

ASSEMBLY BILL NO. 398—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

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JOINT SPONSOR: SENATOR PARKS

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to commercial tenancies.  
(BDR 10-664)

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.

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AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; establishing requirements for accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances; setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 14** of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

**Section 15** of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

**Sections 16 and 27** of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

**Sections 17-23** of this bill set forth requirements for the accounting for, refund of and charges against security deposits.



10       **Section 24** of this bill prohibits a landlord from charging a tenant for rent or  
11       physical damages to commercial premises except under certain circumstances.

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

1       **Section 1.** Title 10 of NRS is hereby amended by adding  
2       thereto a new chapter to consist of the provisions set forth as  
3       sections 2 to 24, inclusive, of this act.

4       **Sec. 2.** *As used in sections 2 to 24, inclusive, of this act,*  
5       *unless the context otherwise requires, the words and terms defined*  
6       *in sections 3 to 12, inclusive, of this act, have the meanings*  
7       *ascribed to them in those sections.*

8       **Sec. 3.** *“Abandoned personal property” means any personal*  
9       *property which is left unattended on commercial premises after*  
10       *the termination of the tenancy and which is not removed by the*  
11       *tenant or a person who has an ownership interest in the personal*  
12       *property within 14 days after the date on which the landlord*  
13       *mailed, by certified mail, return receipt requested, notice of the*  
14       *landlord’s intention to dispose of the personal property, as*  
15       *required by paragraph (a) of subsection 1 of section 16 of this act.*

16       **Sec. 4.** *“Action” includes a counterclaim, crossclaim, third-*  
17       *party claim or any other proceeding in which rights are*  
18       *determined.*

19       **Sec. 4.5.** *“Commercial premises” means any real property*  
20       *other than premises as defined in NRS 118A.140.*

21       **Sec. 5.** *“Court” means the district court, justice court or*  
22       *other court of competent jurisdiction situated in the county or*  
23       *township wherein the commercial premises are located.*

24       **Sec. 6.** *“Landlord” means a person who provides*  
25       *commercial premises for use by another person pursuant to a*  
26       *rental agreement.*

27       **Sec. 7.** *“Owner” means one or more persons, jointly or*  
28       *severally, in whom is vested:*

29       1. *All or part of the legal title to a commercial premises,*  
30       *except a trustee under a deed of trust who is not in possession of*  
31       *the commercial premises; or*

32       2. *All or part of the beneficial ownership, and a right to*  
33       *present use and enjoyment of the commercial premises.*

34       **Sec. 8.** *“Person” includes a government, a governmental*  
35       *agency and a political subdivision of a government.*

36       **Sec. 9.** *“Rent” means all periodic payments to be made to the*  
37       *landlord for occupancy of commercial premises, including,*  
38       *without limitation, all reasonable and actual late fees set forth in*  
39       *the rental agreement.*



1     **Sec. 10.** *“Rental agreement” means an agreement to lease or*  
2 *sublease commercial premises for a term less than life which*  
3 *provides for the periodic payment of rent.*

4     **Sec. 11.** *“Security deposit” means any advance of money,*  
5 *other than a deposit for a rental application or a payment in*  
6 *advance of rent, that is intended primarily to secure performance*  
7 *under a rental agreement.*

8     **Sec. 12.** *“Tenant” means a person who has the right to*  
9 *possess commercial premises pursuant to a rental agreement.*

10    **Sec. 13.** *The provisions of sections 2 to 24, inclusive, of this*  
11 *act apply only to the relationship between landlords and tenants of*  
12 *commercial premises.*

13    **Sec. 14. 1.** *A landlord or a landlord’s agent may not*  
14 *interrupt or cause the interruption of utility service paid for*  
15 *directly to the utility company by a tenant unless the interruption*  
16 *results from construction, bona fide repairs or an emergency.*

17       **2.** *A landlord may not remove:*

18       (a) *A door, window or attic hatchway cover;*

19       (b) *A lock, latch, hinge, hinge pin, doorknob or other*  
20 *mechanism connected to a door, window or attic hatchway cover;*  
21 *or*

22       (c) *Furniture, fixtures or appliances furnished by the landlord,*  
23 *↪ from commercial premises unless the landlord removes the item*  
24 *for a bona fide repair or replacement. If a landlord removes any of*  
25 *the items listed in this subsection for a bona fide repair or*  
26 *replacement, the repair or replacement must be promptly*  
27 *performed.*

28       **3.** *A landlord may not intentionally prevent a tenant from*  
29 *entering the commercial premises except by judicial process unless*  
30 *the exclusion results from:*

