willing to take when renting to individuals who are on parole and probation and make an informed decision. However, you should avoid any blanket statements which say you will not rent to people with criminal history.

Income and Employment Verification

A fundamental principle of contracts and obligations is that it is prudent to make sure people have the wherewithal and consistency to meet their contractual obligations. Doing financial checks that include verifying income, assessing whether someone

has enough income, and assuring the income is regular and consistent is a key part of doing a successful background check. Common methods of conducting employment and financial checks include:

- Calling employers
- Reviewing pay stubs, tax returns or CPA prepared financial statements

3

TRIPLE RENT RULE

Because financial institutions and experts generally agree that a household should not spend more than 1/3rd of their household income on housing, many landlords use the TRIPLE RENT RULE. This rule is simply “The combined gross income of all persons living in the rental must be three times the monthly rental rate.”

Rental History Verification

One of the best indicators of future performance is past performance, so landlords are encouraged to verify an applicants rental history. Call two previous landlords if possible. Ask “objective” questions that involve a yes or no answer like:

- Did they pay their rent on time?
- Did they have any pets?
- Did they violate any of your lease or house rules?
- How many occupants did they have?
- Did they give proper notice?
- Did they leave on time?
- Did they owe you any money when they left?
- Were there any complaints or police incidents?



Don’t ask questions like “would you rent to them again” or “were they a good tenant”. These allow bias and opinion to creep in. It is better to obtain facts from previous landlords you can use to determine if they meet your unique rental criteria than it is to obtain an opinion.

Denying Applicants

If you deny applicants for credit reasons, federal law requires that you give them a letter stating they were denied because of credit. If denial is for any other reason, you may give them written or verbal notice. Be sure to immediately refund their deposit and

WHY YOU SHOULD PICK THE “FIRST QUALIFIED “ PROSPECT

It is human nature to want to pick the “best”. We often do this by comparing one thing against another. While it may be natural for owners to want to compare prospects against each other. -BEWARE! Because of Federal Fair Housing Laws this can get you in trouble. Here is an example:

On Saturday morning Jane put a for rent sign in front of her duplex and spends the morning doing yard work around the property. At 9:00 am Marie shows up with two children, looks at the property and decides she wants it. While she fills out the application, her children run around the yard like wild animals. Once she completes the application and leaves her deposit she gets into her 1982 beat up station wagon. It takes five tries to start and she finally leaves.

At 10:00 a nice looking young man, Derek, shows up. He tells you he is starting law school at the local university, is actively involved in his church, and that he wants to stay in the place the entire three years he is in school. As he fills out his application and gives you a deposit, he flashes Jane a smile that makes her swoon.

Jane decides Derek is the tenant for her and puts Marie’s application and deposit in an envelope and immediately mails it off without checking any references.

Two weeks later, Jane receives a letter from the anti-discrimination office, informing her that there is an investigation into her on housing discrimination for denying Marie Chaves, a single mother who is in a protected class due to familial status since she is a single mom with children.

Unless Jane can prove that Marie was not qualified, she will likely lose this case and incur a \$10,000 fine. Marie can also sue her civilly for damages. The problem is Jane didn’t even check Marie against pre-set criteria, so she will never know if Marie was qualified. In this case, even if Jane didn’t intentionally discriminate, the net result was that Marie was denied housing that she might have qualified for. Since she is in a protected class (familial status) Jane will be found to have discriminated. Derek may turn out to be a better tenant, or he may not. But at a cost of \$10,000 plus was it really worth it?

One of the biggest mistakes owners make is not having rental qualifications. Make sure you have them. Also, make sure you check out applicants before making a decision, you may inadvertently discriminate. It is always best to CHOOSE THE “FIRST QUALIFIED” APPLICANT!

wish them well in finding another place.

What to do When You Approve Them

Get them to sign a rental agreement immediately! Within 24 hours is the policy of most professionals. This prevents them from cancelling on you after you start turning others away. Even if they don't move in for several weeks, having a rental agreement in place will protect you from them cancelling, and protects them from you changing your mind.

Getting a rental agreement before they move in also allows you to go over the rules, expectations and obligations under the contract. Most landlords give renters a list of the things they will need on move-in day including:

1. First Month's rent
2. Utility verification
3. Proof of Renters Insurance

Rental Agreements (Leases)

Next to tenant screening, the other essential key for a landlord's success is to have tenants complete and sign an Idaho Specific rental contract that clarifies each party's responsibilities and obligations, protects the owner and the tenant, and documents it all in case there are disagreements.



It is recommended that you use a professionally prepared Idaho Specific contract (IAA can help you get one) that covers rules of deposits, how they can be applied, and what a renter must do to get them back.

Parties on the Contract

All parties who are authorized to live in the rental unit should be on the contract, including those under 18. Only those whose names appear on the contract are allowed to be there, and landlords can serve three day notices to comply or vacate if tenants move others in without permission.

Rents, Fees and Deposits

Idaho Law is clear that landlords have the right to charge any rents, fees or deposits they wish with no limits as long as the tenant agrees to it in the contract and the courts agree that they are reasonable. These charges should be clearly spelled out in the contract.

It is appropriate to have a "Service of Notice Fee" of no more than \$25 if a tenant's breach of contract or late payment results in service of a three day notice. It is common for landlords to set a "Month to Month Fee" that assesses a convenience fee on renters who let their lease go month to month when the original term expires.

It is also a common practice for landlords to charge a "Lease Initiation Fee" when a tenant moves in. This covers the cost of preparing the apartment for the tenant, including a basic cleaning as well as advertising, marketing, and labor costs to turn the unit. Make sure this is clearly labeled as a fee, not a non-refundable

Renter's Insurance

Suggestion: It is a good idea to require renters to have it

Only one third of renters in America have renter's insurance. Who's fault is that? Well the answer in Idaho might be "the landlord's". That is because state law allows landlords to require renter's insurance. Most professional companies do. Mortgage companies require property owners to carry insurance if there is a loan so the property is protected from potential loss. Landlords can do the same thing.

Why require insurance?

There are two reasons:

- First, if a renter is negligent, the renter's insurance pays the claim so the landlord's policy won't have to. Recently a renter in West Jordan left a candle burning. The fire it started caused \$15,000 damage. The renter's policy paid the claim. Renter's policies cover damage caused by tenant negligence.
- Second, landlords who require renter's insurance also become a hero to tenants who have a loss due to a fire or flood that was no one's fault. One tenant tearfully told their landlord that they just got a \$22,000 check from their insurance company and they were so grateful the landlord required them to carry insurance because they would never have done it on their own, and they would have lost all their stuff with no money to replace it if it weren't for the landlord.

What should I require of tenants

Professional companies that require insurance do not give keys to the apartment until the tenant provides them a copy of a policy that the landlord's name has been added to. The landlord's name should be on the policy in case a tenant is unavailable or uncooperative in filing a claim. With their name on the policy, the landlord could file a claim themselves. Also, requiring your name to be on the policy as an "additional insured" or a "party of interest" has the added benefit of assuring that if the policy is cancelled or not paid that notice will be sent to the landlord. Landlords then serve a 'Three Day Notice to Perform Covenants of Lease or Vacate' to the tenant which requires premiums be paid to avoid eviction.

Who should I have renter's get insurance from?

The best option is to encourage them to use the same agent they use for their auto policy.

deposit.

It is also a common practice for landlords to charge a “Lease Initiation Fee” when a tenant moves in. Make sure this is clearly defined as a fee, not a non-refundable deposit.

Term

Generally long term leases are preferable to month to month agreements. A month to month fee can be added to leases so that when the term expires it will encourage the renter to sign an extension or new contract. The term of a lease is not limited under state law. Most landlords stick to one year leases, but there is nothing wrong with offering six month, fourteen month or two year leases if that is your preference (and you can offer the options at different rates to tenants and let them choose which they prefer).

