

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; prohibiting a landlord from terminating a tenancy in violation of provisions governing discrimination in housing; revising certain rights and obligations of landlords and tenants; 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.** Chapter 118 of NRS is hereby amended by adding thereto a  
2 new section to read as follows:  
3     *A tenant has a defense in a summary proceeding or other action for*  
4 *possession of a dwelling if the landlord's attempt to terminate the*  
5 *tenancy or regain possession violates any provision of NRS 118.010 to*  
6 *118.120, inclusive, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et*  
7 *seq.*  
8     **Sec. 2.** NRS 118.030 is hereby amended to read as follows:  
9     118.030 As used in NRS 118.010 to 118.120, inclusive, ~~[except where]~~  
10 *and section 1 of this act, unless* the context otherwise requires, the words  
11 *and terms* defined in NRS 118.040 to 118.090, inclusive, have the  
12 meanings ascribed to them in those sections.

1     **Sec. 3.** NRS 118A.180 is hereby amended to read as follows:

2     118A.180   1. Except as provided in subsection 2, this chapter applies  
3 to, regulates and determines rights, obligations and remedies under a rental  
4 agreement, wherever made, for a dwelling unit or premises located within  
5 this state.

6     2. This chapter does not apply to:

7     (a) A rental agreement subject to the provisions of chapter 118B of  
8 NRS;

9     (b) Low-rent housing programs operated by public housing authorities  
10 and established pursuant to ~~42 U.S.C. §§ 1401 et seq., as amended;~~ *the*  
11 *United States Housing Act of 1937, 42 U.S.C. §§ 1437 et seq.;*

12     (c) A person who owns and personally manages four or fewer dwelling  
13 units, except with respect to the provisions of NRS 118A.200, 118A.300,  
14 118A.340, *118A.380*, 118A.450 and 118A.460;

15     (d) Residence in an institution, public or private, incident to detention or  
16 the provision of medical, geriatric, educational, counseling, religious or  
17 similar service;

18     (e) Occupancy under a contract of sale of a dwelling unit or the property  
19 of which it is a part, if the occupant is the purchaser or his successor in  
20 interest;

21     (f) Occupancy by a member of a fraternal or social organization in the  
22 portion of a structure operated for the benefit of the organization;

23     (g) Occupancy in a hotel or motel for less than 30 consecutive days  
24 unless the occupant clearly manifests an intent to remain for a longer  
25 continuous period;

26     (h) Occupancy by an employee of a landlord whose right to occupancy  
27 is solely conditional upon employment in or about the premises;

28     (i) Occupancy by an owner of a condominium unit or by a holder of a  
29 proprietary lease in a cooperative apartment; or

30     (j) Occupancy under a rental agreement covering premises used by the  
31 occupant primarily for agricultural purposes.

32     **Sec. 4.** NRS 118A.290 is hereby amended to read as follows:

33     118A.290   1. The landlord shall at all times during the tenancy  
34 maintain the dwelling unit in a habitable condition. A dwelling unit is not  
35 habitable if it substantially lacks:

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

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

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

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

43         (2) Furnished                   to                   appropriate                   fixtures;                   and

1 (3) Connected to a sewage disposal system approved under applicable  
2 law and maintained in good working order to the extent that the system can  
3 be controlled by the landlord.

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

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

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

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

18 (h) Floors, walls, ceilings, stairways and railings maintained in good  
19 repair.

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

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

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

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

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

33 **Sec. 5.** NRS 118A.380 is hereby amended to read as follows:

34 118A.380 1. If the landlord is required by the rental agreement or  
35 this chapter to supply heat, air conditioning, running water, hot water,  
36 ~~electric,~~ **electricity**, gas, or ~~other~~ **another** essential service and he  
37 willfully or negligently fails to do so, causing the premises to become unfit  
38 for habitation, the tenant shall give written notice to the landlord specifying  
39 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 dwelling  
9 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 may,  
23 without having given that notice, recover damages as authorized under  
24 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 violations  
29 of building, housing or health codes.

30 4. *The rights of the tenant under paragraph (c) of subsection 1 do*  
31 *not arise unless the tenant is current in the payment of rent at the time of*  
32 *giving written notice pursuant to subsection 1.*

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

36 **Sec. 6.** NRS 118A.510 is hereby amended to read as follows:

37 118A.510 1. Except as *otherwise* provided in subsection 3, the  
38 landlord may not, in retaliation, terminate a tenancy, refuse to renew a  
39 tenancy, increase rent or decrease essential services required by the rental  
40 agreement or this chapter, or bring or threaten to bring an action for  
41 possession if:

42 (a) The tenant has complained in good faith of a violation of a building,  
43 housing or health code applicable to the premises and affecting health or

1 safety to a governmental agency charged with the responsibility for the  
2 enforcement of that code;

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

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

8 (d) A citation has been issued resulting from a complaint described in  
9 paragraph (a);

10 (e) The tenant has instituted or defended against a judicial or  
11 administrative proceeding or arbitration in which he raised an issue of  
12 compliance with the requirements of this chapter respecting the habitability  
13 of dwelling units; ~~or~~

14 (f) The tenant has failed or refused to give written consent to a  
15 regulation adopted by the landlord, after the tenant enters into the rental  
16 agreement, which requires the landlord to wait until the appropriate time  
17 has elapsed before it is enforceable against the tenant ~~or~~; **or**

18 **(g) The tenant has complained in good faith to the landlord, a**  
19 **government agency, an attorney, a fair housing agency or any other**  
20 **appropriate body of a violation of NRS 118.010 to 118.120, inclusive, or**  
21 **the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise**  
22 **exercised rights which are guaranteed or protected under those laws.**

23 2. If the landlord violates **any provision of** subsection 1, the tenant is  
24 entitled to the remedies provided in NRS 118A.390 and has a defense in  
25 any retaliatory action by the landlord for possession.

26 3. A landlord who acts under the circumstances described in subsection  
27 1 does not violate that subsection if:

28 (a) The violation of the applicable building, housing or health code of  
29 which the tenant complained was caused primarily by the lack of  
30 reasonable care by the tenant, a member of his household or other person  
31 on the premises with his consent;

32 (b) The tenancy is terminated with cause;

33 (c) A citation has been issued and compliance with the applicable  
34 building, housing or health code requires alteration, remodeling or  
35 demolition and cannot be accomplished unless the tenant's dwelling unit is  
36 vacant; or

37 (d) The increase in rent applies in a uniform manner to all tenants.  
38 The maintenance of an action under this subsection does not prevent the  
39 tenant from seeking damages or injunctive relief for the landlord's failure  
40 to comply with the rental agreement or maintain the dwelling unit in a  
41 habitable condition as required by this chapter.