31       (a) *Construction, bona fide repairs or an emergency;*

32       (b) *Removing the contents of commercial premises abandoned*  
33 *by a tenant; or*

34       (c) *Changing the door locks of a tenant who is delinquent in*  
35 *paying at least part of the rent.*

36       **4.** *If a landlord or a landlord’s agent changes the door lock*  
37 *of commercial premises leased to a tenant who is delinquent in*  
38 *paying rent, the landlord or agent must place a written notice on*  
39 *the front door of the commercial premises stating the name and*  
40 *the address or telephone number of the person or company from*  
41 *which the new key may be obtained. The new key is required to be*  
42 *provided only during the regular business hours of the tenant and*  
43 *only if the tenant pays the delinquent rent.*

44       **5.** *If a landlord or a landlord’s agent violates this section, the*  
45 *tenant may:*



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1     (a) *Recover possession of the commercial premises or*  
2 *terminate the rental agreement; and*

3     (b) *Recover from the landlord an amount equal to the sum of*  
4 *the tenant's actual damages, one month's rent or \$500, whichever*  
5 *is greater, reasonable attorney's fees and court costs, less any*  
6 *delinquent rents or other sums for which the tenant is liable to the*  
7 *landlord.*

8     6. *A rental agreement supersedes this section to the extent of*  
9 *any conflict.*

10    **Sec. 15.** 1. *If a landlord locks a tenant out of commercial*  
11 *premises that is subject to a rental agreement in violation of*  
12 *section 14 of this act, the tenant may recover possession of the*  
13 *commercial premises as provided by this section.*

14     2. *A tenant must file with the justice court of the township in*  
15 *which the commercial premises are located or with the district*  
16 *court of the county in which the commercial premises are located,*  
17 *whichever has jurisdiction over the matter, a verified complaint*  
18 *for reentry, specifying the facts of the alleged unlawful lockout by*  
19 *the landlord or the landlord's agent. The tenant must also state*  
20 *orally under oath to the court the facts of the alleged unlawful*  
21 *lockout.*

22     3. *If a tenant has complied with subsection 2 and if the court*  
23 *reasonably believes an unlawful lockout may have occurred, the*  
24 *court may issue, ex parte, a temporary writ of restitution that*  
25 *entitles the tenant to immediate and temporary possession of the*  
26 *commercial premises, pending a final hearing on the tenant's*  
27 *verified complaint for reentry.*

28     4. *A temporary writ of restitution must be served on the*  
29 *landlord or the landlord's agent in the same manner as a writ of*  
30 *restitution in a forcible detainer action. A sheriff or constable may*  
31 *use reasonable force in executing a temporary writ of restitution*  
32 *under this subsection.*

33     5. *A landlord is entitled to a hearing on a tenant's verified*  
34 *complaint for reentry. A temporary writ of restitution must notify*  
35 *the landlord of the right to a hearing. The hearing must be held*  
36 *not earlier than the first day and not later than the seventh day*  
37 *after the date the landlord requests a hearing.*

38     6. *If a landlord fails to request a hearing on a tenant's*  
39 *verified complaint for reentry before the eighth day after the date*  
40 *of service of the temporary writ of restitution on the landlord*  
41 *under subsection 4, a judgment for court costs may be rendered*  
42 *against the landlord.*

43     7. *A party may appeal from the court's judgment at the*  
44 *hearing on the verified complaint for reentry in the same manner*



1 as a party may appeal a judgment in an action for forcible  
2 detainer.

3 8. If a writ of restitution is issued, the writ supersedes a  
4 temporary writ of restitution.

5 9. If the landlord or the person on whom a writ of restitution  
6 is served fails to immediately comply with the writ or later disobeys  
7 the writ, the failure is grounds for contempt of court against the  
8 landlord or the person on whom the writ was served, under  
9 chapter 22 of NRS. If the writ is disobeyed, the tenant or the  
10 tenant's attorney may file in the court in which the reentry action  
11 is pending an affidavit stating the name of the person who has  
12 disobeyed the writ and describing the acts or omissions  
13 constituting the disobedience. On receipt of an affidavit, the court  
14 shall issue an order to show cause, directing the person to appear  
15 on a designated date and show cause why the person should not be  
16 adjudged in contempt of court. If the court finds, after considering  
17 the evidence at the hearing, that the person has directly or  
18 indirectly disobeyed the writ, the court may commit the person to  
19 jail without bail until the person purges himself or herself of the  
20 contempt in a manner and form as the court may direct. If the  
21 person disobeyed the writ before receiving the order to show cause  
22 but has complied with the writ after receiving the order, the court  
23 may find the person in contempt and punish the person under  
24 chapter 22 of NRS.

