

SENATE BILL NO. 335—SENATOR OHRENSCHALL

MARCH 20, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding real property.
(BDR 3-883)

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 property; revising provisions relating to summary evictions; authorizing tenants subject to certain eviction proceedings to assert certain affirmative defenses relating to rental assistance and establishing procedures relating thereto; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In general, existing law authorizes a landlord who seeks to recover possession of a premises from a tenant to do so by filing an unlawful detainer action or an action for summary eviction. (NRS 40.253, 40.254, 40.2542, 40.290-40.420) Existing law prescribes separate summary eviction procedures for the summary eviction of: (1) certain tenants who are not tenants of a commercial premises and who default in the payment of rent; (2) certain tenants who are guilty of unlawful detainer for reasons other than a default in the payment of rent; and (3) certain tenants of a commercial premises who default in the payment of rent. (NRS 40.253, 40.254, 40.2542)

In general, the summary eviction procedures prescribed by existing law require a landlord to provide certain written notice to a tenant: (1) informing the tenant that he or she must take certain action or surrender the premises on or before a date specified in the notice; and (2) advising the tenant of his or her right to contest the matter by filing an affidavit with the court that has jurisdiction over the matter. In so doing, the summary eviction procedures prescribed by existing law require a tenant who contests a summary eviction to file an affidavit in court concerning an action for summary eviction before a landlord is required to make any filing concerning the matter. If such an affidavit is filed, a hearing is held. If no such affidavit is filed, upon noncompliance of a tenant with the written notice, existing law authorizes: (1) the landlord to apply by affidavit of complaint for the summary eviction of the tenant; and (2) the court, without holding a hearing, to order the removal of the tenant within a prescribed period. (NRS 40.253, 40.254, 40.2542)



* S B 3 3 5 *

Section 23 of this bill repeals the summary eviction procedures prescribed by existing law. **Sections 2-8** of this bill reenact, reorganize and revise these procedures. **Section 2** of this bill establishes a new procedure for the summary eviction of certain tenants who are not tenants of a commercial premises and who default in the payment of rent. **Section 7** of this bill establishes a new procedure for the summary eviction of certain tenants who are guilty of unlawful detainer for reasons other than a default in the payment of rent. **Section 8** of this bill establishes a new procedure for the summary eviction of certain tenants of a commercial premises who default in the payment of rent.

The new procedures for summary eviction set forth in **sections 2, 7 and 8** are similar to the procedures repealed by **section 22** except with regard to: (1) the required contents of a written notice; (2) certain requirements relating to filings made with the court; and (3) the period of time before the removal of a tenant. Instead of requiring a tenant who contests a summary eviction to file an affidavit in court before the landlord files a complaint, **sections 2, 7 and 8** require the landlord, upon the expiration of certain notice provided to the tenant, to: (1) apply by affidavit of complaint for the summary eviction of the tenant; and (2) serve the tenant with a file-stamped copy of the affidavit of complaint and certain notice. **Sections 2, 7 and 8** require the tenant to file an answer to the affidavit of complaint within 10 days after the date of service. If a tenant files an answer within the prescribed period, a hearing is held. If no such answer is filed, **sections 2, 7 and 8** authorize the court, without holding a hearing, to order the removal of the tenant within a prescribed period. **Sections 10-21** of this bill make conforming changes relating to the repeal, revision and reorganization of the procedures for summary eviction. **Section 9** of this bill defines the term "designated eviction proceeding" to include certain proceedings relating to the eviction of tenants who have defaulted in the payment of rent. **Section 9** authorizes a tenant to claim as an affirmative defense to a designated eviction proceeding that: (1) the tenant has a pending application process for rental assistance; or (2) the landlord of the tenant refused to participate in the application process for rental assistance or accept rental assistance provided on behalf of the tenant. **Section 9** requires the court to stay the proceedings upon the assertion of such an affirmative defense unless the landlord receives an exemption. **Section 9** also authorizes the landlord to file a motion to rebut the affirmative defense. If such a motion is filed by a landlord, **section 9** authorizes the 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 9** 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 9** 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 9** requires the court to consider the degree of harm caused to the tenant by the refusal of the landlord to participate in the application process for rental assistance or accept the rental assistance on behalf of the tenant.



