

Amendment No. 74

Assembly Amendment to Assembly Bill No. 266	(BDR 3-809)
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	<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) 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.

BAW



Date: 4/8/2019

A.B. No. 266—Revises provisions governing the sealing of records relating to evictions. (BDR 3-809)



ASSEMBLY BILL NO. 266—ASSEMBLYWOMAN BILBRAY-AXELROD

MARCH 14, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the sealing of records relating to evictions. (BDR 3-809)

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 unlawful detainer; revising provisions governing the sealing of records relating to evictions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that eviction case court files relating to actions for summary eviction are sealed automatically and not open to inspection: (1) upon the entry of a court order denying or dismissing the action for summary eviction; or (2) thirty-one days after a tenant files an affidavit to contest the matter, if a landlord fails to file an affidavit of complaint within 30 days after ~~the~~ the tenant files ~~an~~ the affidavit. ~~{to contest the matter.}~~ Existing law 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. (NRS 40.2545)

This bill provides that ~~{; (1) if a court issues an order to deny or dismiss an action for summary eviction, the order may be unconditional or conditional; (2)}~~ eviction case court files are automatically sealed ~~{only} ; (1)~~ upon the entry of ~~an~~ a court order ~~{unconditionally denying or} dismissing {an} the action for summary eviction {; and (3)} ; (2) ten judicial days after the entry of a court order which denies the action for summary eviction; or (3) thirty-one days after a tenant files an affidavit to contest the matter, if a landlord fails to file an affidavit of complaint within 30 days after the tenant files the affidavit. This bill also provides that~~ a notice to surrender must not be made available for public inspection.

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

Section 1. NRS 40.2545 is hereby amended to read as follows:

40.2545 1. ~~{In any action for summary eviction pursuant to NRS 40.253 or 40.254, if the court issues an order to deny or dismiss the action for summary eviction, the order may deny or dismiss the action:~~
~~—(a) Unconditionally; or~~

~~(b) Conditionally, upon the filing of an amended complaint or a new action for summary eviction.~~

~~2.~~ In any action for summary eviction pursuant to NRS 40.253 or 40.254, the eviction case court file is sealed automatically and not open to inspection:

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

(b) *Ten judicial days after the entry of a court order which denies the action for summary eviction; or*

(c) 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. ~~3.~~ In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1. ~~2.~~ 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:

(1) 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. ~~4.~~ 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.

4. ~~5.~~ *Except as otherwise provided in this subsection, a notice to surrender must not be made available for public inspection by any person or governmental entity, including, without limitation, the sheriff's office of a county, by a sheriff or constable. This subsection does not apply.*

(a) Apply to a notice to surrender which has been filed with a court and which is part of an eviction case court file that has not been sealed pursuant to this section.

(b) Prohibit the service of a notice of surrender pursuant to NRS 40.280, and such service of a notice of surrender shall be deemed not to constitute making the notice of surrender available for public inspection as described in this subsection.

~~6.~~ 5. As used in this section, "eviction case court file" means all records relating to an action for summary eviction which are maintained by the court, including, without limitation, 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, Justice Court Rules of Civil Procedure and local rules of practice and all other papers, records, proceedings and evidence, including exhibits and transcript of the testimony.

Sec. 2. This act becomes effective on July 1, 2019.