25 10. This section does not affect a tenant's right to pursue a  
26 separate cause of action under section 14 of this act.

27 11. If a tenant in bad faith files a sworn complaint for reentry  
28 resulting in a writ of restitution being served on the landlord or  
29 landlord's agent, the landlord may in a separate cause of action  
30 recover from the tenant an amount equal to actual damages, one  
31 month's rent or \$500, whichever is greater, reasonable attorney's  
32 fees, and costs of court, less any sums for which the landlord is  
33 liable to the tenant.

34 12. The fee for filing a verified complaint for reentry is the  
35 same as that for filing a civil action in the court in which  
36 the verified complaint is filed. The court may defer payment of the  
37 tenant's filing fees and service costs for the verified complaint for  
38 reentry and writ of restitution. Court costs may be waived only if  
39 the tenant files an affidavit under NRS 12.015.

40 13. This section does not affect the rights of a landlord or  
41 tenant in a forcible detainer, unlawful detainer or forcible entry  
42 and detainer action.

43 **Sec. 16.** 1. Except as otherwise provided in subsection 3, a  
44 landlord who leases or subleases any commercial premises under  
45 a rental agreement that has been terminated for any reason may,



1 *in accordance with the following provisions, dispose of any*  
2 *abandoned personal property, regardless of its character, left on*  
3 *the commercial premises without incurring any civil or criminal*  
4 *liability:*

5 *(a) The landlord may dispose of the abandoned personal*  
6 *property and recover his or her reasonable costs out of the*  
7 *abandoned personal property or the value thereof if the landlord*  
8 *has notified the tenant in writing of the landlord's intention to*  
9 *dispose of the abandoned personal property and 14 days have*  
10 *elapsed since the notice was mailed to the tenant. The notice must*  
11 *be mailed, by certified mail, return receipt requested, to the tenant*  
12 *at the tenant's present address, and if that address is unknown,*  
13 *then at the tenant's last known address.*

14 *(b) The landlord may charge and collect the reasonable and*  
15 *actual costs of inventory, moving and safe storage, if necessary,*  
16 *before releasing the abandoned personal property to the tenant or*  
17 *his or her authorized representative rightfully claiming the*  
18 *abandoned personal property within the appropriate period set*  
19 *forth in paragraph (a).*

20 *(c) Vehicles must be disposed of in the manner provided in*  
21 *chapter 487 of NRS for abandoned vehicles.*

22 *2. A tenant of commercial premises is presumed to have*  
23 *abandoned the premises if:*

24 *(a) Goods, equipment or other property, in an amount*  
25 *substantial enough to indicate a probable intent to abandon the*  
26 *commercial premises, is being or has been removed from the*  
27 *commercial premises; and*

28 *(b) The removal is not within the normal course of business of*  
29 *the tenant.*

30 *3. If a written agreement between a landlord and a person*  
31 *who has an ownership interest in any abandoned personal*  
32 *property of the tenant contains provisions which relate to the*  
33 *removal and disposal of abandoned personal property, the*  
34 *provisions of the agreement determine the rights and obligations*  
35 *of the landlord and the person with respect to the removal and*  
36 *disposal of the abandoned personal property.*

37 *4. Any dispute relating to the amount of the costs claimed by*  
38 *the landlord pursuant to paragraph (b) of subsection 1 may be*  
39 *resolved using the procedure provided in subsection 7 of*  
40 *NRS 40.253.*

41 **Sec. 17. 1. A landlord shall refund a security deposit to a**  
42 **tenant not later than 60 days after the date on which the tenant**  
43 **surrenders the commercial premises and provides notice to the**  
44 **landlord or the landlord's agent of the mailing address of the**  
45 **tenant pursuant to section 21 of this act.**



1       2. A claim of a tenant to a security deposit to which the tenant  
2 is entitled takes priority over the claim of any creditor of the  
3 landlord, including a trustee in bankruptcy.

4       **Sec. 18.** 1. Before returning a security deposit, a landlord  
5 may deduct from the deposit damages and charges for which the  
6 tenant is legally liable under the rental agreement or damages and  
7 charges that result from a breach of the rental agreement.

8       2. A landlord may not retain any portion of a security deposit  
9 to cover normal wear and tear. For the purposes of this  
10 subsection, "normal wear and tear" means deterioration that  
11 results from the intended use of the commercial premises,  
12 including breakage or malfunction because of age or deteriorated  
13 condition, but the term does not include deterioration that results  
14 from negligence, carelessness, accident or abuse of the  
15 commercial premises, equipment, or chattels by the tenant or by a  
16 guest or invitee of the tenant.

