

ASSEMBLY BILL NO. 141—ASSEMBLYMAN WATTS

FEBRUARY 16, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to evictions.
(BDR 3-569)

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 evictions; increasing the length of notice required before certain tenants may be evicted without cause; requiring the automatic sealing of records for evictions relating to defaults in the payment of rent which occurred during the COVID-19 emergency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a landlord wanting to terminate certain tenancies without cause to serve tenants with a notice to vacate the rental unit. If the landlord wishes to evict such a tenant from real property or a mobile home leased for an indefinite time or with periodic rent, the notice must be: (1) at least 7 days for tenancies from week to week; (2) at least 30 days for all other periodic tenancies; or (3) at least 5 days for a tenancy at will. Similarly, if the landlord wishes to evict such a tenant of a dwelling unit subject to the provisions of chapter 118A of NRS upon the termination or expiration of the rental agreement, the notice must be: (1) at least 7 days for tenancies from week to week; or (2) 30 days for all other tenancies. (NRS 40.251) **Section 1** of this bill: (1) retains the existing periods of notice if the tenancy has continued for less than 1 year; (2) increases the period of notice to at least 60 days if the tenancy has continued for 1 year or more but less than 3 years; and (3) increases the period of notice to at least 90 days if the tenancy has continued for 3 years or more.

Existing law: (1) requires a court to automatically seal records relating to actions for summary eviction under certain circumstances; and (2) authorizes the court under certain circumstances to seal records relating to actions for summary eviction which are not automatically sealed by the court. (NRS 40.2545) In addition to the existing procedures for the sealing of records relating to actions for summary eviction, **section 2** of this bill requires a court to automatically seal any records relating to an action for eviction concerning a default in the payment of rent, upon the motion of the tenant and a decision of the court, if the court finds that the default in the payment of rent occurred during the COVID-19 emergency.



24 **Section 3** of this bill provides that the amendatory provisions of **section 2** apply to
25 any action for eviction filed before, on or after the effective date of this bill.

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

1 **Section 1.** NRS 40.251 is hereby amended to read as follows:

2 40.251 1. A tenant of real property, a recreational vehicle or a
3 mobile home for a term less than life is guilty of an unlawful
4 detainer when having leased:

5 (a) Real property, except as otherwise provided in this section,
6 or a mobile home for an indefinite time, with monthly or other
7 periodic rent reserved, the tenant continues in possession thereof, in
8 person or by subtenant, without the landlord's consent after the
9 expiration of a notice of:

10 (1) For tenancies from week to week ~~§~~ *where the tenancy*
11 *has continued for a period of time of:*

12 (I) *Less than 1 year*, at least 7 days;

13 (II) *One year or more but less than 3 years, at least 60*
14 *days; or*

15 (III) *Three years or more, at least 90 days;*

16 (2) Except as otherwise provided in subsection 2, for all
17 other periodic tenancies ~~§~~ *where the tenancy has continued for a*
18 *period of time of:*

19 (I) *Less than 1 year*, at least 30 days;

20 (II) *One year or more but less than 3 years, at least 60*
21 *days; or*

22 (III) *Three years or more, at least 90 days; or*

23 (3) For tenancies at will ~~§~~ *where the tenancy has continued*
24 *for a period of time of:*

25 (I) *Less than 1 year*, at least 5 days ~~§~~;

26 (II) *One year or more but less than 3 years, at least 60*
27 *days; or*

28 (III) *Three years or more, at least 90 days.*

29 (b) ~~§~~ *Except as otherwise provided in paragraph (c), a*
30 *dwelling unit subject to the provisions of chapter 118A of NRS, the*
31 *tenant continues in possession, in person or by subtenant, without*
32 *the landlord's consent after expiration of §*

33 ~~— (1) The §~~ *the term of the rental agreement or its termination*
34 *and §, except as otherwise provided in subparagraph (2), §* *the*
35 *expiration of a notice of: §*

36 ~~— (I) At least 7 days for §~~

37 (I) *For* tenancies from week to week ~~§; and~~

38 ~~— (II) Except §~~ *where the tenancy has continued for a*
39 *period of time of:*



(I) *Less than 1 year, at least 7 days;*
(II) *One year or more but less than 3 years, at least 60 days; or*

(III) *Three years or more, at least 90 days; or*
(2) *Except as otherwise provided in subsection 2, ~~at least 30 days~~ for all other periodic tenancies ~~;~~ or
~~(2) A~~ *where the tenancy has continued for a period of time of:**