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 the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. 1. *Except as otherwise provided in subsection 11, in addition to the remedies provided in NRS 40.290 to 40.420, inclusive, a landlord may pursue the summary eviction of a tenant for a default in the payment of rent using the procedure for summary eviction provided in this section.*

2. *Before a landlord or landlord's agent may file an affidavit of complaint for the summary eviction of a tenant for a default in the payment of rent, the landlord or the landlord's agent must serve upon the tenant a written notice which:*

(a) Requires the tenant to pay the past due rent or surrender the premises before the close of business on:

(1) The seventh judicial day following the day of service; or

(2) The fourth judicial day following the day of service, if the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days; and

(b) Informs the tenant that if the tenant fails to comply with the requirements of paragraph (a), the tenant may be evicted using the procedure for summary eviction set forth in this section.

3. *A landlord or the landlord's agent who serves a notice to a tenant pursuant to subparagraph (2) of paragraph (a) of subsection 2 shall attempt to deliver a copy of the notice personally, in the presence of a witness. If the service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's agent:*

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280.

4. *Upon noncompliance of a tenant with the notice provided pursuant to subsection 2, the landlord or the landlord's agent may apply by affidavit of complaint for summary eviction to the justice court of the township in which the dwelling, apartment, mobile home or recreational vehicle is located or the district court of the county in which the dwelling, apartment, mobile home or recreational vehicle is located, whichever has jurisdiction over the matter.*



1 5. An affidavit of complaint for summary eviction filed
2 pursuant to subsection 4 must state or contain:

- 3 (a) The date the tenancy commenced;
4 (b) The amount of periodic rent reserved;
5 (c) The amounts of any cleaning, security or rent deposits paid
6 in advance, in excess of the first month's rent, by the tenant;
7 (d) The date the rental payments became delinquent;
8 (e) The length of time the tenant has remained in possession
9 without paying rent;
10 (f) The amount of rent claimed due and delinquent;
11 (g) A statement that the written notice was served on the tenant
12 pursuant to subsection 2 or 3 or in accordance with NRS 40.280;
13 (h) A copy of the written notice served on the tenant pursuant
14 to subsection 2; and
15 (i) A copy of the signed written rental agreement, if any.

16 6. A landlord or landlord's agent who applies for summary
17 eviction pursuant to subsection 4 shall serve upon the tenant a
18 file-stamped copy of the affidavit of complaint for summary
19 eviction filed pursuant to subsection 4 and notice which must:

- 20 (a) Identify the court that has jurisdiction over the matter; and
21 (b) Advise the tenant that:

22 (1) The tenant must file a written answer to the affidavit of
23 complaint for summary eviction with the court that has
24 jurisdiction over the matter not later than 10 days after service of
25 the affidavit of complaint for summary eviction;

26 (2) If the tenant does not file an answer within 10 days
27 after service of the affidavit of complaint for summary eviction,
28 the court may issue a summary order for removal of the tenant or
29 an order providing for the nonadmittance of the tenant; and

30 (3) Pursuant to NRS 118A.390, the tenant may seek relief if
31 a landlord unlawfully removes the tenant from the premises or
32 excludes the tenant by blocking or attempting to block the tenant's
33 entry upon the premises or willfully interrupts or causes or permits
34 the interruption of an essential item or service required by the
35 rental agreement or chapter 118A of NRS.

36 7. Upon being served pursuant to subsection 6, the tenant
37 shall, within 10 days after the day of service, file a written answer
38 with the court that has jurisdiction over the matter. If no written
39 answer is filed within the time period prescribed by this
40 subsection:

- 41 (a) The court may, without holding a hearing, issue:
42 (1) A summary order for the removal of the tenant or an
43 order providing for the nonadmittance of the tenant; and
44 (2) An order directing the sheriff or constable of the county
45 to perform the actions required by section 4 of this act.



(b) Except as provided by NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

8. If a tenant files a written answer pursuant to subsection 7:

(a) The landlord or the landlord's agent shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise; and

(b) The court shall hold a hearing to determine the truthfulness and sufficiency of the affidavit of complaint for summary eviction.

9. If, after a hearing held pursuant to subsection 8, the court determines that:

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant.

(b) There is a legal defense as to the alleged unlawful detainer, require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

10. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served a notice pursuant to subsection 2 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security deposit.

11. Except as otherwise provided in NRS 118A.315, this section does not apply to:

(a) A tenant of a commercial premises;

(b) A tenant of a mobile home lot in a mobile home park or a tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215; or

(c) A tenant who provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

12. As used in this section:

(a) "Close of business" means the close of business of the court that has jurisdiction over the matter.