17       3. If a landlord retains all or part of a security deposit under  
18 this section, the landlord shall give to the tenant the balance of the  
19 security deposit, if any, together with a written description and  
20 itemized list of all deductions. The landlord is not required to give  
21 the tenant a description and itemized list of deductions if:

22       (a) The tenant owes rent when the tenant surrenders  
23 possession of the commercial premises; and

24       (b) No controversy exists concerning the amount of rent owed.

25       **Sec. 19.** 1. Except as otherwise provided in subsection 4, if  
26 an owner's interest in commercial premises is terminated by sale,  
27 assignment, death, appointment of a receiver, bankruptcy or  
28 otherwise, the new owner is liable with respect to the security  
29 deposit pursuant to sections 2 to 24, inclusive, of this act from the  
30 date title to the premises is acquired, regardless of whether an  
31 acknowledgment is given to the tenant under subsection 2.

32       2. Except as otherwise provided in subsection 1, a person who  
33 no longer owns an interest in the commercial premises remains  
34 liable for a security deposit received while the person was the  
35 owner until the new owner delivers to the tenant a signed  
36 statement acknowledging that the new owner has received and is  
37 responsible for the tenant's security deposit and specifying the  
38 exact dollar amount of the deposit.

39       3. The amount of a security deposit for which a new owner is  
40 liable pursuant to this section is the greater of:

41       (a) The amount provided in the tenant's rental agreement; or

42       (b) The amount provided in an estoppel certificate prepared by  
43 the owner at the time the rental agreement was executed or  
44 prepared by the new owner at the time the commercial premises is  
45 transferred.





1     4. Subsection 1 does not apply to a person who acquires title  
2     to the premises by foreclosure.

3     **Sec. 20.** A landlord shall keep accurate records of all  
4     security deposits.

5     **Sec. 21.** 1. A landlord is not obligated to return a security  
6     deposit to a tenant or give the tenant a written description of  
7     damages and charges until the tenant provides to the landlord in  
8     writing a mailing address to which the security deposit or written  
9     description are to be sent.

10    2. A tenant does not forfeit the right to a refund of a security  
11    deposit or the right to receive a description of damages and  
12    charges for failing to give a mailing address to the landlord.

13    **Sec. 22.** 1. A tenant may not withhold payment of any  
14    portion of the last month's rent on grounds that a security deposit  
15    is security for unpaid rent.

16    2. A tenant who violates this section is presumed to have  
17    acted in bad faith. A tenant who in bad faith violates this section is  
18    liable to the landlord for an amount equal to three times the rent  
19    wrongfully withheld and the landlord's reasonable attorney's fees  
20    in an action to recover the rent.

21    **Sec. 23.** 1. A landlord who in bad faith retains a security  
22    deposit in violation of sections 2 to 24, inclusive, of this act is  
23    liable for an amount equal to the sum of \$100, three times the  
24    portion of the deposit wrongfully withheld, and the tenant's  
25    reasonable attorney's fees incurred in an action to recover the  
26    deposit after the period prescribed for returning the deposit  
27    expires.

28    2. A landlord who in bad faith does not provide a written  
29    description and itemized list of damages and charges in violation  
30    of sections 2 to 24, inclusive, of this act:

31    (a) Forfeits the right to withhold any portion of the security  
32    deposit or to bring suit against the tenant for damages to the  
33    commercial premises; and

34    (b) Is liable for the tenant's reasonable attorney's fees in an  
35    action to recover the deposit.

36    3. In an action brought by a tenant under sections 2 to 24,  
37    inclusive, of this act, the landlord has the burden of proving that  
38    the retention of any portion of a security deposit was reasonable.

39    4. Except as otherwise provided in subsection 1 of section 21  
40    of this act, a landlord who fails to return a security deposit or to  
41    provide a written description and itemized list of deductions within  
42    60 days after the date the tenant surrenders possession of the  
43    commercial premises is presumed to have acted in bad faith.

44    **Sec. 24.** 1. A landlord may not assess a charge, excluding a  
45    charge for rent or physical damage to the commercial premises, to



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1 *a tenant unless the amount of the charge or the method by which*  
2 *the charge is to be computed is stated in the rental agreement, an*  
3 *exhibit or attachment that is part of the rental agreement or an*  
4 *amendment to the rental agreement.*

5 *2. This section does not affect the right of a landlord to assess*  
6 *a charge or obtain a remedy allowed under a statute or common*  
7 *law.*

8 **Sec. 25.** NRS 118.171 is hereby amended to read as follows:

9 118.171 As used in NRS 118.171 to ~~118.207.~~ **118.205,**  
10 inclusive, unless the context otherwise requires:

11 1. ~~["Abandoned personal property" means any personal~~  
12 ~~property which is left unattended on any commercial premises after~~  
13 ~~the termination of the tenancy and which is not removed by the~~  
14 ~~tenant or a person who has a perfected lien on, or perfected security~~  
15 ~~interest in, the personal property within 14 days after the later of the~~  
16 ~~date on which the landlord:~~

17 ~~—(a) Mailed, by certified mail, return receipt requested, notice of~~  
18 ~~the landlord's intention to dispose of the personal property, as~~  
19 ~~required by subparagraph (1) of paragraph (a) of subsection 1 of~~  
20 ~~NRS 118.207; or~~

21 ~~—(b) Provided notice to a person who has a perfected lien on, or a~~  
22 ~~perfected security interest in, the personal property that the personal~~  
23 ~~property has been left on the premises, as required by subparagraph~~  
24 ~~(2) of paragraph (a) of subsection 1 of NRS 118.207.~~

25 ~~—2.]~~ "Real property" includes an apartment, a dwelling, a mobile  
26 home that is owned by a landlord and located on property owned by  
27 the landlord and commercial premises.

28 ~~[3.]~~ 2. "Rental agreement" means an agreement to lease or  
29 sublease real property for a term less than life which provides for  
30 the periodic payment of rent.

31 ~~[4.]~~ 3. "Tenant" means a person who has the right to possess  
32 real property pursuant to a rental agreement.

33 **Sec. 26.** NRS 40.253 is hereby amended to read as follows:

34 40.253 1. Except as otherwise provided in subsection 10, in  
35 addition to the remedy provided in NRS 40.2512 and 40.290 to  
36 40.420, inclusive, when the tenant of any dwelling, apartment,  
37 mobile home, recreational vehicle or commercial premises with  
38 periodic rent reserved by the month or any shorter period is in  
39 default in payment of the rent, the landlord or the landlord's agent,  
40 unless otherwise agreed in writing, may serve or have served a  
41 notice in writing, requiring in the alternative the payment of the rent  
42 or the surrender of the premises:

43 (a) At or before noon of the fifth full day following the day of  
44 service; or



(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➤ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

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

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

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

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

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

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

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

5. Upon noncompliance with the notice:



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

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.
- (6) The amount of rent claimed due and delinquent.
- (7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.
- (8) A copy of the written notice served on the tenant.
- (9) A copy of the signed written rental agreement, if any.

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

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged



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1 unlawful detainer was based upon subsection 5 of NRS 40.2514, the  
2 refusal by the court to grant relief does not preclude the landlord  
3 thereafter from pursuing an action for unlawful detainer in  
4 accordance with NRS 40.251.

5 7. The tenant may, upon payment of the appropriate fees  
6 relating to the filing and service of a motion, file a motion with the  
7 court, on a form provided by the clerk of the court, to dispute the  
8 amount of the costs, if any, claimed by the landlord pursuant to NRS  
9 ~~[118.207 or]~~ 118A.460 *or section 16 of this act* for the inventory,  
10 moving and storage of personal property left on the premises. The  
11 motion must be filed within 20 days after the summary order for  
12 removal of the tenant or the abandonment of the premises by the  
13 tenant, or within 20 days after:

14 (a) The tenant has vacated or been removed from the premises;  
15 and

16 (b) A copy of those charges has been requested by or provided  
17 to the tenant,

18 ➡ whichever is later.

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

25 (a) Determine the costs, if any, claimed by the landlord pursuant  
26 to NRS ~~[118.207 or]~~ 118A.460 *or section 16 of this act* and any  
27 accumulating daily costs; and

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

31 9. A landlord shall not refuse to accept rent from a tenant that  
32 is submitted after the landlord or the landlord's agent has served or  
33 had served a notice pursuant to subsection 1 if the refusal is based  
34 on the fact that the tenant has not paid collection fees, attorney's  
35 fees or other costs other than rent, a reasonable charge for late  
36 payments of rent or dishonored checks, or a security. As used in this  
37 subsection, "security" has the meaning ascribed to it in  
38 NRS 118A.240.

39 10. This section does not apply to the tenant of a mobile home  
40 lot in a mobile home park or to the tenant of a recreational vehicle  
41 lot in an area of a mobile home park in this State other than an area  
42 designated as a recreational vehicle lot pursuant to the provisions of  
43 subsection 6 of NRS 40.215.

44 **Sec. 27.** NRS 118.207 is hereby repealed.



\* A B 3 9 8 R 1 \*

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**TEXT OF REPEALED SECTION**

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**118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.**

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➡ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.



\* A B 3 9 8 R 1 \*

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

