

ASSEMBLY BILL No. 462—ASSEMBLYMEN BUCKLEY, ANDERSON,
CARPENTER, MANENDO, MCCLAIN, LESLIE, KOIVISTO, CLABORN, COLLINS,
DE BRAGA AND WILLIAMS

MARCH 10, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning landlords and tenants. (BDR 3-913)

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 property; prohibiting a landlord from refusing to accept rent from a tenant in certain circumstances; revising the definition of rent set forth in the Residential Landlord and Tenant Act; 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 40.253 is hereby amended to read as follows:
2 40.253 1. Except as otherwise provided in subsection ~~9,~~ **10**, in
3 addition to the remedy provided in NRS 40.2512 and ~~in NRS~~ 40.290 to
4 40.420, inclusive, when the tenant of any dwelling, apartment, mobile
5 home, recreational vehicle or commercial premises with periodic rent
6 reserved by the month or any shorter period is in default in payment of the
7 rent, the landlord or his agent, unless otherwise agreed in writing, may
8 serve or have served a notice in writing, requiring in the alternative the
9 payment of the rent or the surrender of the premises:
10 (a) At or before noon of the fifth full day following the day of service;
11 or
12 (b) If the landlord chooses not to proceed in the manner set forth in
13 paragraph (a) and the rent is reserved by a period of 1 week or less and the
14 tenancy has not continued for more than 45 days, at or before noon of the
15 fourth full day following the day of service.
16 As used in this subsection, “day of service” means the day the landlord or
17 his agent personally delivers the notice to the tenant. If personal service

1 was not so delivered, the “day of service” means the day the notice is
2 delivered, after posting and mailing pursuant to subsection 2, to the sheriff
3 or constable for service if the request for service is made before noon. If
4 the request for service by the sheriff or constable is made after noon, the
5 “day of service” shall be deemed to be the day next following the day that
6 the request is made for service by the sheriff or constable.

7 2. A landlord or his agent who serves a notice to a tenant pursuant to
8 paragraph (b) of subsection 1 shall attempt to deliver the notice in person
9 in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If
10 the notice cannot be delivered in person, the landlord or his agent:

11 (a) Shall post a copy of the notice in a conspicuous place on the
12 premises and mail the notice by overnight mail; and

13 (b) After the notice has been posted and mailed, may deliver the notice
14 to the sheriff or constable for service in the manner set forth in subsection
15 1 of NRS 40.280. The sheriff or constable shall not accept the notice for
16 service unless it is accompanied by written evidence, signed by the tenant
17 when he took possession of the premises, that the landlord or his agent
18 informed the tenant of the provisions of this section which set forth the
19 lawful procedures for eviction from a short-term tenancy. Upon
20 acceptance, the sheriff or constable shall serve the notice within 48 hours
21 after the request for service was made by the landlord or his agent.

22 3. A notice served pursuant to subsection 1 or 2 must:

23 (a) Identify the court that has jurisdiction over the matter; and

24 (b) Advise the tenant of his right to contest the matter by filing, within
25 the time specified in subsection 1 for the payment of the rent or surrender
26 of the premises, an affidavit with the court that has jurisdiction over the
27 matter stating that he has tendered payment or is not in default in the
28 payment of the rent.

29 4. If the tenant files such an affidavit at or before the time stated in the
30 notice, the landlord or his agent, after receipt of a file-stamped copy of the
31 affidavit which was filed, shall not provide for the nonadmittance of the
32 tenant to the premises by locking or otherwise.

33 5. Upon noncompliance with the notice:

34 (a) The landlord or his agent may apply by affidavit of complaint for
35 eviction to the justice’s court of the township in which the dwelling,
36 apartment, mobile home or commercial premises are located or to the
37 district court of the county in which the dwelling, apartment, mobile home
38 or commercial premises are located, whichever has jurisdiction over the
39 matter. The court may thereupon issue an order directing the sheriff or
40 constable of the county to remove the tenant within 24 hours after receipt
41 of the order. The affidavit must state or contain:

42 (1) The date the tenancy commenced.

43 (2) The amount of periodic rent reserved.

1 (3) The amounts of any cleaning, security or rent deposits paid in
2 advance, in excess of the first month's rent, by the tenant.