(I) *Less than 1 year, at least 30 days;*
(II) *One year or more but less than 3 years, at least 60 days; or*

(III) *Three years or more, at least 90 days.*
(c) *A dwelling unit subject to the provisions of chapter 118A of NRS, the tenant continues in possession, in person or by subtenant, without the landlord's consent after expiration of a notice of at least 5 days where the tenant has failed to perform the tenant's basic or contractual obligations under chapter 118A of NRS.*

~~(d)~~ (d) *A mobile home lot subject to the provisions of chapter 118B of NRS, or a lot for a recreational vehicle in an area of a mobile home park other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215, the tenant continues in possession, in person or by subtenant, without the landlord's consent:*

(1) *After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired; or*

(2) *If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.*

~~(e)~~ (e) *A recreational vehicle lot, the tenant continues in possession, in person or by subtenant, without the landlord's consent, after the expiration of a notice of at least 5 days.*

2. *Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) , ~~(b)~~ or (c) of subsection 1, other than a tenancy from week to week, is 60 years of age or older or has a physical or mental disability, the tenant may request to be allowed to continue in possession for an additional 30 days beyond the time specified in subsection 1 by submitting a written request for an extended period and providing proof of the tenant's age or disability. A landlord may not be required to allow a tenant to continue in possession if a shorter notice is provided pursuant to ~~subparagraph (2) of~~ paragraph ~~(b)~~ (c) of subsection 1.*

3. *Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) , ~~(b)~~ or (c) of subsection 1 is a federal worker, tribal worker, state worker or*



household member of such a worker, the tenant may request to be allowed to continue in possession during the period commencing on the date on which a shutdown begins and ending on the date that is 30 days after the date on which the shutdown ends by submitting a written request for the extended period and providing proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during the shutdown.

4. Except as otherwise provided in NRS 118A.315, a landlord who receives a request from a tenant pursuant to subsection 3 shall allow a tenant to continue in possession for the period requested.

5. Any notice provided pursuant to paragraph (a) , ~~for~~ (b) **or (c)** of subsection 1 must include a statement advising the tenant of the provisions of subsections 2, 3 and 4.

6. If a landlord rejects a request to allow a tenant to continue in possession for an additional 30 days pursuant to subsection 2, the tenant may petition the court for an order to continue in possession for the additional 30 days. If the tenant submits proof to the court that the tenant is entitled to request such an extension, the court may grant the petition and enter an order allowing the tenant to continue in possession for the additional 30 days. If the court denies the petition, the tenant must be allowed to continue in possession for 5 calendar days following the date of entry of the order denying the petition.

Sec. 2. NRS 40.2545 is hereby amended to read as follows:

40.2545 1. ***A court shall order the automatic sealing of an eviction case court file for any action for eviction which relates to a default in the payment of rent by a tenant, upon motion of the tenant and decision by the court, if the court finds that the default in the payment of rent occurred during the COVID-19 emergency.***

2. In ***addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, in*** any action for summary eviction pursuant to NRS 40.253, 40.254 or 40.2542, the eviction case court file is sealed automatically and not open to inspection:

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

(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 or subsection 3 of NRS 40.2542, if the landlord has failed to file an affidavit of complaint pursuant to subsection 5 of NRS 40.253 or subsection 5 of NRS 40.2542 within 30 days after the tenant filed the affidavit.

~~12-1~~ 3. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to ~~subsection~~ **subsections 1** ~~1~~



and 2, the court may order the sealing of an eviction case court file ~~for an action for summary eviction pursuant to NRS 40.253, 40.254 or 40.2542:~~

(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.

~~4.3~~ **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.

~~4.4~~ **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, by a sheriff or constable. This subsection does not:

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

~~5.5~~ **6.** As used in this section ~~["eviction"]~~:

(a) **"COVID-19 emergency" means the period of time:**

(1) **Beginning on March 12, 2020, the date on which the Governor issued the Declaration of Emergency for COVID-19; and**

(2) **Ending on the date on which the Governor terminates the emergency described in the Declaration.**

(b) **"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**



1 other pleadings, proof of service, findings of the court, any order
2 made on motion as provided in Nevada Rules of Civil Procedure,
3 Justice Court Rules of Civil Procedure and local rules of practice
4 and all other papers, records, proceedings and evidence, including
5 exhibits and transcript of the testimony.

6 **Sec. 3.** The amendatory provisions of section 2 of this act
7 apply to any action for eviction filed before, on or after the effective
8 date of this act.

9 **Sec. 4.** This act becomes effective upon passage and approval.

