

(Reprinted with amendments adopted on May 27, 2021)

FIRST REPRINT

A.B. 486

ASSEMBLY BILL NO. 486—COMMITTEE ON WAYS AND MEANS

MAY 20, 2021

Referred to Committee on Ways and Means

SUMMARY—Establishes provisions relating to property.
(BDR S-1041)

FISCAL NOTE: Effect on Local Government: No.
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 property; defining certain terms; temporarily authorizing tenants subject to designated eviction proceedings to assert certain affirmative defenses relating to rental assistance and establishing procedures relating thereto; temporarily establishing procedures relating to claims for wrongful eviction; temporarily requiring a court to stay designated eviction proceedings in order to facilitate alternative dispute resolution; temporarily requiring notices for certain proceedings for eviction to contain certain information; establishing temporary procedures relating to the provision of rental assistance to certain landlords of single family residences with at least one tenant who has defaulted in the payment of rent; requiring the disbursement of certain federal money in certain circumstances relating to rental assistance; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes provisions which govern landlords and tenants of
- 2 dwelling units and manufactured homes. (Chapters 118A and 118B of NRS)
- 3 Existing law establishes provisions relating to summary proceedings for the
- 4 eviction of such tenants. (NRS 40.215-40.425) **Section 1** of this bill defines certain
- 5 terms for purposes of this bill, including the term “designated eviction proceeding,”
- 6 which refers to certain proceedings relating to the eviction of tenants who have
- 7 defaulted in the payment of rent.
- 8 **Section 2** of this bill authorizes a tenant to claim as an affirmative defense to a
- 9 designated eviction proceeding that: (1) the tenant has a pending application for



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rental assistance; or (2) the landlord of the tenant refused to participate in the application for rental assistance or accept rental assistance provided on behalf of the tenant.

Section 2 requires the court to stay the proceedings upon the assertion of such an affirmative defense unless the landlord receives an exemption. **Section 2** also authorizes the landlord to file a motion to rebut the affirmative defense.

In assessing the affirmative defense, **section 2** authorizes a court to: (1) refer the designated eviction proceedings to mediation; (2) hold a hearing; or (3) maintain the stay of the proceedings. If the claim relates to a pending application for rental assistance, **section 2** requires the court to stay the proceedings until such time as a determination is made on the application for rental assistance. Moreover, if the court stays such proceedings, **section 2** requires the court to dismiss the proceedings for eviction upon the granting of the application for rental assistance and receipt of the rental assistance by the landlord.

If a tenant proves the claim that the landlord refused to participate in the application for rental assistance or accept rental assistance on behalf of the tenant, **section 2**: (1) requires the court to deny the designated eviction proceeding; and (2) authorizes the court to award damages to the tenant. Additionally, in determining the award of such damages, **section 2** requires the court to consider the degree of harm caused to the tenant by the refusal of the landlord to participate in the application for rental assistance or accept the rental assistance.

Section 3 of this bill provides that if a landlord accepted rental assistance on behalf of a tenant who has defaulted in the payment of rent and the landlord pursued, continued to pursue or evicted the tenant for any reason that existed or arose during the period of default for which the rental assistance was received by the landlord, the tenant or the governmental entity who administered the rental assistance may file a claim of wrongful eviction against the landlord. **Section 3** also authorizes a court to: (1) impose certain civil penalties on a landlord who is found to have wrongfully evicted a tenant; and (2) require the landlord to pay costs and attorney's fees of the plaintiff.

Section 3.5 of this bill establishes similar provisions which provide that if a governmental entity brings any other cause of action relating to a landlord who accepted rental assistance on behalf of a tenant who has defaulted in the payment of rent and the landlord pursued, continued to pursue or evicted a tenant for any reason that existed or arose during the period of default for which the rental assistance was received by the landlord, the governmental entity may be entitled to damages in an amount not to exceed the amount of rental assistance obtained by the landlord and is entitled to costs and attorney's fees.

Existing law authorizes a court to stay proceedings for eviction against a tenant of any dwelling unit, apartment, mobile home, recreational vehicle or part of a low-rent housing program operated by a public housing authority for a period of not more than 30 days to facilitate a program of alternative dispute resolution under certain circumstances. (NRS 40.2544) **Section 8.5** of this bill repeals those provisions and instead **section 4** of this bill establishes similar provisions with expanded applicability to designated eviction proceedings.

