

ASSEMBLY BILL NO. 397—ASSEMBLYMEN GOLDWATER, BUCKLEY, THOMAS,
SEGERBLOM, GIBBONS, NEIGHBORS, PERKINS, GIUNCHIGLIANI, WILLIAMS,
PARKS, COLLINS, MANENDO, OHRENSCHALL, PRICE, EVANS, LESLIE,
KOIVISTO, PARNELL, MCCLAIN, CLABORN AND BACHE

MARCH 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions concerning landlords and tenants.
(BDR 10-915)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to tenancies; revising provisions for terminating a tenancy; prohibiting a landlord from terminating a tenancy except for certain reasons; revising the provisions relating to deposits for cleaning and security; allowing a tenant to withhold rent that becomes due under certain circumstances; requiring the installation of individual water meters in certain buildings; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 118.101 is hereby amended to read as follows:
2 118.101 1. A person may not refuse to:
3 (a) Authorize a person with a disability to make reasonable
4 modifications to a dwelling which he occupies or will occupy if:
5 (1) The person with the disability pays for the modifications; and
6 (2) The modifications are necessary to ensure that the person with the
7 disability may use and enjoy the dwelling; or
8 (b) Make reasonable accommodations in rules, policies, practices or
9 services if those accommodations are necessary to ensure that the person
10 with the disability may use and enjoy the dwelling.

1 2. A landlord may, as a condition for the authorization of such a
2 modification, reasonably require the person who requests the authorization,
3 upon the termination of his occupancy, to restore the dwelling to the
4 condition that existed before the modification, reasonable wear and tear
5 excepted.

6 3. Except as otherwise provided in subsection 4, a landlord may not
7 increase the amount of *the deposit for security or the deposit for cleaning*
8 *which* he customarily requires a person to deposit because that person has
9 requested authorization to modify a dwelling pursuant to subsection 1.

10 4. If a person requests authorization to modify a dwelling pursuant to
11 subsection 1, the landlord may require that person to deposit a reasonable
12 amount ~~left~~ *for security or for cleaning* in addition to the amount he
13 usually requires if the additional amount:

14 (a) Is necessary to ensure the restoration of the dwelling pursuant to
15 subsection 2;

16 (b) Does not exceed the actual cost of the restoration; and

17 (c) Is deposited by the landlord in an interest-bearing account. Any
18 interest earned on the additional amount must be paid to the person who
19 requested the authorization.

20 5. As used in this section, "security" has the meaning ascribed to it in
21 NRS 118A.240.

22 **Sec. 2.** Chapter 118A of NRS is hereby amended by adding thereto
23 the provisions set forth as sections 3 and 4 of this act.

24 **Sec. 3. 1. *A landlord may not terminate a tenancy unless the***
25 ***termination is supported by one or more of the following causes:***

26 ***(a) The tenant violates an obligation to the landlord created by the***
27 ***rental agreement, this chapter or another provision of law or creates a***
28 ***nuisance, including, but not limited to, a nuisance defined in NRS 40.140***
29 ***or 202.450; or***

30 ***(b) Any other reason, economic or personal, unless the reason violates***
31 ***a statute, ordinance or regulation prohibiting discrimination or***
32 ***retaliation, including, without limitation, a decision by the landlord to:***

33 ***(1) Perform substantial renovation or repair that requires the***
34 ***premises to be vacant;***

35 ***(2) Occupy the premises personally or allow another member of his***
36 ***immediate family to occupy the premises; or***

37 ***(3) Cease to rent the premises.***

38 **2. *Before terminating a tenancy pursuant to subsection 1, the***
39 ***landlord shall notify the tenant in writing of each cause listed in***
40 ***subsection 1 that supports the termination.***

1 **3. A tenant may:**

2 **(a) Maintain an action to enjoin the termination of the tenancy on the**
3 **basis that the termination is not supported by a cause listed in subsection**
4 **1; or**

5 **(b) Assert as a defense to a summary eviction, or other proceeding by**
6 **the landlord for possession of the premises, that the termination is not**
7 **supported by a cause listed in subsection 1.**

8 **Sec. 4. 1. Except as otherwise provided in subsection 2, the**
9 **landlord of a building containing more than 10 individual dwelling units**
10 **shall provide an individual water meter for each unit. The meters must be**
11 **installed in accordance with any uniform standard for design and**
12 **construction adopted by the public utility or governmental agency that**
13 **provides the water. On or after January 1, 2000, a certificate of**
14 **occupancy may not be issued for the building unless this requirement is**
15 **satisfied.**

16 **2. If a certificate of occupancy is issued before January 1, 2000, the**
17 **individual meters required by this section must be installed before**
18 **January 1, 2004.**

19 **Sec. 5. NRS 118A.240 is hereby amended to read as follows:**

20 118A.240 1. Any payment, deposit, fee or charge that is to be used
21 for any of the following purposes is ~~["security"]~~ **"for security"** and is
22 governed by the provisions of this section and NRS 118A.242 and
23 118A.244:

24 (a) Remedying any default of the tenant in the payments of rent.