(b) "Day of service" means:

(1) The date on which the landlord or the landlord's agent personally delivers the notice required by subsection 2 to the tenant; or



(2) *If the landlord or the landlord's agent is unable to deliver the notice in person:*

(I) *The date on which the notice is delivered to the sheriff or constable for service, if the request for service is made before noon.*

(II) *The day after the date on which the notice is delivered to the sheriff or constable for service, if the request for service is made after noon.*

(c) *"Security deposit" has the meaning ascribed to it in NRS 118A.240.*

Sec. 3. *1. A sheriff or constable shall not accept a notice for service delivered pursuant to subsection 3 of section 2 of this act or subsection 3 of section 8 of this act unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of section 2 of this act or section 8 of this act, as applicable, which set forth the lawful procedures for summary eviction from a short-term tenancy.*

2. Upon acceptance of a notice for service delivered pursuant to subsection 3 of section 2 of this act or subsection 3 of section 8 of this act, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

Sec. 4. *Upon receipt of a summary order for the removal of the tenant or an order providing for the nonadmittance of the tenant issued pursuant to subsection 7 of section 2 of this act or subsection 9 of section 8 of this act, the sheriff or constable shall:*

1. Post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable.

2. Remove the tenant not earlier than 24 hours but not later than 36 hours after the posting of the order.

Sec. 5. *1. A tenant against whom a court issues a summary order for removal pursuant to section 2 of this act or an order providing for nonadmittance pursuant to section 8 of this act may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230, as applicable.*

2. A motion filed pursuant to subsection 1 must be made on a form prescribed by the clerk of the court and filed within 20 days after the later of:

(a) The date on which the summary order for removal or the order providing for nonadmittance was issued.



(b) *The date on which the tenant vacated or was removed from the premises.*

(c) *The date on which a copy of the costs claimed by the landlord was requested by or provided to the tenant.*

3. *Upon the filing of a motion pursuant to subsection 1, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server licensed pursuant to chapter 648 of NRS. At the hearing, the court may:*

(a) *Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230, as applicable, and any accumulating daily costs; and*

(b) *Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.*

Sec. 6. 1. *A tenant against whom a court issues a summary order for removal pursuant to section 2 of this act or an order providing for nonadmittance pursuant to section 8 of this act may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion to dispute the reasonableness of any action taken by the landlord pursuant to subsection 3 of NRS 118A.460.*

2. *A motion filed pursuant to subsection 1 must be made on a form prescribed by the clerk of the court and filed within 5 days after the date on which the tenant vacated or was removed from the premises.*

3. *Upon the filing of a motion pursuant to subsection 1, the court shall schedule a hearing on the motion. The hearing must be held within 5 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:*

(a) *Order the landlord to allow the tenant to retrieve his or her essential personal effects at the date and time and for a period necessary for the retrieval, as determined by the court; and*

(b) *Award damages in an amount not greater than \$2,500.*

4. *In determining the amount of damages, if any, to be awarded under paragraph (b) of subsection 3, the court shall consider:*

(a) *Whether the landlord acted in good faith;*

(b) *The course of conduct between the landlord and the tenant; and*



(c) *The degree of harm to the tenant caused by the landlord's conduct.*

Sec. 7. 1. *Except as otherwise provided by this section or specific statute, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the landlord's agent may utilize the procedure for summary eviction set forth in section 2 of this act except that:*

(a) *The written notice to surrender the premises must:*

(1) *Be given to the tenant in accordance with the provisions of NRS 40.280;*

(2) *Identify the court that has jurisdiction over the matter; and*

(3) *Advise the tenant that the tenant:*

(I) *Must file an answer to the affidavit of complaint for summary eviction with the court that has jurisdiction over the matter not later than 10 days after the service of the affidavit of the complaint for summary eviction; and*

(II) *May request that the court stay the execution of the order of removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted; and*

(b) *The affidavit of complaint for summary eviction must state or contain:*

(1) *The date when the tenancy commenced, the term of the tenancy and, if any, a copy of the rental agreement. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.*

(2) *The date when the tenancy or rental agreement allegedly terminated.*

(3) *The date when written notice to surrender was given to the tenant pursuant to the provisions of NRS 40.251, 40.2514 or 40.2516, together with any facts supporting the notice.*

(4) *The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.*

(5) *A statement that the claim for relief was authorized by law.*



2. If the tenant is found guilty of unlawful detainer as a result of the tenant's violation of any provision of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of the hearing, if any, held pursuant to subsection 8 of section 2 of this act.

