

Amendment No. 778

Senate Amendment to Assembly Bill No. 398 First Reprint (BDR 10-664)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amendment Box:** Consistent with Amendment No. 619.
Replaces Amendment No. 629.**Amends:** Summary: No Title: No 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 underlining* is newly added transitory language.

MSN/TMC



Date: 5/25/2011

A.B. No. 398—Revises provisions relating to commercial tenancies. (BDR 10-664)



ASSEMBLY BILL NO. 398—ASSEMBLYMAN OHRENSCHALL

MARCH 21, 2011

JOINT SPONSOR: SENATOR PARKS

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.

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.

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

Section 26.3 of this bill revises provisions governing the granting of a stay of execution to a tenant of commercial property who appeals an order of eviction by providing that the tenant may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. A landlord may not remove:

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

1 (b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected
2 to a door, window or attic hatchway cover; or

3 (c) Furniture, fixtures or appliances furnished by the landlord,
4 ↪ from commercial premises unless the landlord removes the item for a bona
5 fide repair or replacement. If a landlord removes any of the items listed in this
6 subsection for a bona fide repair or replacement, the repair or replacement must
7 be promptly performed.

8 3. A landlord may not intentionally prevent a tenant from entering the
9 commercial premises except by judicial process unless the exclusion results from:

10 (a) Construction, bona fide repairs or an emergency;
11 (b) Removing the contents of commercial premises abandoned by a tenant;
12 or

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

15 4. If a landlord or a landlord's agent changes the door lock of commercial
16 premises leased to a tenant who is delinquent in paying rent, the landlord or
17 agent must place a written notice on the front door of the commercial premises
18 stating the name and the address or telephone number of the person or company
19 from which the new key may be obtained. The new key is required to be provided
20 only during the regular business hours of the tenant and only if the tenant pays
21 the delinquent rent.

22 5. If a landlord or a landlord's agent violates this section, the tenant may:

23 (a) Recover possession of the commercial premises or terminate the rental
24 agreement; and

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

29 6. A rental agreement supersedes this section to the extent of any conflict.

30 Sec. 15. 1. If a landlord locks a tenant out of commercial premises that
31 ~~is~~ are subject to a rental agreement in violation of section 14 of this act, the
32 tenant may recover possession of the commercial premises as provided by this
33 section.

34 2. A tenant must file with the justice court of the township in which the
35 commercial premises are located or with the district court of the county in which
36 the commercial premises are located, whichever has jurisdiction over the matter,
37 a verified complaint for reentry, specifying the facts of the alleged unlawful
38 lockout by the landlord or the landlord's agent. The tenant must also state orally
39 under oath to the court the facts of the alleged unlawful lockout.

40 3. If a tenant has complied with subsection 2 and if the court reasonably
41 believes an unlawful lockout may have occurred, the court may issue, ex parte, a
42 temporary writ of restitution that entitles the tenant to immediate and temporary
43 possession of the commercial premises, pending a final hearing on the tenant's
44 verified complaint for reentry.

45 4. A temporary writ of restitution must be served on the landlord or the
46 landlord's agent in the same manner as a writ of restitution in a forcible detainer
47 action. A sheriff or constable may use reasonable force in executing a temporary
48 writ of restitution under this subsection.

49 5. A landlord is entitled to a hearing on a tenant's verified complaint for
50 reentry. A temporary writ of restitution must notify the landlord of the right to a
51 hearing. The hearing must be held not earlier than the first day and not later
52 than the seventh day after the date the landlord requests a hearing.

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

5 7. A party may appeal from the court's judgment at the hearing on the
6 verified complaint for reentry in the same manner as a party may appeal a
7 judgment in an action for forcible detainer.