25 (b) Repairing damages to the premises other than normal wear caused
26 by the tenant.

27 ~~[(c) Cleaning the dwelling unit.~~

28 ~~2. "Security"]~~

29 **2. A "deposit for security" does not include any payment, deposit or**
30 **fee to secure an option to purchase the premises.**

31 **Sec. 6. NRS 118A.242 is hereby amended to read as follows:**

32 118A.242 1. The landlord may ~~[not demand or receive security,~~
33 ~~including the last month's rent, whose]~~ **require from a tenant separate**
34 **deposits for cleaning and security, but the** total amount or value ~~[exceeds]~~
35 **of a deposit for security may not exceed** 3 months' periodic rent.

36 2. ~~[Upon termination of the tenancy by either party for any reason,]~~
37 **Except as otherwise provided in this chapter, the landlord need not**
38 **refund a deposit for cleaning.**

39 **3. If the duration of a tenancy is 1 year or more, the tenant may**
40 **request a refund of the deposit for security at any time after 1 year,**
41 **whether or not the tenancy is terminated. The landlord shall refund the**

1 *deposit for security, minus any deduction allowed pursuant to subsection*
2 *5, not later than 30 days after the tenant requests the refund and permits*
3 *an inspection of the premises.*

4 *4. If the duration of the tenancy is less than 1 year, the landlord shall*
5 *refund the deposit for security, minus any deduction allowed pursuant to*
6 *subsection 5, no later than 30 days after the tenancy is terminated.*

7 *5. Before refunding a deposit pursuant to subsection 3 or 4, the*
8 landlord may ~~{claim of the}~~ *deduct from the deposit for* security only such
9 amounts as are reasonably necessary to remedy any default of the tenant in
10 the payment of rent ~~{, to}~~ *and to* repair *any* damages to the premises caused
11 by the tenant other than normal wear . ~~{and to pay the reasonable costs of~~
12 ~~cleaning the premises.}~~

13 *6. The landlord shall provide the tenant with an itemized written*
14 *accounting of the disposition of the deposit for* security and return any
15 remaining portion of the ~~{security}~~ *deposit* to the tenant ~~{no later than 30~~
16 ~~days after the termination of the tenancy}~~ *pursuant to subsection 3 or 4* by
17 handing it to him personally at the place where the rent is paid, or by
18 mailing it to him at his present address, or if that address is unknown, at
19 the tenant's last known address.

20 ~~{3.}~~ *7. If the landlord fails or refuses to return the remainder of {a*
21 ~~security deposit}~~ *the deposit for security* within 30 days ~~{after the end of a~~
22 ~~tenancy,}~~ *pursuant to subsection 3 or 4*, he is liable to the tenant for
23 damages:

24 (a) In an amount equal to the entire deposit; and

25 (b) For a sum to be fixed by the court of not more than the amount of
26 the entire deposit.

27 ~~{4.}~~ *8. In determining the sum, if any, to be awarded under paragraph*
28 *(b) of subsection {3,} 7, the court shall consider:*

29 (a) Whether the landlord acted in good faith;

30 (b) The course of conduct between the landlord and the tenant; and

31 (c) The degree of harm to the tenant caused by the landlord's conduct.

32 ~~{5.—Except for an agreement which provides for a nonrefundable~~
33 ~~charge for cleaning, in a reasonable amount, no}~~

34 *9. A rental agreement may not* contain any provision characterizing
35 ~~{any security under this section}~~ *a deposit for security* as nonrefundable or
36 any provision waiving or modifying a tenant's rights under this section.
37 Any such provision is void as contrary to public policy.

38 ~~{6.}~~ *10. The claim of a tenant to a deposit for* security to which he is
39 entitled under this chapter takes precedence over the claim of any creditor
40 of the landlord.

41 **Sec. 7.** NRS 118A.244 is hereby amended to read as follows:

42 118A.244 1. Upon termination of the landlord's interest in the
43 dwelling unit, whether by sale, assignment, death, appointment of receiver

1 or otherwise, the landlord or his agent shall, within a reasonable time, do
2 one of the following, which relieves him of further liability with respect to
3 the security:

4 (a) Notify the tenant in writing of the name, address and telephone
5 number of his successor in interest, and that he has transferred to his
6 successor in interest *the deposit for cleaning and* the portion of the *deposit*
7 *for* security remaining after making any deductions allowed under NRS
8 118A.242.