3 (4) The date the rental payments became delinquent.

4 (5) The length of time the tenant has remained in possession without
5 paying rent.

6 (6) The amount of rent claimed due and delinquent.

7 (7) A statement that the written notice was served on the tenant in
8 accordance with NRS 40.280.

9 (8) A copy of the written notice served on the tenant.

10 (9) A copy of the signed written rental agreement, if any.

11 (b) Except when the tenant has timely filed the affidavit described in
12 subsection 3 and a file-stamped copy of it has been received by the
13 landlord or his agent, and except when the landlord is prohibited pursuant
14 to NRS 118A.480, the landlord or his agent may, in a peaceable manner,
15 provide for the nonadmittance of the tenant to the premises by locking or
16 otherwise.

17 6. Upon the filing by the tenant of the affidavit permitted in subsection
18 3, regardless of the information contained in the affidavit, and the filing by
19 the landlord of the affidavit permitted by subsection 5, the justice's court
20 or the district court shall hold a hearing, after service of notice of the
21 hearing upon the parties, to determine the truthfulness and sufficiency of
22 any affidavit or notice provided for in this section. If the court determines
23 that there is no legal defense as to the alleged unlawful detainer and the
24 tenant is guilty of an unlawful detainer, the court may issue a summary
25 order for removal of the tenant or an order providing for the nonadmittance
26 of the tenant. If the court determines that there is a legal defense as to the
27 alleged unlawful detainer, the court shall refuse to grant either party any
28 relief, and, except as otherwise provided in this subsection, shall require
29 that any further proceedings be conducted pursuant to NRS 40.290 to
30 40.420, inclusive. The issuance of a summary order for removal of the
31 tenant does not preclude an action by the tenant for any damages or other
32 relief to which he may be entitled. If the alleged unlawful detainer was
33 based upon subsection 5 of NRS 40.2514, the refusal by the court to grant
34 relief does not preclude the landlord thereafter from pursuing an action for
35 unlawful detainer in accordance with NRS 40.251.

36 7. The tenant may, upon payment of the appropriate fees relating to
37 the filing and service of a motion, file a motion with the court, on a form
38 provided by the clerk of the court, to dispute the amount of the costs, if
39 any, claimed by the landlord pursuant to NRS 118A.460 for the inventory,
40 moving and storage of personal property left on the premises. The motion
41 must be filed within 20 days after the summary order for removal of the
42 tenant or the abandonment of the premises by the tenant, or within 20 days
43 after:

- 1 (a) The tenant has vacated or been removed from the premises; and
2 (b) A copy of those charges has been requested by or provided to the
3 tenant,
4 whichever is later.

5 8. Upon the filing of a motion pursuant to subsection 7, the court shall
6 schedule a hearing on the motion. The hearing must be held within 10 days
7 after the filing of the motion. The court shall affix the date of the hearing
8 to the motion and order a copy served upon the landlord by the sheriff,
9 constable or other process server. At the hearing, the court may:

10 (a) Determine the costs, if any, claimed by the landlord pursuant to
11 NRS 118A.460, and any accumulating daily costs; and

12 (b) Order the release of the tenant's property upon the payment of the
13 charges determined to be due or if no charges are determined to be due.

14 9. *A landlord shall not refuse to accept rent from a tenant that is*
15 *submitted after the landlord or his agent has served or had served a*
16 *notice pursuant to subsection 1 if the refusal is based on the fact that the*
17 *tenant has not paid collection fees, attorney's fees or other costs other*
18 *than rent, a reasonable charge for late payments of rent or dishonored*
19 *checks, or a security. As used in this subsection, "security" has the*
20 *meaning ascribed to it in NRS 118A.240.*

21 10. This section does not apply to the tenant of a mobile home lot in a
22 mobile home park or to the tenant of a recreational vehicle lot in an area of
23 a mobile home park in this state other than an area designated as a
24 recreational vehicle lot pursuant to the provisions of subsection 6 of NRS
25 40.215.

26 Sec. 2. NRS 118A.150 is hereby amended to read as follows:

27 118A.150 "Rent" means all *periodic* payments to be made to the
28 landlord ~~under~~ *for occupancy of a dwelling unit, including, without*
29 *limitation, all reasonable and actual late fees set forth in* the rental
30 agreement.