

ASSEMBLY BILL NO. 141—ASSEMBLYMAN WATTS

FEBRUARY 16, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the sealing of records for summary 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; requiring the automatic sealing of records for certain summary evictions relating to defaults in the payment of rent which are granted during the COVID-19 emergency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a supplemental remedy through an action for summary eviction when the tenant of any dwelling, apartment, mobile home or recreational vehicle with periodic rent due by the month or a shorter period defaults in the payment of rent. (NRS 40.253) Existing law requires a court to automatically seal records relating to such actions for summary eviction: (1) upon an order of the court dismissing the action for summary eviction; (2) ten judicial days after the court issues an order denying the action for summary eviction; or (3) thirty-one days after the tenant files an affidavit relating to the action for summary eviction, if the landlord fails to file a timely affidavit of complaint relating to the action for summary eviction. Existing law also authorizes the court under certain circumstances to seal records relating to such 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 such actions for summary eviction, **section 2** of this bill requires a court to automatically seal any records relating to any action for summary eviction that is granted during the COVID-19 emergency. **Section 3** of this bill provides that the amendatory provisions of **section 2** apply to any action for summary eviction filed before, on or after the effective date of this bill.



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

Section 1. (Deleted by amendment.)

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

40.2545 1. *If a court grants an action for summary eviction pursuant to NRS 40.253 during the COVID-19 emergency, the court shall automatically seal the eviction case court file.*

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.

~~{2-}~~ 3. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to ~~{subsection}~~ *subsections 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.



~~13.1~~ 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.

~~14.1~~ 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.

~~15.1~~ 6. As used in this section ~~1, "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 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. 3. The amendatory provisions of section 2 of this act apply to any action for summary eviction filed before, on or after the effective date of this act.

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