9 (b) Return to the tenant *the deposit for cleaning and* the portion of the
10 *deposit for* security remaining after making any deductions allowed under
11 NRS 118A.242.

12 The successor has the rights, obligations and liabilities of the former
13 landlord as to ~~any securities~~ *the deposits for cleaning and security* which
14 are owed under this section or NRS 118A.242 at the time of transfer.

15 2. The landlord shall, before he records a deed transferring any
16 dwelling unit:

17 (a) Transfer to his successor, in writing, the portion of any tenant's
18 ~~security~~ deposit *for cleaning or security* or other money held by him
19 which remains after making any deductions allowed under NRS 118A.242;
20 or

21 (b) Notify his successor in writing that he has returned all such deposits
22 or portions thereof to the tenant.

23 **Sec. 8.** NRS 118A.250 is hereby amended to read as follows:

24 118A.250 The landlord shall deliver to the tenant upon his request a
25 signed written receipt for *a deposit for cleaning or* security and any other
26 payments, deposits or fees, including rent, paid by the tenant and received
27 by the landlord. The tenant may refuse to make rent payments until the
28 landlord tenders the requested receipt.

29 **Sec. 9.** NRS 118A.290 is hereby amended to read as follows:

30 118A.290 1. The landlord shall at all times during the tenancy
31 maintain the dwelling unit in a habitable condition. A dwelling unit is not
32 habitable if it substantially lacks:

33 (a) Effective waterproofing and weather protection of *the* roof and
34 exterior walls, including windows and doors.

35 (b) Plumbing facilities which conformed to applicable law when
36 installed and which are maintained in good working order.

37 (c) A water supply approved under applicable law, which is:

38 (1) Under the control of the tenant or landlord and is capable of
39 producing hot and cold running water;

40 (2) Furnished to appropriate fixtures; and

41 (3) Connected to a sewage disposal system approved under
42 applicable law and maintained in good working order to the extent that the

43 system can be controlled by the landlord.

1 (d) Adequate heating facilities which conformed to applicable law when
2 installed and are maintained in good working order.

3 (e) Electrical lighting, outlets, wiring and electrical equipment which
4 conformed to applicable law when installed and are maintained in good
5 working order.

6 (f) An adequate number of appropriate receptacles for garbage and
7 rubbish in clean condition and good repair at the commencement of the
8 tenancy. The landlord shall arrange for the removal of garbage and rubbish
9 from the premises unless the parties by written agreement provide
10 otherwise.

11 (g) Building, grounds, appurtenances and all other areas under the
12 landlord's control at the time of the commencement of the tenancy in every
13 part clean, sanitary and reasonably free from all accumulations of debris,
14 filth, rubbish, garbage, rodents, insects and vermin.

15 (h) Floors, walls, ceilings, stairways and railings maintained in good
16 repair.

17 (i) Ventilating, air conditioning and other facilities and appliances,
18 including elevators, maintained in good repair if supplied or required to be
19 supplied by the landlord.

20 2. The landlord and tenant may agree that the tenant is to perform
21 specified repairs, maintenance tasks and minor remodeling only if:

22 (a) The agreement of the parties is entered into in good faith; and

23 (b) The agreement does not diminish the obligations of the landlord to
24 other tenants in the premises.

25 ***3. An agreement pursuant to subsection 2 is not entered into in good***
26 ***faith if the landlord has a duty under subsection 1 to perform the***
27 ***specified repairs, maintenance tasks or minor remodeling and the tenant***
28 ***enters into the agreement because the landlord or his agent has refused***
29 ***to perform them.***

30 **Sec. 10.** NRS 118A.350 is hereby amended to read as follows:

31 118A.350 1. Except as otherwise provided in this chapter, if the
32 landlord fails to comply with the rental agreement or fails to maintain the
33 dwelling unit in a habitable condition as required by this chapter, the tenant
34 shall deliver a written notice to the landlord specifying the acts and
35 omissions constituting the breach and stating that the rental agreement will
36 terminate as provided in this section. If the breach is remediable and the
37 landlord adequately remedies the breach or uses his best efforts to remedy
38 the breach within 14 days after receipt of the notice, the rental agreement
39 does not terminate by reason of the breach. If the landlord fails to remedy
40 the breach or make a reasonable effort to do so within the prescribed time,
41 the tenant may:

42 (a) Terminate the rental agreement immediately.