Other Terms and Conditions

It is advised that Idaho landlords find a lease that has been adapted, updated, strengthened and modified each year to better protect landlords in Idaho from our specific challenges and legal issues. The IAA provides such a lease to our members.

Utilities

Conservation groups suggest landlords require tenants pay their own utilities. Studies suggest they will use 30% less if they are responsible vs. being included in rent. State law encourages utilities be connected and hot water be available at all times. Owners can delegate responsibility to pay for utilities to tenants. IAA recommends landlords contact their utility company and get a “Landlord Agreement” from the Utility company for all their properties.

Move-in/Move-out Inspections

It is highly encouraged that landlords do move-in inspections with the tenant at the commencement of the contract and have a form signed by both parties attesting to the condition. This form protects the tenant from being charged for pre-existing conditions/damages and protects the owner by allowing them to verify any damage done by the tenant was after move-in, and therefore tenant responsibility.

When Tenants Move Out

General practice requires at least 30 days notice before the end of a month by either party to terminate the lease. If tenants break a lease, they can be held responsible for all costs of cleanup, re-renting, and lost rent until re-rented or until the end of the term. Best practice recommends that owners to attempt to re-rent soon as possible.



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Deposit Refunds

Idaho Law Requires landlords to refund the deposit or send an explanation of charges within 21 days of move out to the last known address. Sample language is:

1. Congratulations, you get your whole deposit of \$1,000 back!
2. Your damages were \$500 and your deposit was \$1,000 so you get \$500 back. Here is an itemized list of the damages.
3. Unfortunately your damages were \$2,000, your deposit was only \$1,000 so you still owe us \$1,000. Please pay this amount or we will vigorously pursue collections. Here is an itemized list of the damages.

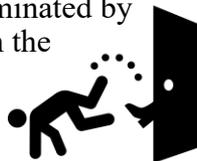
Penalties if Deposits not Returned

If you fail to return the deposit or an accounting to the tenant, they can take you to court. You may be liable for attorneys fees as well.

The Eviction Process in Idaho

Terminating a Tenancy

Under Idaho Law, rental arrangements must be terminated by one of the parties (landlord or tenant) as required in the agreement, or with at least 30 days notice if not specified, or the arrangement will continue under the current terms and conditions.



Month to Month vs. Long Term lease

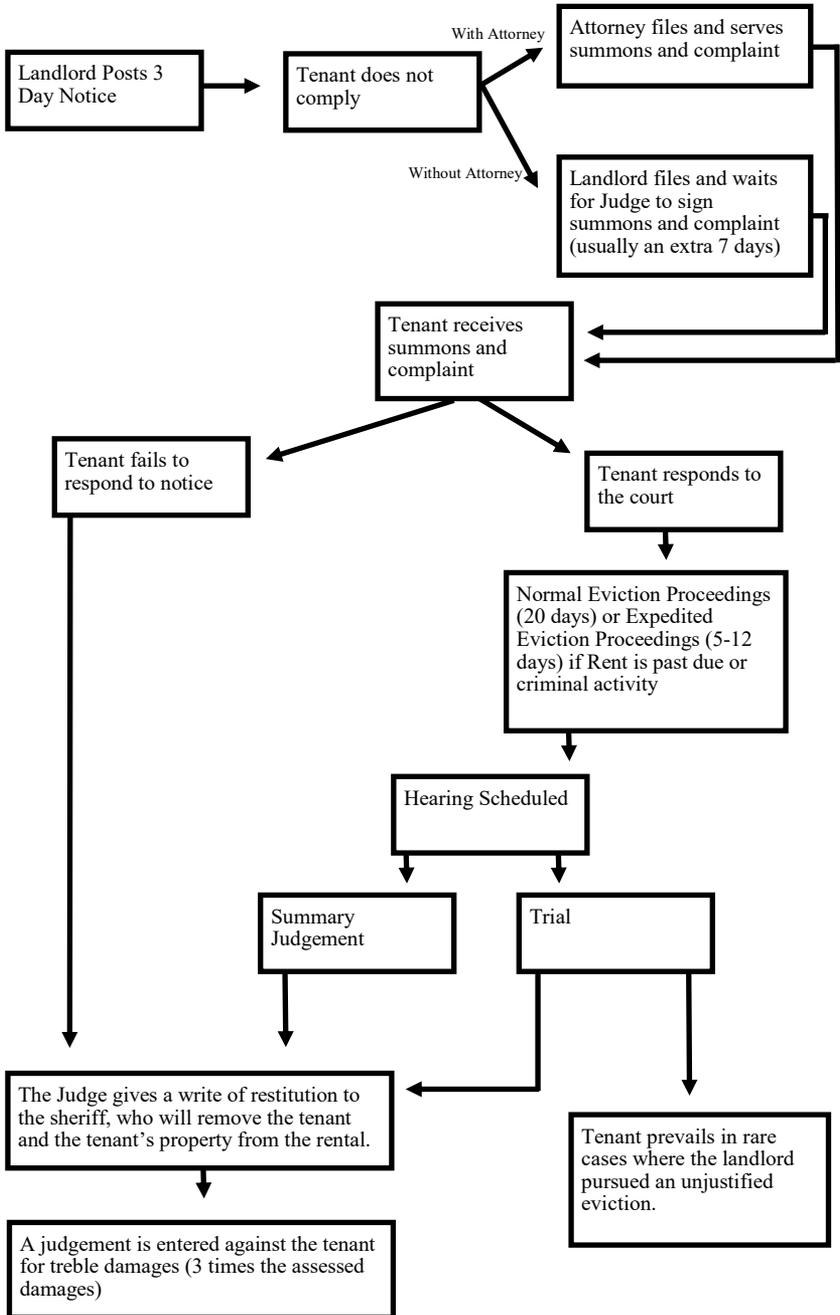
Some landlords prefer to have month to month agreements instead of long term leases because they have more flexibility to end the relationship if there is a problem. They misunderstand the nature of rental contracts. If the tenant is not being a problem, and will move when asked, then a month to month notice would be effective. But a tenant who is a problem and won't move on their own will still have to be evicted. In addition, if a tenant is a problem, Idaho Law generally allows landlords to evict them quicker under a "cause" eviction than just giving them notice to end their tenancy.

Terminating a Tenancy for Cause

Idaho law allows tenants who violate the contract or commit a crime to be served "Three Day Notices" to remedy the problem or move in three days and assesses court costs and substantial damages if a tenant does not comply within three days. Following are the three "Causes" in which Idaho Law allows landlords to serve three day notices for:

1. **Failure to Pay.** If a renter is behind on rent in any amount, the landlord serves a "Three Day Notice to Pay or Quit" listing the amount due and giving three days for the renter to pay in full or move in order to avoid an eviction. Treble damages (triple rent) are assessed if a tenant does not move or pay by the fourth day. Tenant will be responsible for court costs and attorneys fees if legal action is required.
2. **Failure to Comply.** If a tenant violates any term of the lease other than rent or criminal activity, this is the notice served (examples include: unauthorized occupants, unauthorized animals or pets, not maintaining the yard, not paying utilities, violating rights of neighbors, not complying with city laws about noise, trash or yard maintenance, etc). Same damages and court costs provisions as above apply.
3. **Nuisance.** If a tenant commits a crime or is a public nuisance, they are served a "Three Day Nuisance Notice". Same court costs and damages provisions apply.

The Eviction Process in Idaho



Serving Three Day Notices (Idaho Code 6-304)

In Idaho, notices can be served one of the following ways.

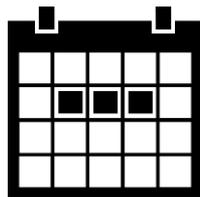


1. Deliver to the tenant personally
2. Send a copy through certified mail
3. Leave a copy with a person of suitable age (14) and discretion and mail a second copy
4. Post to the door after failing to find a person of suitable age or discretion.

The first and last methods are the ones most recommended. When “posting” to the door the proper method is to place face out with the text showing, then tape all four corners. You may want to take a witness or a digital photograph for proof of proper service.