Sec. 8. 1. In addition to the remedies provided in NRS 40.290 to 40.420, inclusive, a landlord may pursue the summary eviction of a tenant of any commercial premises for a default in the payment of rent using the procedure for summary eviction provided in this section.

2. Before a landlord or landlord's agent may file an affidavit of complaint for the summary eviction of a tenant for a default in the payment of rent, the landlord or the landlord's agent must serve upon the tenant a written notice which:

(a) Requires the tenant to pay the past due rent or surrender the premises before the close of business on:

(1) The fifth judicial day following the day of service; or

(2) The fourth judicial day following the day of service, if the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days; and

(b) Informs the tenant that if the tenant fails to comply with the requirements of paragraph (a), the tenant may be evicted using the procedure for summary eviction set forth in this section.

3. A landlord or the landlord's agent who serves a notice to a tenant pursuant to subparagraph (2) of paragraph (a) of subsection 2 shall attempt to deliver a copy of the notice personally, in the presence of a witness. If the service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280.

4. Upon noncompliance of a tenant with the notice provided pursuant to subsection 2, the landlord or the landlord's agent may apply by affidavit of complaint for summary eviction to the justice court of the township in which the commercial premises is located or the district court of the county in which the commercial premises is located, whichever has jurisdiction over the matter.

5. An affidavit of complaint for summary eviction filed pursuant to subsection 4 must state or contain:



- (a) *The date the tenancy commenced;*
 - (b) *The amount of periodic rent reserved;*
 - (c) *The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant;*
 - (d) *The date the rental payments became delinquent;*
 - (e) *The length of time the tenant has remained in possession without paying rent;*
 - (f) *The amount of rent claimed due and delinquent;*
 - (g) *A statement that the written notice was served on the tenant pursuant to subsection 2 or 3 or in accordance with NRS 40.280; and*
 - (h) *A copy of the:*
 - (1) *Written notice served on the tenant pursuant to subsection 2; and*
 - (2) *Signed written rental agreement, if any.*
6. *A landlord or landlord's agent who applies for summary eviction pursuant to subsection 4 shall serve upon the tenant a file-stamped copy of the affidavit of complaint for summary eviction filed pursuant to subsection 4 and notice which must:*
- (a) *Identify the court that has jurisdiction over the matter; and*
 - (b) *Advise the tenant that:*
 - (1) *The tenant must file a written answer to the affidavit of complaint for summary eviction with the court that has jurisdiction over the matter not later than 10 days after service of the affidavit of complaint for summary eviction; and*
 - (2) *If the tenant does not file an answer within 10 days after service of the affidavit of complaint for summary eviction, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant.*
7. *Upon being served pursuant to subsection 6, the tenant shall, within 10 days after the date of service, file a written answer with the court that has jurisdiction over the matter. If no written answer is filed within the time period prescribed by this subsection:*
- (a) *The court may, without a hearing, issue:*
 - (1) *A summary order for the removal of the tenant or an order providing for the nonadmittance of the tenant; and*
 - (2) *An order directing the sheriff or constable of the county to perform the actions required by section 4 of this act.*
 - (b) *The landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.*
8. *If a tenant files a written answer pursuant to subsection 7:*



(a) The landlord or the landlord's agent shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise; and

(b) The court shall hold a hearing to determine the truthfulness and sufficiency of the affidavit of complaint for summary eviction.

9. If, after a hearing held pursuant to subsection 8, the court determines that:

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant.

(b) There is a legal defense as to the alleged unlawful detainer, require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

10. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served a notice pursuant to subsection 2 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security deposit.

11. As used in this section:

(a) "Close of business" means the close of business of the court that has jurisdiction over the matter.

(b) "Day of service" means:

(1) The date on which the landlord or the landlord's agent personally delivers the notice required by subsection 2 to the tenant; or

(2) If the landlord or the landlord's agent is unable to deliver the notice in person:

(I) The date on which the notice is delivered to the sheriff or constable for service, if the request for service is made before noon.

(II) The day after the date on which the notice is delivered to the sheriff or constable for service, if the request for service is made after noon.

Sec. 9. 1. In any designated eviction proceeding, the tenant may, at any point in the proceeding, claim as an affirmative defense that:

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

(b) The landlord has refused to:

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

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



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

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

6 (b) The landlord may file a motion to rebut the affirmative
7 defense by the tenant.

8 3. If a landlord files the motion described in subsection 2, the
9 court may:

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

11 (b) Hold a hearing on the motion; or

12 (c) Maintain the stay until the applicable time described in
13 subsection 4.

