

Amendment No. 442

Assembly Amendment to Assembly Bill No. 454

(BDR 10-839)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

AMI/RRY



Date: 4/15/2009

A.B. No. 454—Revises certain provisions relating to housing. (BDR 10-839)



ASSEMBLY BILL NO. 454—ASSEMBLYMEN OHRENSCHALL, BUCKLEY, MANENDO, SEGERBLOM, KIHUEN; AIZLEY, ANDERSON, BOBZIEN, CLABORN, CONKLIN, DENIS, GOICOECHEA, HOGAN, KOIVISTO, LESLIE, MASTROLUCA, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, PIERCE AND SMITH

MARCH 16, 2009

JOINT SPONSORS: SENATORS PARKS; CARLTON AND LEE

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions relating to housing. (BDR 10-839)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 housing; revising certain provisions relating to the grounds of termination for certain rental or lease agreements affecting certain tenants in a manufactured home park; ~~revising certain costs a landlord is required to pay in association with the closing or conversion of a manufactured home park;~~ revising certain provisions relating to an appeal from a judgment in an unlawful detainer action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law requires a landlord to pay to a tenant the costs of moving the tenant or the fair market value of a manufactured home under certain circumstances during the closing or conversion of a manufactured home park. Existing law also authorizes a landlord to remove and dispose of a manufactured home and requires the landlord to pay to the tenant the fair market value of the manufactured home if the tenant chooses not to move the manufactured home under certain other circumstances. Sections 1-4 of this bill require a landlord, under those circumstances, to pay to the tenant the fair market value of the manufactured home minus the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever amount is greater. (NRS 118B.130, 118B.177, 118B.180, 118B.183.) Section 5 of this bill provides that a rental agreement between a landlord and a tenant for the rental or lease of certain lots in a manufactured home park in this State may only be terminated on one or more of the grounds listed in existing law regardless of the fact that a notice of termination may have been served upon the tenant. (NRS 118B.190, 118B.200)~~

Existing law provides that an eviction may be initiated by filing an unlawful detainer action or by using the procedures for summary eviction. (NRS 40.215-40.425) Existing law also generally provides that a person may obtain a stay of execution upon an appeal from an order entered in an action: (1) for summary eviction by filing with the trial court a bond in the amount of \$250; and (2) for unlawful detainer if the person is a defendant and, within 10 days after the judgment is rendered, he files with the court or justice a bond with two or more sureties in the amount determined by the court or justice but that is not less than twice the

amount of the judgment and costs. (NRS 40.380, 40.385) Existing law further provides that the summary eviction process may not be used against certain tenants in mobile home parks. (NRS 40.253) **Section 6** of this bill changes the amount of the bond that certain defendants who are tenants in a mobile home park are required to file to obtain a stay of execution upon an appeal from an order entered in an action for unlawful detainer from twice the amount of the judgment and costs to \$250. Section 6 also: (1) requires certain tenants in a mobile home park who retain possession of the premises that are the subject of the appeal to pay the landlord the rent in the amount provided in the underlying contract as it becomes due; and (2) authorizes, under certain circumstances, the court or justice to vacate the stay of execution if such a tenant fails to pay the rent. (NRS 40.380)

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

Section 1. ~~[NRS 118B.120 is hereby amended to read as follows:~~

- ~~1. A landlord may not change:~~
 - ~~(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or~~
 - ~~(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.~~
- ~~2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.~~
- ~~3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:~~
 - ~~(a) The address and telephone number of the Division;~~
 - ~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~
 - ~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~
- ~~4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:~~
 - ~~(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~
 - ~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.~~
- ~~5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.~~
- ~~6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~
 - ~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home [-] less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

~~7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:~~

~~(a) Tenant of the park who does not meet the new restrictions; and~~

~~(b) Prospective tenant before the commencement of the tenancy.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.] (Deleted by amendment.)~~

Sec. 2. [NRS 118B.177 is hereby amended to read as follows:

~~118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.~~

~~2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces;~~

~~3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:~~

~~(a) The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~

~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles;~~

~~including fees for inspection, any deposits for connecting utilities, and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.~~