Counting days

In Idaho the day you serve a notice never counts, but the next three do. We use calendar days to count three day notices, not court or business days.



Filing the Lawsuit

In Idaho, some landlords are allowed to file the eviction (called an “unlawful detainer action”) themselves. However, most evictions the state are done using an attorney. We are fortunate to have a handful of landlord specialist attorneys that do evictions for a small flat rate fee which keeps costs under \$500 for many evictions (prices vary - be sure to consult your attorney on the charges in advance). We recommend you use one of the attorneys who are members of IAA. They contribute their resources, time and support to making sure the laws in Idaho protect landlords effectively.

You may not file your own eviction if your property is owned as an LLC, by a corporation, in a limited partnership, or if you manage the property for the owner. Owners whose properties are in a sole proprietorship may do their own evictions.

The eviction process in Idaho tends to be faster with attorneys, so make sure the money you save in legal fees is greater than the lost

rent for the extra time it takes on your own (in our experience about 2 weeks longer, on average). Sometimes, judges don't give triple damages to landlords when they represent themselves, so educate yourself about the potential pros and cons.

Premise Abandonment

A premises (or rental dwelling) is considered abandoned and subject to a landlord changing the locks and taking possession of the premises in the two following circumstances.

1. The tenant's property has been removed and rent is past due one day.
2. The tenant's personal property remains in the apartment but there is no reasonable evidence that the tenant is still living in the premises AND rent is past due 15 days.

Once the property is abandoned under Idaho Law, a landlord can take possession of the building and change the locks immediately.

Abandoned Property

When tenants leave personal property behind, and you can't contact them, the landlord should file an eviction complaint. The sheriff will direct the removal of the tenants property.



- Document the abandoned property – digital photos and written inventory
- After a time the landlord may give items to charity, throw them away, or make attempts to sell them and apply all proceeds to cover moving and storage fees (and other costs if a lien clause is in the lease). Any left over funds should be returned to the state as unclaimed property.

You do not have to store hazardous materials (dispose of them properly), animals (call animal control or take them to the humane society), or vehicles (these can be towed off private property and dealt with by the impound lots).

Collections

When talking about collection, there are two need to know rules:

1. The best way to get nothing is to do nothing
A lot of landlords have tenants who owe them money, but they don't do anything about it because they don't think they will get anything. The best way to ensure that is to not do anything. Everyone who owes you money needs to be put into you pipe line, and turned over to a collection service.



2. You can't get blood form turnips, so don't rent to turnips.

Turnips or individuals who already owe other landlords money, who have never held a stable job. So if you end up renting to them you are already at the back of the line in the collection process.

Have a solid screening process. Including a good rental application that asks for previous addresses, job references, etc. Get as much information on the tenant as you can. You also need to do a thorough background report. And the biggest step to be successful at collection is to use a good lease. You've got to have the right language in your lease for Idaho collections.

Run the numbers. When running the numbers the first thing to do is determine the damages. Find out exactly how much damage was done. Look for a dollar amount to represent the compensation you deserve. Once you have that number, send a deposit disposition within 21 days of them leaving. Account for all the damage, deduct it from their deposit, and let them know how much they owe you. Once this is complete, select either a collection attorney or collection service company.

Be Patient. As the tenant recovers, and gets back on their feet, they're not going to pay right away. Most of the time the tenant is in a downward spiral and it will take them a little while to get back to a spot where they can pay you. So have patience, the average collection takes about 3 years. Even after that only around 50% is ever recovered. But it is crucial to start the pipeline now, otherwise you delay getting part of what is owed to you back.

The Pros and Cons of Using a Property Manager

Every landlord is different and has different needs, concerns, tenants, and problems. For some, running their own rentals, and doing the work themselves is the way to go; but for many others, a property management company is a huge help. The kinds of service they provide can vary based on your needs. If you need someone to completely take over the property, or if just finding tenants to fill vacancies will suffice, a personal customizable plan is out there. The following chart can help asses if a property manager is right for you.

Good For You

- If you could make more money doing something else
- If the property is over an hour away
- If you would like to focus your time on things other than rental problems
- If the rental is causing much more stress than its worth
- If you're more interested in making money, than in saving money

Not For you

- If margins on the property are very slim
- If you own few properties that are close by, or easy to access
- If you enjoy what your doing, and enjoy the time you spend on the property
- If you love to micro manage



Property managers fees vary depending on your size and location. Make sure if you use a property manager you clearly understand the fees charge and their company policies.

IAA has a list of property management companies that we recommend doing business with. If you are interested in this, or if a property manager sounds like something you want to use give us a call. Not only can these managers lift a huge burden off of a landlords shoulders; but they can increase revenue, eliminate problems on the property, and help the over all value of a rental unit. It also eliminates some of the burden you have to worry about fair housing laws and discrimination.

IDAHO LANDLORD STATUTES

Following are some portions of Idaho Law that are relevant and helpful for residential landlords and property managers.

Unlawful Detainer (Evictions) 6-303 to 6-324

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

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him, without the permission of his landlord, or the successor in estate of his landlord, if any there be; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the civil code.
2. Where he continues in possession, in person or by subtenant, without permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three (3) days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him, and if there be a subtenant in actual occupation of the premises, also upon such subtenant. Such notice may be served at any time within one (1) year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than sixty (60) days after the expiration of his term without any demand of possession or notice to quit by the landlord, or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of the landlord, or the successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of a tenant to hold for another year.
3. Where he continues in possession in person, or by subtenants, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for payment of rent, and three (3) days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there be a subtenant in actual occupation of the premises, also upon such subtenant. Within three (3) days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease, or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture: provided, if the covenants and conditions of the lease, violated by the lessee, can not afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant demanding the performance of the violated covenant or conditions of the lease. A tenant may take proceedings similar to those prescribed in this chapter, to obtain possession of premises let to an undertenant, in case of his unlawful detention of the premises underlet to him.
4. A tenant or subtenant, assigning or subletting, or committing waste upon, the demised premises contrary to the covenants of his lease, thereby terminates the lease, and the landlord, or his successor in estate, shall, upon service of three (3) days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this chapter.
5. If any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the premises of the leased property during the term for

which the premises are let to the tenant. For purposes of this chapter, the terms "delivery," "production," and "controlled substance" shall be defined as set forth in section 37-2701, Idaho Code.

6-304. SERVICE OF NOTICE. The notices required by the preceding section may be served either:

1. By delivering a copy to the tenant personally; or,
2. If he be absent from his place of residence and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or, if such place of residence and business cannot be ascertained, or a person of suitable age or discretion cannot be found there, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

6-308. PARTIES DEFENDANT. No person other than the tenant of the premises, and subtenant, if there be one, in the actual occupation of the premises when the notice herein provided for was served, need be made parties defendant in the proceeding, nor shall any proceeding abate nor the plaintiff be nonsuited for the nonjoinder of any persons who might have been made parties defendant; but when it appears that any of the parties served with process or appearing in the proceeding are guilty of the offense charged, judgment must be rendered against them. Any person who shall become a subtenant of the premises or any part thereof after the service of notice as provided in this chapter shall be bound by the judgment. In case a married woman be a tenant or a subtenant, her coverture shall constitute no defense; but in case her husband be not joined, or unless she be doing business as a sole trader, an execution issued upon a personal judgment against her can only be enforced against property on the premises at the commencement of the action.

6-309. PARTIES GENERALLY. Except as provided in the preceding section, the provisions of this code relating to parties to civil actions are applicable to this proceeding.