Existing law requires a landlord to provide notice of proceedings for evictions to tenants. (NRS 40.215-40.425) In addition to the existing requirements, **section 5** of this bill requires the notice to include information relating to rental assistance and the provisions of **sections 2, 3 and 4**.

Section 6 of this bill requires: (1) Home Means Nevada, Inc., or its successor organization, to create an electronic form which may be completed by a landlord who wishes to obtain rental assistance on behalf of a tenant who has defaulted in the payment of rent; and (2) the form to collect certain information relating to such landlords and tenants. Upon submission of the form by the landlord, **section 6** requires Home Means Nevada, Inc., or its successor organization, to determine



whether the landlord is an eligible landlord, meaning that the landlord: (1) owns a single family residence; (2) is seeking rental assistance for least one dwelling unit in the single family residence; (3) is domiciled in this State or employs a property manager in this State; and (4) has an annual gross revenue from the rental of all premises in this State of less than \$4,000,000. If Home Means Nevada, Inc., or its successor organization, determines that the landlord is an eligible landlord, **section 6** requires Home Means Nevada, Inc., or its successor organization, to forward relevant information relating to the landlord and tenant to an appropriate housing or social service agency. **Section 6** then requires the housing or social service agency to attempt to contact the tenant to provide information relating to a program for rental assistance. If the tenant is unresponsive or fails to apply to the program for rental assistance, **section 6** requires the housing or social service agency to inform the eligible landlord of that fact and authorizes the eligible landlord to receive rental assistance, without the application of the tenant, if the eligible landlord agrees to certain conditions.

Section 7 of this bill requires the disbursement of certain federal money in the amount of \$5,000,000 for the purpose of providing rental assistance directly to landlords.

Section 8 of this bill expires the provisions of **sections 1-3.5, 5 and 6** on June 5, 2023. **Section 8** expires the provisions of **section 4** on the earlier of: (1) the date that the Nevada Supreme Court determines that there are insufficient funds for the programs of alternative dispute resolution; or (2) June 5, 2023.

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

Section 1. As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires:

1. "Designated eviction proceeding" means:

(a) A proceeding for summary eviction pursuant to NRS 40.253;

(b) A proceeding for summary eviction pursuant to NRS 40.254 where the tenant has defaulted in the payment of rent, except for those proceedings relating to an unlawful detainer pursuant to subsection 4 of NRS 40.2514;

(c) A proceeding for eviction for an unlawful detainer pursuant to NRS 40.2512; or

(d) A proceeding for eviction relating to paragraph (a) of subsection 1 of NRS 118B.200.

2. "Landlord" means a landlord governed by chapter 118A or 118B of NRS.

3. "Rent" means all periodic payments to be made by a tenant to a landlord for occupancy of a premises.

4. "Rental assistance" includes, without limitation, federal, state or local funds:

(a) Provided by a governmental entity; and

(b) Administered for the purpose of paying any amount of delinquent rent.



1 5. "Tenant" means a tenant governed by chapter 118A or 118B
2 of NRS.

3 **Sec. 2.** Notwithstanding any other provision of law:

4 1. In any designated eviction proceeding, the tenant may, at
5 any point in the proceeding, claim as an affirmative defense that:

6 (a) The tenant has a pending application for rental assistance; or

7 (b) The landlord has refused to:

8 (1) Participate in the application process for rental assistance;
9 or

10 (2) Accept rental assistance on behalf of the tenant.

11 2. If an affirmative defense described in subsection 1 is
12 asserted by the tenant:

13 (a) Except as otherwise provided in subsection 6, the court shall
14 stay the designated eviction proceeding until the applicable time
15 described in subsection 4; and

16 (b) The landlord may file a motion to rebut the affirmative
17 defense asserted by the tenant.

18 3. In assessing an affirmative defense described in subsection
19 1, the court may:

20 (a) Refer the designated eviction proceeding to mediation;

21 (b) Schedule a hearing on the motion filed pursuant to paragraph
22 (b) of subsection 2, if any; or

23 (c) Maintain the stay until the applicable time described in
24 subsection 4.