43 (b) Recover actual damages.

(c) Apply to the court for such relief as the court deems proper under the circumstances.

2. The tenant may not terminate **a rental agreement** for a condition caused by his own deliberate or negligent act or omission or that of a member of his household or other person on the premises with his consent.

3. If the rental agreement is terminated, the landlord shall return all **deposits for cleaning**, prepaid rent and **deposits for** security recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless he has given notice as required by subsection 1, except that the tenant may, without giving that notice, recover damages under paragraph (b) of subsection 1 if the landlord:

(a) Admits to the court that he had knowledge of the condition constituting the breach; or

(b) Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

Sec. 11. NRS 118A.370 is hereby amended to read as follows:

118A.370 If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in this chapter, rent abates until possession is delivered as required, and the tenant may ~~§~~ **pursue any one of the following remedies:**

1. Terminate the rental agreement upon at least 5 days' written notice to the landlord. ~~and upon~~ **Upon** termination, the landlord shall return all **deposits for cleaning**, prepaid rent, **deposits for** security recoverable under this chapter, and any payment, deposit, fee or charge to secure the execution of the rental agreement. ~~§ or~~

2. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the actual damages sustained. If the landlord has exercised due diligence to evict the holdover tenant or remedy the condition keeping the new tenant from taking possession, the landlord is not liable for damages. ~~§ or~~

3. Pursue any other remedies to which the tenant is entitled, including the right to recover any actual damages suffered.

Sec. 12. NRS 118A.380 is hereby amended to read as follows:

118A.380 1. If the landlord is required by the rental agreement or this chapter to supply heat, air conditioning, running water, hot water, ~~electric,~~ **electricity**, gas, or ~~other~~ **another** essential service and he willfully or negligently fails to do so, causing the premises to become unfit for habitation, the tenant shall give written notice to the landlord specifying the breach. If the landlord does not adequately remedy the breach,

or

use

1 his best efforts to remedy the breach within 48 hours, except a Saturday,
2 Sunday or legal holiday, after it is received by the landlord, the tenant may,
3 in addition to any other remedy:

4 (a) Procure reasonable amounts of such essential services during the
5 landlord's noncompliance and deduct their actual and reasonable cost from
6 the rent;

7 (b) Recover actual damages, including damages based upon the lack of
8 use of the premises or the diminution of the fair rental value of the
9 dwelling unit; ~~for~~

10 (c) *Withhold any rent that becomes due during the landlord's*
11 *noncompliance without incurring late fees, charges for notice or any*
12 *other charge or fee authorized by this chapter or the rental agreement,*
13 *until the landlord has attempted in good faith to restore the essential*
14 *services; or*

15 (d) Procure other housing which is comparable during the landlord's
16 noncompliance, and the rent for the original premises fully abates during
17 this period. The tenant may recover the actual and reasonable cost of that
18 other housing which is in excess of the amount of rent which is abated.

19 2. If the tenant proceeds under this section, he may not proceed under
20 NRS 118A.350 and 118A.360 as to that breach.

21 3. The rights of the tenant under this section do not arise until he has
22 given written notice as required by subsection 1, except that the tenant
23 may, without having given that notice, recover damages as authorized
24 under paragraph (b) of subsection 1 if the landlord:

25 (a) Admits to the court that he had knowledge of the lack of such
26 essential services; or

27 (b) Has received written notice of the uninhabitable condition caused by
28 such a lack from a governmental agency authorized to inspect for
29 violations of building, housing or health codes.

30 4. If such a condition was caused by the deliberate or negligent act or
31 omission of the tenant, a member of his household or other person on the
32 premises with his consent, the tenant has no rights under this section.

33 **Sec. 13.** NRS 118A.390 is hereby amended to read as follows:

34 118A.390 1. If the landlord unlawfully removes the tenant from the
35 premises or excludes the tenant by blocking or attempting to block his
36 entry upon the premises or willfully interrupts or causes or permits the
37 interruption of any essential service required by the rental agreement or
38 this chapter, the tenant may recover possession, proceed under NRS
39 118A.380 or terminate the rental agreement and, in addition to any other
40 remedy, recover his actual damages, receive an amount not greater than
41 \$1,000 to be fixed by the court, or both.

1 2. In determining the amount, if any, to be awarded under subsection
2 1, the court shall consider:

- 3 (a) Whether the landlord acted in good faith;
4 (b) The course of conduct between the landlord and the tenant; and
5 (c) The degree of harm to the tenant caused by the landlord's conduct.