6-310. ACTION FOR POSSESSION -- COMPLAINT -- SUMMONS. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent, or on the grounds that a landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or in the event the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, it is sufficient to state in the complaint:

- (1) A description of the premises with convenient certainty;
- (2) That the defendant is in possession of the premises;
- (3) That the defendant entered upon the premises, holds the premises, and is in default of the payment of rent or that the landlord has reasonable grounds to believe that any person is, or has been, engaged in the unlawful delivery, production or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant;
- (4) That all notices required by law have been served upon the defendant in the required manner or no notice is required because the defendant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code; and
- (5) That the plaintiff is entitled to the possession of the premises. Upon filing the complaint, a summons must be issued, served and returned as in other actions,

provided, however, that 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.

6-311. CONTINUANCE. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent or if a landlord has alleged that the landlord has reasonable grounds to believe that any person, is or has been, engaged in the unlawful delivery, production, or use of a controlled substance during the term for which the premises are let to the tenant, or if the person is in possession of the property and is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, no continuance shall be granted for a longer period than two (2) days unless the defendant applying therefor gives an undertaking to the adverse party with good and sufficient security, to be approved by the court, conditioned for the payment of the rent that may accrue if judgment is rendered against the defendant.

6-311A. JUDGMENT ON TRIAL BY COURT. In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent or on the grounds that the landlord has reasonable grounds to believe that a person is, or has been, engaged in the unlawful delivery, production, or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or if the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, the action shall be tried by the court without a jury. If, after hearing the evidence the court concludes that the complaint is not true, it shall enter judgment against the plaintiff for costs and disbursements. If the court finds the complaint true or if judgment is rendered by default, it shall render a general judgment against the defendant and in favor of the plaintiff, for restitution of the premises and the costs and disbursements of the action. If the court finds the complaint true in part, it shall render judgment for the restitution of such part only, and the costs and disbursements shall be taxed as the court deems just and equitable. No provision of this law shall be construed to prevent the bringing of an action for damages.

6-311C. FORM OF EXECUTION. The execution, should judgment of restitution be rendered, may be in the following form:

STATE OF IDAHO

ss.

County of

TO THE SHERIFF OR ANY CONSTABLE OF THE COUNTY:

WHEREAS, a certain action for the possession of the following described premises, to-wit:

.....lately tried before the above entitled court, wherein was plaintiff and was defendant, judgment was rendered on the day of, A.D., .., that the plaintiff have restitution of the premises, and also that he recover the costs and disbursements in the sum of \$

In the name of the State of Idaho, you are, therefore, hereby commanded to cause the defendant and his goods and chattels to be forthwith removed from the premises and the plaintiff is to have restitution of the same. In the event the goods and chattels are not promptly removed thereafter by the defendant you are authorized and empowered to cause the same to be removed to a safe place for storage. You are also commanded to levy on the goods and chattels of the defendant, and pay the costs and disbursements, aforesaid, and all accruing costs, and to make legal service and due return of this writ.

WITNESS My hand and official seal (if issued out of a court of record) this day of, A.D., ...

- 6-311D. ADDITIONAL UNDERTAKING ON APPEAL. If judgment is rendered against the defendant for the restitution of the real property described in the complaint, or any part thereof, no appeal shall be taken by the defendant from the judgment until he gives, in addition to the undertaking now required by law upon appeal, an undertaking to the adverse party, with two (2) sureties, who shall justify in like manner as bail upon arrest, for the payment to the plaintiff, if the judgment is affirmed on appeal, of the rental value of the real property of which restitution is adjudged from the commencement of the action in which the judgment was rendered until final judgment in the action.
- 6-312. JUDGMENT BY DEFAULT. If, at any time appointed, the defendant do [does] not appear and defend, the court must enter his default and render judgment in favor of the plaintiff as prayed for in the complaint.
- 6-313. TRIAL BY JURY. Whenever an issue of fact is presented by the pleadings it must be tried by a jury, unless such jury be waived as in other cases. The jury shall be formed in the same manner as other trial juries in the court in which the action is pending.
- 6-314. SUFFICIENCY OF EVIDENCE -- DEFENSES. On the trial of any proceeding for any forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or forcible detainer complained of, that he was peaceably in the actual possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer. The defendant may show in his defense that he or his ancestors, or those whose interest in such premises he claims, have been in the quiet possession thereof for the space of one whole year together next before the commencement of the proceedings, and that his interest therein is not then ended or determined; and such showing is a bar to the proceedings.
- 6-315. AMENDMENT OF COMPLAINT. When, upon the trial of any proceeding under this chapter, it appears from the evidence that the defendant has been guilty of either a forcible entry or a forcible or unlawful detainer, and other than the offense charged in the complaint, the judge must order that such complaint be forthwith amended to conform to such proofs. Such amendment must be without any imposition of terms. No continuance shall be permitted upon account of such amendment unless the defendant, by affidavit filed, shows to the satisfaction of the court good cause therefor.
- 6-316. JUDGMENT -- RESTITUTION. 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 and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be for an unlawful detainer after neglect or failure to perform the conditions or covenants of the lease or agreement under which the property is held, or after default in the payment of rent or based upon a finding that a landlord had reasonable grounds to believe that a person is, or has been, engaged in the unlawful distribution, production, or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, the judgment shall also declare the forfeiture of such lease or agreement. The jury, or the court, if the proceeding be tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent

or, after default, based upon a finding that a landlord had reasonable grounds to believe that a person is, or has been, engaged in the unlawful distribution, production, or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, and the judgment shall be rendered against the defendant guilty of the forcible entry, or forcible or unlawful detainer, for the amount of the damages thus assessed, and of the rent found due. When the proceeding is for an unlawful detainer after default in payment of rent where the tract of land is larger than five (5) acres, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five (5) days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or other party interested in its continuance, may pay into court, for the landlord, the amount found due as rent, with interest thereon, and the amount of the damages found by the jury or the court for the unlawful detainer, and the costs of the proceeding, and thereupon the judgment shall be satisfied and the tenant be restored to his estate; but if payment as here provided be not made within the five (5) days, the judgment may be enforced for its full amount, and for the possession of the premises. In all other cases the judgment may be enforced immediately.

6-317. **TREBLE DAMAGES.** If a landlord or a tenant recovers damages for a forcible or unlawful entry in or upon, or detention of, any building or other tract of land, or for an action brought pursuant to section 6-320, Idaho Code, judgment may be entered for three (3) times the amount at which the actual damages are assessed.

6-324. **ATTORNEY FEES.** In any action brought under the provisions of this chapter, except in those cases where treble damages are awarded, the prevailing party shall be entitled to an award of attorney fees. For attorney fees to be awarded in cases requiring the three (3) days' notice as set forth in section 6-303 2., Idaho Code, it shall be necessary that the three (3) days' notice advise the tenant that attorney fees shall be awarded to the prevailing party.

Waste (Willful destruction of property) 6-201

6-201. **ACTIONS FOR WASTE.** If a guardian, tenant for life or years, joint tenant or tenant in common of real property, commit waste thereon, any person aggrieved by the waste may bring an action against him therefor, in which action there may be judgment for treble damages.

Property Repair Issues (Landlord/Tenant Laws) 6-320-324

6-320. **ACTION FOR DAMAGES AND SPECIFIC PERFORMANCE BY**

TENANT. (a) A tenant may file an action against a landlord for damages and specific performance for:

- (1) Failure to provide reasonable waterproofing and weather protection of the premises;
- (2) Failure to maintain in good working order electrical, plumbing, heating, ventilating, cooling, or sanitary facilities supplied by the landlord;
- (3) Maintaining the premises in a manner hazardous to the health or safety of the tenant;
- (4) Failure to return a security deposit as and when required by law;
- (5) Breach of any term or provision of the lease or rental agreement materially affecting the health and safety of the tenant, whether explicitly or implicitly a part thereof; and
- (6) Failure to install approved smoke detectors in each dwelling unit, to include mobile homes, under the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that smoke detectors have been installed and are in good working order in the dwelling unit. The tenant shall maintain the

smoke detectors in good working order during the tenant's rental period. For purposes of this section, an approved smoke detector is a battery-operated device that is capable of detecting visible or invisible particles of combustion and that bears a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly. If the landlord or the landlord's assignee fails to install working smoke detectors, the tenant may send written notice by certified mail, return receipt requested, to the landlord or the landlord's assignee that if working smoke detectors are not installed within seventy-two (72) hours of receipt of the letter, the tenant may install smoke detectors and deduct the cost from the tenant's next month's rent. Smoke detectors purchased by the tenant and deducted from rent become the property of the landlord and shall not be removed from the premises.