25 4. The stay of the designated eviction proceeding must be
26 maintained by the court:

27 (a) Until the designated eviction proceeding is referred to
28 mediation;

29 (b) If the affirmative defense asserted was that described in
30 paragraph (a) of subsection 1, until such time as a determination is
31 made on the pending application for rental assistance, and if the
32 application for rental assistance is granted, the court must dismiss
33 the designated eviction proceeding at the time that the rental
34 assistance is received by the landlord; or

35 (c) If the affirmative defense asserted was that described in
36 paragraph (b) of subsection 1, until such time as the tenant proves
37 the validity of the claim, in which case the court:

38 (1) Must deny the eviction; and

39 (2) May award damages to the tenant.

40 5. In determining the amount of damages to award to a tenant
41 pursuant to subsection 4, the court shall consider the degree of harm
42 caused to the tenant by the refusal of the landlord to:

43 (a) Participate in the application process for rental assistance; or

44 (b) Accept rental assistance on behalf of the tenant.



6. The court may grant a landlord an exemption from the requirement to stay a designated eviction proceeding pursuant to this section if:

(a) The landlord:

(1) Provides written notice to the tenant of the exemption sought at the same time that notice relating to the designated eviction proceeding is served upon the tenant pursuant to NRS 40.280; and

(2) Files a motion with the court for an exemption from the requirement to stay the designated eviction proceeding; and

(b) The court finds:

(1) That there is a pending designated eviction proceeding; and

(2) Evidence that the landlord faces a realistic threat of the foreclosure of the premises if the landlord is not able to evict the tenant.

7. As used in this section, "pending application for rental assistance" means an application for rental assistance filed in good faith by a tenant. The term does not include an application which is inactive due to any technical difficulty on the part of the tenant in the filing of the application for rental assistance.

Sec. 3. Notwithstanding any other provision of law:

1. If a tenant has defaulted in the payment of rent and the landlord pursues, continues to pursue or otherwise evicts the tenant for any reason that existed or arose during the period of default for which the landlord received rental assistance on behalf of the tenant, the tenant or the governmental entity administering the program for the rental assistance may file a claim of wrongful eviction against the landlord.

2. The claim of wrongful eviction must be filed with the court with jurisdiction over the underlying designated proceeding for eviction.

3. If the court finds that the landlord accepted rental assistance on behalf of the tenant and pursued, continued to pursue or otherwise evicted the tenant for any reason that existed or arose during the period of default for which the landlord received rental assistance on behalf of the tenant:

(a) The court may:

(1) Impose a civil penalty:

(I) If the claim was filed by the governmental entity administering the program for rental assistance, in an amount equal to the amount of rental assistance obtained by the landlord; or

(II) If the claim was filed by the tenant, in an amount equal to 25 percent of the amount described in sub-subparagraph (I); and



(2) Order the landlord to pay costs and attorney's fees of the tenant or governmental entity, as applicable.

(b) The landlord may not file any claim against the tenant for any delinquent amount of rent paid with the rental assistance.

Sec. 3.5. Notwithstanding any other provision of law, and in addition to the remedy described in section 3 of this act, if a governmental entity administering a program for rental assistance brings a cause of action relating to a landlord who accepted rental assistance on behalf of a tenant and pursued, continued to pursue or otherwise evicted a tenant for any reason that existed or arose during the period of default for which the landlord received rental assistance on behalf of the tenant:

1. Any damages awarded to the governmental entity must not exceed an amount equal to the amount of rental assistance obtained by the landlord; and

2. The governmental entity is entitled to costs and attorney's fees.

Sec. 4. Any designated eviction proceeding must be stayed for not more than 30 days to facilitate a program of alternative dispute resolution established by rule by the Supreme Court or a district court or justice court.

Sec. 5. In addition to any requirement for a notice of any proceeding for eviction pursuant to NRS 40.215 to 40.425, inclusive, each notice must contain information relating to:

1. The availability of rental assistance; and

2. The procedures described in sections 2, 3 and 4 of this act.

Sec. 6. 1. Home Means Nevada, Inc., or its successor organization, shall create an electronic form which may be completed by a landlord who seeks to secure rental assistance for a tenant who has defaulted in the payment of rent.