~~4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.~~

~~5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home [.] less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

~~6. Written notice of any closure must be served timely on each:~~

~~(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.~~

~~(b) Prospective tenant by:~~

~~(1) Handing each prospective tenant or his agent a copy of the written notice; and~~

~~(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.~~

~~7. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.~~

~~9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.~~

~~10. If a landlord begins the process of closing a manufactured home park, he shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.~~

~~11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.] (Deleted by amendment.)~~

Sec. 3. [NRS 118B.180 is hereby amended to read as follows:

~~118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.~~

~~2. The landlord may undertake a conversion pursuant to this section only if:~~

~~(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;~~

~~(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;~~

~~(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;~~

~~(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:~~

~~(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within 100 miles from the manufactured home park; or~~

~~(2) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park;~~

~~(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and~~

~~(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement;~~

~~3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces;~~

~~4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.~~

~~5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home [.] ***less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.***~~

~~6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.~~

~~7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 5.~~

~~10. The provisions of this section do not apply to a corporate cooperative park.~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 118B.183 is hereby amended to read as follows:~~

~~118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.~~

~~2. The landlord may undertake a conversion pursuant to this section only if:~~

~~(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;~~

~~(b) The landlord pays the amounts required by subsections 4, 5 and 6;~~

~~(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and~~

~~(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.~~

~~3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:~~

~~(a) The address and telephone number of the Division;~~

~~(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and~~

~~(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.~~

~~4. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:~~

~~(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or~~

~~(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,~~

~~including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.~~

~~5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant \$250 as reimbursement for the shed. Each tenant may receive only one payment of \$250 even if more than one shed is owned by the tenant.~~

~~6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:~~

~~(a) May remove and dispose of the manufactured home; and~~

~~(b) Shall pay to the tenant the fair market value of the manufactured home [-] less the reasonable cost of removing and disposing of the manufactured home or \$5,000, whichever is greater.~~

~~7. A landlord shall not increase the rent of any tenant.~~

~~(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or~~

~~(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:~~

~~(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and~~

~~(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.~~

~~8. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:~~

~~(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or~~

~~(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.~~

~~9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.~~

~~10. The provisions of this section do not apply to a corporate cooperative park.~~ **(Deleted by amendment.)**

Sec. 5. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy ~~for~~ **or service of a notice pursuant to subsection 1 of NRS 118B.190**, the rental agreement described in NRS 118B.190 may not be terminated except ~~for~~ **on one or more of the following grounds:**

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to quit for failure to pay rent in the preceding 12-month period may have his tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 6. NRS 40.380 is hereby amended to read as follows:

40.380 *1.* Either party may, within 10 days, appeal from the judgment rendered. ~~But~~ *Except as otherwise provided in subsection 2,* an appeal by the defendant shall not stay the execution of the judgment, unless, within the 10 days, he ~~shall execute and file~~ *executes and files* with the court or justice his undertaking to the plaintiff, with two or more sureties, in an amount to be fixed by the court or justice, but which ~~shall~~ *must* not be less than twice the amount of the judgment and costs, to the effect that, if the judgment appealed from be affirmed or the appeal be dismissed, the appellant will pay the judgment and the cost of appeal, the value of the use and occupation of the property, and damages justly accruing to the plaintiff during the pendency of the appeal. Upon taking the appeal and filing the undertaking, all further proceedings in the case ~~shall~~ *must* be stayed.

2. If the appeal is by a defendant who is a tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the total amount of the sureties required to be executed and filed with the court or justice pursuant to subsection 1 is \$250 except as otherwise provided in this subsection. In an action concerning a lease of a such a lot in a mobile home park for which the monthly rent exceeds \$1,000, the court or justice may, upon its or his own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.

3. A tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215 who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If such a tenant fails to pay rent within 10 days after the date on which the rent is due, the court or justice shall vacate the stay of execution upon proper motion by the landlord if the court or justice determines that the tenant has failed to pay the required rent for the applicable period. Any payment made by a tenant pursuant to this subsection must first be credited against the rent required for the current month.