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 under this section, or combines his action for damages with an action for specific performance, the early trial provision of this section shall not be applicable, and a summons must be issued returnable as in other cases upon filing the complaint.

- (b) In an action under this section, plaintiff, in his complaint, must set forth the 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.
- (c) 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 the amount of the damages assessed. Judgment may also be entered requiring specific performance for any breach of agreement showing by the evidence, and for costs and disbursements.
- (d) 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, the tenant may proceed to commence an action for damages and specific performance.
- (e) The provisions of this section shall not apply to tracts of land of five (5) acres or more used for agricultural purposes.

6-323. SERVICE OF NOTICE TO LANDLORD. The notice required by section 6-320

(d), Idaho Code, shall be served either:

- (1) By delivering a copy to the landlord or his agent personally; or
- (2) If the landlord or his agent is absent from his usual place of business, by leaving a copy with an employee at the usual place of business of the landlord or his agent; or
- (3) By sending a copy of the notice to the landlord or his agent by United States Postal Service certified mail, return receipt requested.

6-324. ATTORNEY FEES. In any action brought under the provisions of this chapter, except in those cases where treble damages are awarded, the prevailing party shall be entitled to an award of attorney fees. For attorney fees to be awarded in cases requiring the three (3) days' notice as set forth in section 6-303 2., Idaho Code, it

shall be necessary that the three (3) days' notice advise the tenant that attorney fees shall be awarded to the prevailing party.

Security Deposits 6-321

6-321. SECURITY DEPOSITS. Amounts deposited by a tenant with a landlord for any purpose other than the payment of rent shall be deemed security deposits. Upon termination of a lease or rental agreement and surrender of the premises by the tenant all amounts held by the landlord as a security deposit shall be refunded to the tenant, except amounts necessary to cover the contingencies specified in the deposit arrangement. The landlord shall not retain any part of a security deposit to cover normal wear and tear. "Normal wear and tear" means that deterioration which occurs based upon the use for which the rental unit is intended and without negligence, carelessness, accident, or misuse or abuse of the premises or contents by the tenant or members of his household, or their invitees or guests. Refunds shall be made within twenty-one (21) days if no time is fixed by agreement, and in any event, within thirty (30) days after surrender of the premises by the tenant. Any refunds in an amount less than the full amount deposited by the tenant shall be accompanied by a signed statement itemizing the amounts lawfully retained by the landlord, the purpose for the amounts retained, and a detailed list of expenditures made from the deposit.

If security deposits have been made as to a particular rental or lease property, and the property changes ownership during a tenancy, the new owner shall be liable for refund of the deposits.

Transfer of Properties (55-301 to 55-303)

55-301. RIGHTS OF GRANTEE AGAINST GRANTOR'S TENANTS. A person to whom any real property is transferred or devised, upon which rent has been reserved or to whom such rent is transferred, is entitled to the same remedies for recovery of rent, for nonperformance of any of the terms of the lease, or for any waste or cause of forfeiture, as his grantor or deviser might have had.

55-302. REMEDIES OF LESSOR AGAINST LESSEE'S ASSIGNEE. Whatever remedies the lessor of any real property has against his immediate lessee for the breach of any agreement in the lease, or for recovery of the possession, he has against the assignees of the lessee, for any cause of action accruing while they are such assignees, except where the assignment is made by way of security for a loan, and is not accompanied by possession of the premises.

55-303. REMEDIES OF LESSEE AGAINST LESSOR'S ASSIGNEE. Whatever remedies the lessee of any real property may have against his immediate lessor, for the breach of any agreement in the lease, he may have against the assigns of the lessor, and the assigns of the lessee may have against the lessor and his assigns, except upon covenants against encumbrances or relating to the title or possession of the premises.

Tenancy at Will (55-208 to 55-212)

55-208. TERMINATION OF TENANCY AT WILL. A tenancy or other estate at will, however created, may be terminated:

- (1) By the landlord's giving notice in writing to the tenant, in the manner prescribed by the code of civil procedure, to remove from the premises within a period of not less than one (1) month, to be specified in the notice; or
- (2) By the tenant giving notice in writing to the landlord that the tenant will be vacating the premises, on a date as specified in the notice, but not less than one (1) month from the date of notice.

55-209. TERMINATION OF TENANCY AT WILL -- RIGHTS OF

LANDLORD. After such notice has been served, and the period specified by such

notice has expired, but not before, the landlord may reenter, or proceed according to law to recover possession.

55-210. RIGHT OF REENTRY. Whenever the right of reentry is given to a grantor or a lessor in any grant or lease, or otherwise, such reentry may be made at any time after the right has accrued, upon three (3) days' notice, as provided in the Code of Civil Procedure.

55-211. SUMMARY PROCEEDINGS -- WHERE PROVIDED FOR. Summary proceedings for obtaining possession of real property forcibly entered, or forcibly and unlawfully detained, are provided for in the Code of Civil Procedure.

55-212. ACTION FOR REAL PROPERTY -- NOTICE UNNECESSARY. An action for the possession of real property, leased or granted, with a right of reentry, may be maintained at any time, in the district court, after the right to reenter has accrued, without notice. .

Removal of Fixtures by Tenant (55-308)

55-308. REMOVAL OF FIXTURES BY TENANT. A tenant may remove from the demised premises, any time during the continuance of his term, anything affixed thereto for the purposes of trade, manufacture, ornament or domestic use, if the removal can be effected without injury to the premises, unless the thing has, by the manner in which it is affixed, become an integral part of the premises.

Notice of Change in Leas Terms (55-307)

55-307. CHANGE IN TERMS OF LEASE -- NOTICE.

- (1) In all leases of lands or tenements, or of any interest therein from month to month, the landlord may, upon giving notice in writing at least fifteen (15) days before the expiration of the month, change the terms of the lease, to take effect at the expiration of the month. The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish, as a part of the lease, the terms, rent and conditions specified in the notice, if the tenant shall continue to hold the premises after the expiration of the month.
- (2) A local governmental unit shall not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential property. This provision does not impair the right of any local governmental unit to manage and control residential property in which the local governmental unit has a property interest.

Mobile Home Park Specific Laws (55-2005 to 55-2020)

55-2005. RENTAL AGREEMENT. (1) A written rental agreement or lease shall be executed in duplicate by the landlord and the prospective resident, each to receive a copy. The landlord shall provide a copy of the community rules when the prospective resident submits an application for residency and prior to the execution of the rental agreement. The provisions of this chapter shall apply to all such agreements and to all other rental agreements to the extent applicable as set forth in this chapter.

- (2) The requirement of subsection (1) of this section shall not apply if:
 - (a) The community or 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 resident.
- (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 date of enactment of this section. Existing contracts may be

perpetuated by agreement of both parties. If a resident fails to sign and return to the landlord, who has acted in good faith, any new or amended rental agreement following the written notice provided in accordance with the provisions of section 55-2006, Idaho Code, and the resident continues to hold the premises after the expiration of the notice period, then the notice shall of itself operate and be effectual to create and establish, as part of the rental agreement, the terms, rent, conditions and rules specified in the notice.