6 3. If the rental agreement is terminated, the landlord shall return all
7 *deposits for cleaning*, prepaid rent and *deposits for* security recoverable
8 under this chapter.

9 **Sec. 14.** NRS 118A.400 is hereby amended to read as follows:

10 118A.400 1. If the dwelling unit or premises are damaged or
11 destroyed by fire or casualty to an extent that enjoyment of the dwelling
12 unit is substantially impaired, the landlord may terminate the rental
13 agreement and the tenant may, in addition to any other remedy:

14 (a) Immediately vacate the premises and notify the landlord within 7
15 days thereafter of his intention to terminate the rental agreement, in which
16 case the rental agreement terminates as of the date of vacating.

17 (b) If continued occupancy is lawful, vacate any part of the dwelling
18 unit rendered unusable by the fire or casualty, in which case the tenant's
19 liability for rent is reduced in proportion to the diminution in the fair rental
20 value of the dwelling unit or lack of use of the dwelling unit.

21 2. If the rental agreement is terminated, the landlord shall return all
22 *deposits for cleaning*, prepaid rent and *deposits for* security recoverable
23 under this chapter. Accounting for rent in the event of termination or such
24 continued occupancy ~~{shall}~~ *must* be made as of the date the premises were
25 vacated.

26 3. This section does not apply if it is determined that the fire or
27 casualty ~~{were}~~ *was* caused by deliberate or negligent acts of the tenant, a
28 member of his household or other person on the premises with his consent.

29 **Sec. 15.** NRS 118A.510 is hereby amended to read as follows:

30 118A.510 1. Except as *otherwise* provided in subsection 3, the
31 landlord may not, in retaliation, terminate a tenancy, refuse to renew a
32 tenancy, increase rent or decrease essential services required by the rental
33 agreement or this chapter, or bring or threaten to bring an action for
34 possession if:

35 (a) The tenant has complained in good faith of a violation of a building,
36 housing or health code applicable to the premises and affecting health or
37 safety to a governmental agency charged with the responsibility for the
38 enforcement of that code;

39 (b) The tenant has complained in good faith to the landlord *or a law*
40 *enforcement agency* of a violation ~~{under}~~ *of* this chapter ~~{;}~~ *or of a*
41 *specific statute that imposes a criminal penalty;*

42 (c) The tenant has organized or become a member of a tenant's union or
43 similar organization;

- 1 (d) A citation has been issued resulting from a complaint described in
2 paragraph (a);
- 3 (e) The tenant has instituted or defended against a judicial or
4 administrative proceeding or arbitration in which he raised an issue of
5 compliance with the requirements of this chapter respecting the habitability
6 of dwelling units; or
- 7 (f) The tenant has failed or refused to give written consent to a
8 regulation adopted by the landlord, after the tenant enters into the rental
9 agreement, which requires the landlord to wait until the appropriate time
10 has elapsed before it is enforceable against the tenant.
- 11 2. If the landlord violates *any provision of* subsection 1, the tenant is
12 entitled to the remedies provided in NRS 118A.390 and has a defense in
13 any retaliatory action by the landlord for possession.
- 14 3. A landlord who acts under the circumstances described in
15 subsection 1 does not violate that subsection if:
- 16 (a) The violation of the applicable building, housing or health code of
17 which the tenant complained was caused primarily by the lack of
18 reasonable care by the tenant, a member of his household or other person
19 on the premises with his consent;
- 20 (b) The tenancy is terminated ~~{with cause;}~~ *for a cause listed in*
21 *subsection 1 of section 3 of this act;*
- 22 (c) A citation has been issued and compliance with the applicable
23 building, housing or health code requires alteration, remodeling or
24 demolition and cannot be accomplished unless the tenant's dwelling unit is
25 vacant; or
- 26 (d) The increase in rent applies in a uniform manner to all tenants.
27 The maintenance of an action under this subsection does not prevent the
28 tenant from seeking damages or injunctive relief for the landlord's failure
29 to comply with the rental agreement or maintain the dwelling unit in a
30 habitable condition as required by this chapter.
- 31 **Sec. 16.** NRS 118A.060 is hereby repealed.

TEXT OF REPEALED SECTION

118A.060 "Cause" defined. A tenancy is terminated with "cause"
for:

1. Nonpayment of rent.
2. Nonpayment of utility charges if the landlord customarily pays such
charges and submits a separate bill to the tenant.

3. Failure of the tenant to comply with:
 - (a) Basic obligations imposed on the tenant by this chapter;
 - (b) Valid rules or regulations established pursuant to this chapter; or
 - (c) Valid provisions of the rental agreement.
4. Condemnation of the dwelling unit.

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