

Amendment No. 334

Assembly Amendment to Assembly Bill No. 107 (BDR 3-689)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DP/BAW



Date: 4/17/2017

A.B. No. 107—Provides for the sealing of records relating to eviction under certain circumstances. (BDR 3-689)



ASSEMBLY BILL NO. 107—ASSEMBLYWOMAN BILBRAY-AXELROD

PREFILED FEBRUARY 7, 2017

Referred to Committee on Judiciary

SUMMARY—Provides for the sealing of records relating to eviction under certain circumstances. (BDR 3-689)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 unlawful detainer; providing for the sealing of court records relating to eviction under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides that ~~records~~ **eviction case court files** relating to actions for ~~unlawful detainer and~~ summary eviction ~~must be~~ **are sealed automatically** and not open to inspection ~~except to: (1) parties to the action and their attorneys; (2) certain persons who provide the court clerk with certain required information about the action; (3) any person by order of the court upon a showing of good cause; (4) any person by order of the court if 60 days have elapsed after the affidavit of complaint has been filed and the plaintiff prevails in trial; and (5) any other person if 60 days have elapsed after the affidavit of complaint has been filed and the plaintiff prevails within 60 days after such filing~~ **: (1) upon the entry of a court order denying or dismissing the action for summary eviction; or (2) if a landlord fails to file an affidavit of complaint within 30 days after a tenant files an affidavit to contest the matter. This bill also authorizes the court to seal an eviction case court file: (1) upon a written stipulation between the landlord and the tenant; or (2) upon motion by the tenant, if the court finds that the eviction should be set aside pursuant to the Justice Court Rules of Civil Procedure or that sealing the eviction case court file is in the interests of justice.**

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any action for ~~unlawful detainer or~~ summary eviction ~~the affidavit of complaint and any other pleadings, proof of service, findings of the court, any order made on motion as provided in Nevada Rules of Civil Procedure and all other papers, records, proceedings and evidence, including exhibits and transcript of the testimony, must be~~ pursuant to NRS 40.253 or 40.254, the eviction case court file is sealed automatically and not open to inspection ~~except~~
~~(a) To parties to the action and their attorneys;~~

~~(b) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the identifying number of the apartment or unit, if any.~~

~~(c) To a resident of the premises who provides the clerk with the name of one of the parties or the case number of the action and shows proof of residence.~~

~~(d) To a person by order of the court, which may be granted ex parte, upon a showing of good cause.~~

~~(e) To any person by order of the court if, more than 60 days after the filing of the affidavit of complaint, judgment is entered for the plaintiff after a trial. The court shall issue the order upon issuing judgment for the plaintiff.~~

~~(f) To any other person, except as otherwise provided in paragraph (g), if:~~

~~(1) Sixty days have elapsed after the filing of the affidavit of complaint; and~~

~~(2) The plaintiff prevails in the action not later than 60 days after the filing of the affidavit of complaint.~~

~~(g) In the case of a complaint involving real property or a mobile home based on NRS 40.255, to any other person if:~~

~~(1) Sixty days have elapsed after the filing of the complaint; and~~

~~(2) Judgment against all defendants has been entered for the plaintiff after a trial.~~

~~2. If a default or default judgment is set aside more than 60 days after the affidavit of complaint has been filed, this section applies as if the affidavit of complaint had been filed on the date the default or default judgment is set aside.~~

(a) Upon the entry of a court order which denies or dismisses the action for summary eviction; or

(b) Thirty-one days after the tenant has filed an affidavit described in subsection 3 of NRS 40.253, if the landlord has failed to file an affidavit of complaint pursuant to subsection 5 of NRS 40.253 within 30 days after the tenant filed the affidavit.

2. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, the court may order the sealing of an eviction case court file:

(a) Upon the filing of a written stipulation by the landlord and the tenant to set aside the order of eviction and seal the eviction case court file; or

(b) Upon motion of the tenant and decision by the court if the court finds that:

(I) The eviction should be set aside pursuant to Rule 60 of the Justice Court Rules of Civil Procedure; or

(2) Sealing the eviction case court file is in the interests of justice and those interests are not outweighed by the public's interest in knowing about the contents of the eviction case court file, after considering, without limitation, the following factors:

(I) Circumstances beyond the control of the tenant that led to the eviction;

(II) Other extenuating circumstances under which the order of eviction was granted; and

(III) The amount of time that has elapsed between the granting of the order of eviction and the filing of the motion to seal the eviction case court file.

3. If the court orders the eviction case court file sealed pursuant to this section, all proceedings recounted in the eviction case court file shall be deemed never to have occurred.

1 4. As used in this section, “eviction case court file” means all records
2 relating to an action for summary eviction which are maintained by the court,
3 including, without limitation, the affidavit of complaint and any other pleadings,
4 proof of service, findings of the court, any order made on motion as provided in
5 Nevada Rules of Civil Procedure, Justice Court Rules of Procedure and local
6 rules of practice and all other papers, records, proceedings and evidence,
7 including exhibits and transcript of the testimony.

8 **Sec. 2.** NRS 40.215 is hereby amended to read as follows:

9 40.215 As used in NRS 40.215 to 40.425, inclusive, **and section 1 of this act,**
10 unless the context requires otherwise:

11 1. “Dwelling” or “dwelling unit” means a structure or part thereof that is
12 occupied, or designed or intended for occupancy, as a residence or sleeping place
13 by one person who maintains a household or by two or more persons who maintain
14 a common household.

15 2. “Landlord’s agent” means a person who is hired or authorized by the
16 landlord or owner of real property to manage the property or dwelling unit, to enter
17 into a rental agreement on behalf of the landlord or owner of the property or who
18 serves as a person within this State who is authorized to act for and on behalf of the
19 landlord or owner for the purposes of service of process or receiving notices and
20 demands. A landlord’s agent may also include a successor landlord or a property
21 manager as defined in NRS 645.0195.

22 3. “Mobile home” means every vehicle, including equipment, which is
23 constructed, reconstructed or added to in such a way as to have an enclosed room or
24 addition occupied by one or more persons as a residence or sleeping place and
25 which has no foundation other than wheels, jacks, skirting or other temporary
26 support.

27 4. “Mobile home lot” means a portion of land within a mobile home park
28 which is rented or held out for rent to accommodate a mobile home.

29 5. “Mobile home park” or “park” means an area or tract of land where two or
30 more mobile homes or mobile home lots are rented or held out for rent. “Mobile
31 home park” or “park” does not include those areas or tracts of land, whether within
32 or outside of a park, where the lots are held out for rent on a nightly basis.

33 6. “Premises” includes a mobile home.

34 7. “Recreational vehicle” means a vehicular structure primarily designed as
35 temporary living quarters for travel, recreational or camping use, which may be
36 self-propelled or mounted upon or drawn by a motor vehicle.

37 8. “Recreational vehicle lot” means a portion of land within a recreational
38 vehicle park, or a portion of land so designated within a mobile home park, which
39 is rented or held out for rent to accommodate a recreational vehicle overnight or for
40 less than 3 months.

41 9. “Recreational vehicle park” means an area or tract of land where lots are
42 rented or held out for rent to accommodate a recreational vehicle overnight or for
43 less than 3 months.

44 10. “Short-term tenancy” means a tenancy in which rent is reserved by a
45 period of 1 week and the tenancy has not continued for more than 45 days.

46 **Sec. 3.** The amendatory provisions of this act apply to all actions pending or
47 filed on or after October 1, 2017.