- 55-2006. ADJUSTMENTS TO RENT, SERVICES, UTILITIES OR RULES. (1) A landlord may increase or decrease rents after expiration of the lease term, but only with ninety (90) days' written notice to the residents. Such written notice shall be sent by first class mail, certified mail or personal delivery.
- (2) Rental increases shall be uniform throughout the community. When rents within a community are structured by reason of lot or home size, amenities, lot location or otherwise, rental increases shall be uniform among all homes in the same rent tier.
 - (3) A landlord shall give written notice of such change to each affected home owner at least ninety (90) days prior to any amendment to the rental agreement. The landlord may not amend the rental agreement or rules more frequently than once in a six (6) month period.
 - (4) Rents in communities are governed by the provisions of subsection (2) of section 55-307, Idaho Code, which provides that a local governmental unit shall not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential property.
 - (5) Notwithstanding the foregoing provisions, a rental agreement may include an escalation clause for a pro rata share of any increase or decrease in the community's ad valorem taxes, utility assessments, or other services as included in the monthly rental charge, after the effective date of such a change. Issues of public safety, health or property degradation may also be included in this section. The landlord shall give thirty (30) days' written notice to a resident before such an increase or decrease.

55-2007. REQUIRED RENTAL AGREEMENT PROVISIONS AND EXCLUSIONS -- DISCLOSURES.

- (1) Any rental agreement executed between the landlord and resident shall contain:
 - (a) The terms for the payment of rent, including the time and place for payment, and a description of any other charges to be paid to the landlord by the resident. Other charges that occur less frequently than monthly shall be itemized in a billing to the resident;
 - (b) A description of the utilities and services which are included in the monthly rent;
 - (c) The rules of the community;
 - (d) The names and addresses of the manager of the community and the owner of the community or a person who resides in the state who is authorized to act as agent for the owner; and
 - (e) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the resident as a deposit or as security for performance of the resident's obligations in a rental agreement.
- (2) Any rental agreement executed between the landlord and resident shall not contain:
 - (a) Any provision by which the resident agrees to waive or forego [forgo] rights or remedies under this chapter; or
 - (b) Any provision allowing the landlord to charge an "entrance fee" or an "exit fee." The expense of repairs or maintenance required by the landlord as a

condition of the landlord's approval of a rental application shall not constitute an "entrance fee" or "exit fee" as those terms are used herein.

- (c) Any provision which unreasonably restricts access to the community by invitees of the resident.
- (3) The following terms and conditions shall be an implicit part of any rental agreement between the landlord and resident:
 - (a) The landlord shall provide a base upon which the home is to be located, prepared in accordance with the provisions of section 44-2201, Idaho Code.
 - (b) The landlord shall, prior to removal of the wheels and axles, approve the positioning of the home upon the lot.
 - (c) The landlord shall not permit any portion of the home, including the tongue, to extend into a roadway.
 - (d) The landlord shall maintain street lights, entry lights and common area lighting, if any, in good working condition.
 - (e) The landlord shall have the right of entry upon the lot for maintenance of utilities, protection of the community and periodic inspection of the premises, but shall not, except in the case of emergency or suspected abandonment by the resident, otherwise have the right of entry to such lot without the consent of the resident.
 - (f) The landlord shall notify each resident within fifteen (15) days after a petition has been filed by the landlord for a change in the zoning of the land upon which the community is situated.
- (4) Upon request, the landlord shall, prior to the execution of a rental agreement, provide the resident with a written statement containing the following information:
 - (a) The name, address and telephone number of the owner or manager of the community.
 - (b) A general description of the types of homes which may be brought into the community.
 - (c) A general description of the boundaries of the lot to be provided.
 - (d) A description of the utilities and services which are included in the rent.
 - (e) A description of other utilities and services which are available within the community.
 - (f) A description of the zoning under which the community operates, and the governmental entity having zoning jurisdiction.
 - (g) The date and amount of the most recent rent increase.

55-2008. RULES.

- (1) A written rule of the community is enforceable against the resident if it is part of the rental agreement signed by the resident.
- (2) A rule adopted or amended after the resident enters into the rental agreement is not enforceable unless the resident consents to it or is given ninety (90) days' notice in writing except as provided in section 55-2006(5), Idaho Code. A rule change restricting the type or size of a home permitted in the community shall not apply to a resident whose home was in compliance with community rules prior to the adoption or amendment.
- (3) Rules shall be fairly and uniformly enforced and contain the effective date.

55-2009. SALES OF HOMES AND TRANSFER OF LOTS.

- (1) No landlord shall deny any resident who owns his home the right to sell the home on a rented lot or require the resident to remove the home from the lot solely on the basis of the sale.
- (2) The landlord shall not exact a commission or fee for the sale of a home on a rented space unless the landlord has acted as agent for the seller pursuant to a written agreement. The landlord may act as agent for the seller only upon the

voluntary agreement of the seller and only if the landlord is licensed if licensure is required by law.

- (3) A new rental agreement must be signed between the landlord and a prospective resident prior to the sale, transfer, assignment or subletting of the home if the home is to remain in the community. From the date of sale, assignment, transfer or subletting the new resident shall be bound by the terms of the agreement.
- (4) The landlord shall approve or disapprove of the transfer, assignment or subletting of the home lot on the same basis that the landlord approves or disapproves of any new resident. Notice of approval or disapproval shall be given in writing within five (5) working days of receiving a written application.
- (5) No home shall be removed from any community until the rent, including the month when the home is moved, together with all other charges specified in the rental agreement, are paid, or the provisions of section 55-2009A, Idaho Code, have been fully complied with and the landlord notified of date and time of removal.

55-2009A. NOTICE OF LIENHOLDER -- LIMIT ON BACK RENT -- ABANDONMENT.

- (1) Any lienholder or legal owner of a home who wants to be protected under this section must so notify the landlord in writing of his secured or legal interest.
- (2) If the resident becomes sixty (60) days in arrears in his rent or at the time of suspected abandonment by the resident on a lot, it is incumbent upon the landlord to notify in writing the lienholder and legal owner of the home and to communicate to the lienholder and legal owner the liability for any rent and other charges specified in the rental agreement. The lienholder shall be responsible for utilities from the date of notice. However, the landlord shall be entitled to a maximum of sixty (60) days rent due prior to notice to lienholder. Any and all costs shall then become the responsibility of the legal owner or lienholder of the home. The home may not be removed from the lot without a signed written agreement from the landlord or manager showing clearance for removal, showing all moneys due and owing paid in full, or an agreement reached with the legal owner and the landlord.

55-2010. TERMINATIONS.

- (1) Tenancy during the term of a rental agreement may be terminated by the landlord only for one (1) or more of the following reasons:
 - (a) Substantial or repeated violation of the rental agreement or the written rules of the community. The resident shall be given written notice to comply. If the resident does not comply within three (3) days, the resident may be given notice of a twenty (20) day period in which to vacate. In the case of periodic rather than continuous violation, said notice shall specify that the same violation repeated shall result in the termination.
 - (b) Nonpayment of rent or other charges specified in the rental agreement. The resident shall be given written notice. If the resident does not pay within three (3) days the resident may be given notice of a thirty (30) day period in which to vacate.
 - (c) Closure of the community or any portion thereof by order of a federal, state or local authority. The resident shall be given the notice required by such order.
 - (d) In the event of a taking of the community or any portion thereof by eminent domain or cessation of the lot rental operation or a portion thereof, the landlord shall give the affected resident and any subtenant not less than one hundred eighty (180) days' notice in writing prior to the date designated in the notice of termination. After the date notice of termination has been given as provided in this subsection, the landlord shall provide a copy of such notice to any prospective resident or purchaser if the home is to remain in the

community. The landlord may not increase the rent during the notice period. This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent or for other causes under this chapter during the closure period.

(e) Abandonment.

- (2) Except when a rental agreement is terminated for the reason provided in paragraph (e) of subsection (1) of this section, a landlord shall give the resident no less than ninety (90) days' written notice of an intention not to renew the rental agreement.
- (3) A resident shall notify the landlord in writing thirty (30) days prior to the expiration of a rental agreement of an intention not to renew the rental agreement.
- (4) Any resident who is a member of the armed forces, including the national guard and armed forces reserves, may, without penalty, terminate a rental agreement with less than thirty (30) days' notice if he receives reassignment or deployment orders which do not allow greater notice.
- (5) The resident may terminate the rental agreement upon thirty (30) days' written notice whenever a change in the location of the resident's employment requires a change in his residence.