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

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

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

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

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

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

41 **Sec. 16. 1.** Except as otherwise provided in subsection 3, a landlord who
42 leases or subleases any commercial premises under a rental agreement that has
43 been terminated for any reason may, in accordance with the following provisions,
44 dispose of any abandoned personal property, regardless of its character, left on
45 the commercial premises without incurring any civil or criminal liability:

46 (a) The landlord may dispose of the abandoned personal property and
47 recover his or her reasonable costs out of the abandoned personal property or the
48 value thereof if the landlord has notified the tenant in writing of the landlord's
49 intention to dispose of the abandoned personal property and 14 days have elapsed
50 since the notice was mailed to the tenant. The notice must be mailed, by certified
51 mail, return receipt requested, to the tenant at the tenant's present address, and if
52 that address is unknown, then at the tenant's last known address.

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

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

8 2. A tenant of commercial premises is presumed to have abandoned the
9 premises if:

10 (a) Goods, equipment or other property, in an amount substantial enough to
11 indicate a probable intent to abandon the commercial premises, is being or has
12 been removed from the commercial premises; and

13 (b) The removal is not within the normal course of business of the tenant.

14 3. If a written agreement between a landlord and a person who has an
15 ownership interest in any abandoned personal property of the tenant contains
16 provisions which relate to the removal and disposal of abandoned personal
17 property, the provisions of the agreement determine the rights and obligations of
18 the landlord and the person with respect to the removal and disposal of the
19 abandoned personal property.

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

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

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

30 Sec. 18. 1. Before returning a security deposit, a landlord may deduct
31 from the deposit damages and charges for which the tenant is legally liable under
32 the rental agreement or damages and charges that result from a breach of the
33 rental agreement.

34 2. A landlord may not retain any portion of a security deposit to cover
35 normal wear and tear. For the purposes of this subsection, "normal wear and
36 tear" means deterioration that results from the intended use of the commercial
37 premises, including breakage or malfunction because of age or deteriorated
38 condition, but the term does not include deterioration that results from
39 negligence, carelessness, accident or abuse of the commercial premises,
40 equipment, or chattels by the tenant or by a guest or invitee of the tenant.

41 3. If a landlord retains all or part of a security deposit under this section,
42 the landlord shall give to the tenant the balance of the security deposit, if any,
43 together with a written description and itemized list of all deductions. The
44 landlord is not required to give the tenant a description and itemized list of
45 deductions if:

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

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

49 Sec. 19. 1. Except as otherwise provided in subsection 4, if an owner's
50 interest in commercial premises is terminated by sale, assignment, death,
51 appointment of a receiver, bankruptcy or otherwise, the new owner is liable with
52 respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act

1 from the date title to the premises is acquired, regardless of whether an
2 acknowledgment is given to the tenant under subsection 2.

3 2. Except as otherwise provided in subsection 1, a person who no longer
4 owns an interest in the commercial premises remains liable for a security deposit
5 received while the person was the owner until the new owner delivers to the
6 tenant a signed statement acknowledging that the new owner has received and is
7 responsible for the tenant's security deposit and specifying the exact dollar
8 amount of the deposit.

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

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

12 (b) The amount provided in an estoppel certificate prepared by the owner at
13 the time the rental agreement was executed or prepared by the new owner at the
14 time the commercial premises is transferred.

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

17 Sec. 20. A landlord shall keep accurate records of all security deposits.

18 Sec. 21. 1. A landlord is not obligated to return a security deposit to a
19 tenant or give the tenant a written description of damages and charges until the
20 tenant provides to the landlord in writing a mailing address to which the security
21 deposit or written description are to be sent.