2. The form described in subsection 1 must include, without limitation:

(a) Verification that the tenant:

(1) Has defaulted in the payment of rent; and

(2) Has not enrolled in a program for rental assistance or has not otherwise been responsive to any communication of the landlord relating to a program for rental assistance;

(b) A description of the premises affected by the defaulting tenant, including, without limitation, the total number of dwelling units on the premises;

(c) A description of the landlord, including, without limitation:

(1) The domicile of the landlord;

(2) Whether the landlord employs a property manager for a premises in this State; and



(3) Whether the annual gross revenue obtained from all premises rented by the landlord in this State totals \$4,000,000 or more; and

(d) The contact information of the landlord and tenant.

3. Upon the submission of the electronic form described in subsection 1, Home Means Nevada, Inc., or its successor organization, shall determine whether the landlord is an eligible landlord.

4. If Home Means Nevada, Inc., or its successor organization, determines that the landlord is an eligible landlord, Home Means Nevada, Inc., or its successor organization, shall forward any relevant information relating to the defaulting tenant and the landlord to an appropriate housing or social service agency.

5. Upon the receipt of the information forwarded by Home Means Nevada, Inc., or its successor organization, pursuant to subsection 4, the housing or social service agency shall attempt to contact the tenant who defaulted in the payment of rent in order to relay any relevant information relating to programs for rental assistance.

6. Any action described in subsection 3, 4 or 5 must be taken within 60 days after the receipt of the form described in subsection 1 by Home Means Nevada, Inc., or its successor organization.

7. Except as otherwise provided by federal law, if the defaulting tenant does not respond to the housing or social service agency or otherwise does not apply for rental assistance within the time prescribed by subsection 6, the housing or social service agency shall inform the eligible landlord of that fact and determine whether the eligible landlord will accept the rental assistance on behalf of the tenant who defaulted in the payment of rent. If the landlord accepts rental assistance on behalf of the tenant pursuant to this subsection, the eligible landlord must sign a document which states that the landlord:

(a) Agrees to accept 100 percent of the total delinquent amount of rent from the rental assistance; and

(b) Is prohibited from commencing an action for eviction against the tenant for at least 90 days after receipt of the rental assistance.

8. The State Treasurer, an administrator of a program for rental assistance and any other person involved in the distribution of rental assistance in this State shall promote or otherwise provide information to persons relating to the procedures established in this section.

9. As used in this section:

(a) "Dwelling unit" has the meaning ascribed to it in NRS 40.215.



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(b) “Eligible landlord” means a landlord who:

(1) Owns a single family residence;

(2) Is seeking rental assistance for least one dwelling unit in the single family residence;

(3) Is domiciled in this State or employs a property manager in this State; and

(4) Has an annual gross revenue obtained from all premises rented in this State of less than \$4,000,000.

(c) “Single family residence” means a structure that comprises not more than four dwelling units.

Sec. 7. If the State of Nevada receives money from the Federal Government on or after the effective date of this act that the State of Nevada is authorized to use for the direct payment of rental assistance to landlords on behalf of tenants who have defaulted in the payment of rent in this State, the Chief of the Budget Division of the Office of Finance in the Office of the Governor created by NRS 223.400 shall disburse \$5,000,000 of that money for the direct payment of rental assistance to landlords.

Sec. 8. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 8.5. NRS 40.2544 is hereby repealed.

Sec. 9. 1. This act becomes effective upon passage and approval.

2. Sections 1 to 3.5, inclusive, 5 and 6 of this act expire by limitation on June 5, 2023.

3. Section 4 of this act expires by limitation on the earlier of:

(a) The date that the Supreme Court determines that the programs of alternative dispute resolution established by rule by the Supreme Court or a district court or justice court do not have sufficient funds to administer the programs; or

(b) June 5, 2023.

TEXT OF REPEALED SECTION

40.2544 Unlawful detainer: Stay of eviction proceeding to facilitate program of alternative dispute resolution. If the Supreme Court or a district court or justice court establishes by rule an expedited program of alternative dispute resolution concerning the eviction of a tenant of any dwelling unit, apartment, mobile home, recreational vehicle or part of a low-rent housing program



operated by a public housing authority, any such eviction proceedings pursuant to this chapter may be stayed for not more than 30 days to facilitate the program of alternative dispute resolution.