55-2011. RENEWALS. Rental agreements shall be automatically renewed for the original term, except as provided in section 55-2010, Idaho Code.

55-2012. IMPROVEMENTS.

- (1) The landlord shall not restrict the resident's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior improvements on a lot. Any request for lot improvements or changes must be submitted in writing. The approval or disapproval must be given in writing, be reasonable and be uniformly applied.
- (2) Improvements, except those fixed to the soil, the removal of which would significantly damage the landscape of the lot, shall remain the property of the resident. In removing improvements on termination of the rental agreement, the resident shall leave the lot in better or substantially the same condition as upon taking possession.

55-2013. DEPOSITS -- SECURITY.

- (1) Any payment, deposit, fee or other charge which is required by the landlord in addition to periodic rent, utility charges or service fees, and is collected as prepaid rent or a sum to compensate for any resident default is a deposit governed by the provisions of this section.
- (2) The landlord shall maintain a separate record of the deposits.
- (3) Upon termination of the landlord's interest in the community, the landlord shall either transfer to his successor in interest that portion of the deposit remaining after making any deductions allowed under this section or return such portion to the resident.
- (4) The claim of the resident to any deposit to which he is entitled by law takes precedence over the claims of any other creditor of the landlord.

55-2013A. COMMUNITY RESIDENT ASSOCIATIONS.

- (1) The residents in a community have the right to organize a resident or homeowner's association to further their mutual interest and to conduct any other business and programs which the association shall determine. Community residents have the right to peacefully assemble and freely associate. Subject to reasonable notice and community facility rules, an association shall have the right to use the facilities of the community to conduct its business and programs

- including forums for or speeches by public officials or candidates for public office. When an association is organized it shall notify the landlord.
- (2) A community resident association formed for the purpose of purchasing a community may give written notification to the landlord of the association's interest in purchasing the community.
 - (3) For the purpose of notification, the community resident association shall provide the names and addresses of the three (3) designated members or officers of their community association to the landlord annually.
 - (4) A community resident association that has notified the landlord of its interest to purchase the community may request in writing that it be notified by the landlord if the owner or agent of the owner enters into a listing agreement with a licensed real estate broker to affect the sale of all or part of the community. The landlord shall provide such notification to the three (3) members designated under subsection (3) of this section within fifteen (15) days of the owner entering into the listing agreement.
 - (5) This section shall not apply to any of the following:
 - (a) A governmental entity taking by eminent domain;
 - (b) A forced sale pursuant to foreclosure or a deed given in lieu of foreclosure;
 - (c) Transfer by gift, devise or operation of law;
 - (d) A transfer by a corporation to an affiliate;
 - (e) A conveyance incidental to financing the community;
 - (f) An exchange of the community for other real property;
 - (g) A transfer by a partnership to one (1) or more of its partners;
 - (h) A sale or transfer to a person who would be an heir, or to a trust the beneficiaries of which would be heirs, of the community owner if the community owner were to die intestate.

55-2014. RESIDENT ACTION FOR DAMAGES -- SPECIFIC PERFORMANCE.

- (1) A resident of a community 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 the premises in a manner hazardous to the health or safety of the resident, 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 community is located governing wastewater and onsite sewage treatment systems;
 - (iv) Any provision of the international fire code, as amended by the provisions of any fire code adopted by the county or municipality in which the community is located;
 - (v) Any provision of the uniform building code, as amended by the provisions of any building code adopted by the county or municipality in which the community is located.

Nothing contained in the provisions of this subsection is intended to extend the application of any such rule or code provision to a previously existing condition which, as of July 1, 1993, was exempt from the enforcement of such rule or code provision.

- (c) Failure to return a security deposit as and when required by law;
- (d) Breach of any term or provision of the lease or rental agreement materially affecting the health and safety of the resident, whether explicitly or implicitly a part thereof.

- (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 under this section, or combines this 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 the 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 resident shall have standing to file an action under this section, he or she must give his or her 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, the resident 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) If the landlord or his agent is absent from his usual place of business, by leaving a copy with an employee at the usual place of business of the landlord or his agent; or
 - (c) By sending a copy of the notice to the landlord or his agent by certified mail, return receipt requested.
- (7) The landlord is not liable if the maintenance condition was caused by the deliberate or negligent act or omission of the resident, a member of the resident's family or other person on the premises with the resident's consent.

55-2015. RETALIATORY CONDUCT BY LANDLORD PROHIBITED. The

landlord shall not terminate a tenancy, refuse to renew a tenancy, increase rent or decrease services he normally supplies, or threaten to bring an action for repossession of a lot as retaliation against the resident because the resident has:

- (1) Complained in good faith about a violation of a building, safety or health code or regulation pertaining to a community to the governmental agency responsible for enforcing the code or regulation.
- (2) Complained to the landlord concerning the maintenance or condition of the community, rent charged or rules.
- (3) Organized, become a member of or served as an official in a community resident association, or similar organization, at a local, regional, state or national level.
- (4) Retained counsel or an agent to represent his interests.

55-2017. PENALTIES. If upon the trial of any action brought under the provisions of section 55-2014, Idaho Code, or those of section 6-302 or 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.

55-2018. 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.

55-2020. SERVICE OF NOTICE.

- (1) Any three (3) day notice to the resident as required by the provisions of this chapter may be served either:
 - (a) By delivering a copy to the resident personally; or
 - (b) If the resident be absent from the lot, by leaving a copy with someone of suitable age and discretion at the lot and sending a copy through the mail addressed to the resident at the lot. If a person of suitable age or discretion cannot be found at the lot, then by affixing a copy in a conspicuous place on the lot and sending a copy by certified mail return receipt requested addressed to the resident at the lot.
- (2) Unless otherwise provided, any notice to the resident in excess of three (3) days as required by the provisions of this chapter may be served either:
 - (a) By delivering a copy to the resident personally; or
 - (b) By sending a copy by certified mail return receipt requested addressed to the resident at the lot.
- (3) Service upon a subtenant may be made in the manner as provided in this section.

For more information on specific Idaho laws contact your attorney, IAA, or you can read the Idaho Code in full online anytime at www.ag.idaho.gov/index.html

Frequently Asked Questions

Operating a Rental Property

Do I need a business license to rent my property?

Possibly. You should contact your city directly to find out if you are required to obtain a license.

How many smoke detectors are required in a rental?

City code will often require one in each bedroom, one in any adjacent hall, one near furnace and water heating, one near kitchen and at least one on each floor. State law mandates at least one battery operated smoke detector be installed and functioning when the tenant moves in.

How can I run a background check on a prospective tenant?

Have a prospect fill out a rental application, pay an application fee, and put down a deposit. Then do a background check. Information on how to get set up to have IAA do it is on the inside cover of this booklet.

Who should I put on the lease?

Everyone over the age of 18 so you can hold them all accountable if something goes wrong or there is a balance due.

How much notice must I give to enter an apartment?

Your contract sets this. A good contract will say reasonable notice unless to verify occupancy, an emergency or to do a repair. The suggestion is to give as much notice as possible and always leave a note if you were there.

What if a tenant won't let me in?

It would be a contract violation. Serve a Three day Notice to let you in within three days or you will begin an eviction.

How many people can live in a rental unit?

Whatever the fire code says (and it's much higher than you think) if it is a family. Most people limit occupancy to 2 or 3 per bedroom.

I do not want pets. Can I deny someone with a disability who wants a service or companion animal?

Only if you own less than four units and do not have a Real

Estate License. If you own four or more you must comply with fair housing law that requires you give an accommodation to someone who is disabled.

My tenant wants 2 companion animals, do I have to allow them both?

Usually not (companion animals don't get companion animals). They still have to provide verification of eligibility and need for this "accommodation" and the landlord can visit with the Dr. to make sure it really necessary and not just desire or preference. However, consult an attorney or IAA before you deny reasonable accommodation requests.