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

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

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

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

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

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

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

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

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

50 Sec. 24. 1. A landlord may not assess a charge, excluding a charge for
51 rent or physical damage to the commercial premises, to a tenant unless the
52 amount of the charge or the method by which the charge is to be computed is

1 *stated in the rental agreement, an exhibit or attachment that is part of the rental*
2 *agreement or an amendment to the rental agreement.*

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

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

6 118.171 As used in NRS 118.171 to ~~118.207~~ **118.205**, inclusive, unless the
7 context otherwise requires:

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

13 ~~—(a) Mailed, by certified mail, return receipt requested, notice of the landlord’s~~
14 ~~intention to dispose of the personal property, as required by subparagraph (1) of~~
15 ~~paragraph (a) of subsection 1 of NRS 118.207; or~~

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

20 ~~2.~~ “Real property” includes an apartment, a dwelling, a mobile home that is
21 owned by a landlord and located on property owned by the landlord and
22 commercial premises.

23 ~~3.~~ 2. “Rental agreement” means an agreement to lease or sublease real
24 property for a term less than life which provides for the periodic payment of rent.

25 ~~4.~~ 3. “Tenant” means a person who has the right to possess real property
26 pursuant to a rental agreement.

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

28 40.253 1. Except as otherwise provided in subsection 10, in addition to the
29 remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant
30 of any dwelling, apartment, mobile home, recreational vehicle or commercial
31 premises with periodic rent reserved by the month or any shorter period is in default
32 in payment of the rent, the landlord or the landlord’s agent, unless otherwise agreed
33 in writing, may serve or have served a notice in writing, requiring in the alternative
34 the payment of the rent or the surrender of the premises:

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

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

40 As used in this subsection, “day of service” means the day the landlord or the
41 landlord’s agent personally delivers the notice to the tenant. If personal service was
42 not so delivered, the “day of service” means the day the notice is delivered, after
43 posting and mailing pursuant to subsection 2, to the sheriff or constable for service
44 if the request for service is made before noon. If the request for service by the
45 sheriff or constable is made after noon, the “day of service” shall be deemed to be
46 the day next following the day that the request is made for service by the sheriff or
47 constable.

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

52 (a) Shall post a copy of the notice in a conspicuous place on the premises and
53 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:

(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

1 to the alleged unlawful detainer, the court shall refuse to grant either party any
2 relief, and, except as otherwise provided in this subsection, shall require that any
3 further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The
4 issuance of a summary order for removal of the tenant does not preclude an action
5 by the tenant for any damages or other relief to which the tenant may be entitled. If
6 the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the
7 refusal by the court to grant relief does not preclude the landlord thereafter from
8 pursuing an action for unlawful detainer in accordance with NRS 40.251.

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

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

17 (b) A copy of those charges has been requested by or provided to the tenant,
18 ➤ whichever is later.

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

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

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

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

35 10. This section does not apply to the tenant of a mobile home lot in a mobile
36 home park or to the tenant of a recreational vehicle lot in an area of a mobile home
37 park in this State other than an area designated as a recreational vehicle lot pursuant
38 to the provisions of subsection 6 of NRS 40.215.

39 **Sec. 26.3. NRS 40.385 is hereby amended to read as follows:**

40 40.385 Upon an appeal from an order entered pursuant to NRS 40.253:

41 1. Except as otherwise provided in this subsection, a stay of execution may be
42 obtained by filing with the trial court a bond in the amount of \$250 to cover the
43 expected costs on appeal. ~~[In an action concerning a lease of commercial property~~
44 ~~or any other property for which the monthly rent exceeds \$1,000, the court may,~~
45 ~~upon its own motion or that of a party, and upon a showing of good cause, order an~~
46 ~~additional bond to be posted to cover the expected costs on appeal.]~~ A surety upon
47 the bond submits to the jurisdiction of the appellate court and irrevocably appoints
48 the clerk of that court as the surety's agent upon whom papers affecting the surety's
49 liability upon the bond may be served. Liability of a surety may be enforced, or the
50 bond may be released, on motion in the appellate court without independent action.

51 **A tenant of commercial property may obtain a stay of execution only upon the**
52 **issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure**

and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.

2. A tenant 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 the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253.

Sec. 27. NRS 118.207 is hereby repealed.

TEXT OF REPEALED SECTION

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.

(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.