What do I do if my tenant passes away?

Death terminates contracts. So if a tenant is the only one on the lease and dies – the contract is cancelled. If there is another party, they are still authorized and responsible.

How much notice do I have to give my tenant if I want them to move out?

It depends on your contract. If the contract is up it is generally only 15 or 30 days. If they are in the middle of a lease you can give notice that you want them to move at the end of the contract, even if that is months away.

What makes a rental "uninhabitable?"

On page 7 there is a list of property standards under Idaho Law .

My tenant signed a lease, and the next morning said they changed their mind. Can they do that?

There is no "3 day right of rescission" on real estate contracts in Idaho. So you can hold them liable for the rent until you re-rent it. This is a great argument on why we get deposits in advance.

I have a prospective tenant who is here on a student visa, I can't check their credit, what should I do?

Run a background check like you do on everyone. You are unlikely to find history since they lived in a foreign country. Some landlords require co-signers or higher deposits if they cannot verify all the required information (like in this case). It's

quite common for landlords to charge higher deposits for foreign students. If you wish you can now run international background checks, but they are expensive and take a long time.

Rents and Fees

How do I know what rent to charge?

Rents are set by the market. If you aren't sure what your property is worth, find out the prices of other properties with similar features in a similar neighborhood.

Are there laws about how much I can charge for rent?

No. Idaho law leaves all charges up to landlords.

What is an acceptable late fee?

No more than 10% of the rent for that month. Courts in Idaho prefer one time late fees (like on the 5th if is isn't paid) and don't like daily late fees.

How do I set my deposit?

Deposits are set by the market. Determine what similar properties are asking. A common range is between 75% to 150% of one month's rent, though most landlords are increasing their deposit.

How much can I raise rent, and when?

In Idaho, there are no prohibitions on raising rent or by how much. The only limitation on raising rent is it generally cannot be done in the middle of a lease. Read your contract to make sure how much notice is required to raise rent. A good rule of thumb is give at least 15 days' notice, if on a month to month contract.

Dealing with Tenants

My tenants are not following the rules. What should I do?

Serve a Three Day Notice to Comply with the lease. See page 33 for more information.

A tenant is late on rent. What should I do?

Serve a Three day Notice to pay or move within three days or you will begin an eviction. See page 33.

A tenant is allowing crime (or has committed a crime) on the property. What should I do?

Serve a Three Day Nuisance notice asking them to leave within three days or you can start an eviction.

My tenant committed a crime somewhere other than my property. Can I evict them for it?

Probably not. The courts allow you evict people that commit crimes on your property, but if it was off the property the courts probably wouldn't allow it.

Someone not on the lease is living there. What should I do?

Serve a Three Day Comply or Vacate Notice. You could give them an opportunity to apply. If they qualify, you could add them to the lease. If they are good, you'd love another guarantor on the lease. If they are not good or if you don't want more people, make it clear that they need to be out in those three days.

There was a flood/fire/disaster at my property, what am I responsible for?

Landlords are not responsible to cover the costs of hotels or alternate housing while repairs are being done, nor are they responsible for damage to a tenant's personal possessions (those things are would be covered by renter's insurance). A landlord is responsible for restoring the apartment as quickly as possible. If it can't be made habitable within three days, the landlord can notify the tenant and cancel the lease.

My tenant wants out of the lease early, what are my options?

There are only a limited number of reasons you must let a tenant out of a lease: military deployment, domestic violence, uninhabitable property, or death. Otherwise, you don't have to let tenants out of leases. You could tell them to move and keep paying rent until its re-rented (you then have a duty to do your best to get it re-rented). You could negotiate a settlement of some kind, like 45 days rent as a cancelation fee. Lastly, some landlords allow tenants to cancel leases if they find a "replacement tenant" using your criteria and doing most of the work of marketing and showing the property. Note: don't let someone out of a lease this way unless the new tenant had been approved by you, put down a deposit and signed a lease.

I rented to 3 roommates, now 2 of them want the other kicked out, what do I do?

Roommate situations are tough. Make sure when you rent to multiple parties you put them all on the lease as “jointly and severally liable” and explain this means they are all responsible and joined as one party. So if two want to get rid of one, they have to work it out. You as landlord can’t interfere or force it. Your only option is to evict them all.

My tenants are getting divorced, how do I determine who gets the security deposit?

Always send security deposits back with the names of all the people on the lease to either the last known address or to the forwarding address. Then they will have to get together and work it out. This will protect you from liability or accusations you picked a favorite.

My tenant wants something in the unit fixed, but I don’t want to fix it. Do I have to?

It depends. If it’s a habitability (page 7) or a contract issue, you will likely have to. If it was damaged caused by the tenant you don’t have to, unless they serve you a notice of deficient condition and then you may have to repair it and charge it back to them.

My tenant wants a trampoline, swimming pool, etc. What is my liability?

Contact your insurance agent to see what your policy covers/ doesn’t cover. You can have addendums that protect you better. Discuss this with your attorney.

My tenant has been on a month to month agreement for 2 years, how much notice to I need to give them to move out?

Usually 15 to 30 days. Check your contract. If it is silent on it, 15 days.

My tenants are using drugs on the property, can I be charged on a drug charge?

No – but if criminal activity is ongoing and there is documentation of it (such as a charge or arrest) do a criminal nuisance eviction (page 33). You are probably only liable if you had actual knowledge and still didn’t take care of it.

My ex-tenant says that they left the property clean, but I had to clean it up. Now they are disputing the deposit accounting. What do I do?

“Clean” is a very subjective word. The best way to protect yourself is to have a move-in/move out form and take photographs before and after. If they dispute deductions for cleaning and take you to court, before and after photos along with the checklist will make the case a slam dunk for you.

Eviction Issues

I have heard I can't evict someone in the winter or if they have kids is this true?

No. You can evict any time someone violates a contract by not paying, violating the contract, or allowing criminal activity on the premises.

How do I begin an eviction?

The first step is to serve the appropriate Three Day Notice. Refer to page 33. Next, you either hire an attorney or go to your district court and begin the process. For more information on Idaho Courts, visit www.isc.idaho.gov

Who can serve a Three Day Notice?

Anyone over the age of 16.

How do I serve a 3 day notice?

You should post it to the door, take a picture of it, and then knock. If the tenant is home you've delivered it to them in person. If they are not, then you have posted it as required by the law.

How do I count the days?

Three calendar days, meaning it includes weekends and holidays as well.

A tenant commits a crime not on my property. Can I evict them?

No. You can evict someone for a criminal act on the property if it is a lease violation or a public nuisance as defined by state law. Courts would not allow you to evict a tenant for a crime off property. However, any time you decide you no longer want to

rent to someone you may send a letter that says “when your lease expires on (fill in the blank) we will not be renewing with you. And, if you would like to move earlier we would be happy to let you out of your lease and accommodate you.”

What is the definition of nuisance on a 3 day nuisance?

Under Idaho law, a public nuisance is

1. A criminal act committed on the property
2. A serious threat to the health and safety of others
3. Failure to comply after receiving multiple opportunities (usually three) to comply.

I think tenants are doing drugs. Should I call the police?

You should first do an inspection and have a conversation with the tenant. Most tenants when confronted, stop or move. Next, you should inspect and look for evidence. If you find any, then call the police.



Legal Resources

Idaho Realtors Legal Hotline

1-800-324-3559

Neal Colborn, PLLC

Gary Neal

2309 Mountain View Dr. #160

Boise, ID 83706

208-343-5931

The Law Offices of Kirk A. Cullimore

Kirk A. Cullimore

12339 South 800 East Ste. 100

Draper, UT 84020

PH: 801-571-6611

info@cullimore.net

www.cullimore.net

**For referrals to other attorneys contact the IAA
directly at 208-423-8173 or by email at**

info@iaahq.com

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