14 4. The stay of the designated eviction proceeding must be
15 maintained by the court:

16 (a) Until the designated eviction proceeding is referred to
17 mediation, if applicable;

18 (b) If the affirmative defense asserted was that described in
19 paragraph (a) of subsection 1, until such time as a determination
20 is made on the pending application for rental assistance, and if the
21 application for rental assistance is granted, the court must dismiss
22 the designated eviction proceeding at the time that the rental
23 assistance is received by the landlord; or

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

27 (1) Must deny the eviction; and

28 (2) May award damages to the tenant.

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

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

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

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

38 (a) The landlord:

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

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

44 (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. This section does not apply to any proceeding for eviction relating to:

(a) A commercial premises; or

(b) An unlawful detainer pursuant to subsection 4 of NRS 40.2514 or 40.255.

8. As used in this section:

(a) "Designated eviction proceeding" means

(1) A proceeding for summary eviction pursuant to section 2 of this act;

(2) A proceeding for summary eviction pursuant to section 7 of this act where the tenant has defaulted in the payment of rent;

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

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

(b) "Pending application for rental assistance" means an application for rental assistance submitted in good faith by a tenant. The term includes, without limitation, 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. The term does not include an application for rental assistance that was started by the tenant but is not actively being pursued by the tenant.

(c) "Rental assistance" includes, without limitation, federal, state or local funds:

(1) Provided by a governmental entity; and

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

Sec. 10. NRS 40.2516 is hereby amended to read as follows:

40.2516 1. A tenant of real property, a dwelling unit, a recreational vehicle or a mobile home other than a mobile home lot or a recreational vehicle lot for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the real property, dwelling unit, recreational vehicle or mobile home is held, other than those mentioned in NRS 40.250 to ~~[40.254,]~~ 40.252, inclusive, and sections 2 to 7, inclusive, of this act and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the real property, dwelling unit,



1 recreational vehicle or mobile home, served upon the tenant, and, if
2 there is a subtenant in actual occupation of the premises or property,
3 also upon the subtenant, remains uncomplished with for 5 days after
4 the service thereof. Within 5 days after the service, the tenant, or
5 any subtenant in actual occupation of the premises or property, or
6 any mortgagee of the term, or other person, interested in its
7 continuance, may perform the condition or covenant and thereby
8 save the lease from forfeiture; but if the covenants and conditions of
9 the lease, violated by the lessee, cannot afterwards be performed,
10 then no notice need be given.

11 2. If a tenant is guilty of an unlawful detainer pursuant to this
12 section, the landlord may seek to recover possession of the real
13 property, dwelling unit, recreational vehicle or mobile home
14 pursuant to the provisions of NRS ~~[40.254 or]~~ 40.290 to 40.420,
15 inclusive ~~[]~~, *or section 7 of this act.*

16 **Sec. 11.** NRS 40.252 is hereby amended to read as follows:

17 40.252 For the purposes of NRS 40.250 to 40.252, inclusive,
18 and ~~[NRS 40.254:]~~ *sections 2 to 7, inclusive, of this act:*

19 1. It is unlawful for a landlord to attempt by contract or other
20 agreement to shorten the specified periods of notice and any such
21 contract or agreement is void.

22 2. Notice to surrender the premises which was given by one
23 colessor of real property or a mobile home is valid unless it is
24 affirmatively shown that one or more of the other colessors did not
25 authorize the giving of the notice.

26 **Sec. 12.** NRS 40.2545 is hereby amended to read as follows:

27 40.2545 1. If a court grants an action for summary eviction
28 pursuant to ~~[NRS 40.253]~~ *section 2 of this act* during the COVID-
29 19 emergency, the court shall automatically seal the eviction case
30 court file.

31 2. In addition to the provisions for the automatic sealing of an
32 eviction case court file pursuant to subsection 1, in any action for
33 summary eviction pursuant to ~~[NRS 40.253, 40.254 or 40.2542,]~~
34 *sections 2, 7 or 8 of this act*, the eviction case court file is sealed
35 automatically and not open to inspection:

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

38 (b) Ten judicial days after the entry of a court order which
39 denies the action for summary eviction .

40 ~~[(c) Thirty one days after the tenant has filed an affidavit~~
41 ~~described in subsection 3 of NRS 40.253 or subsection 3 of NRS~~
42 ~~40.2542, if the landlord has failed to file an affidavit of complaint~~
43 ~~pursuant to subsection 5 of NRS 40.253 or subsection 5 of NRS~~
44 ~~40.2542 within 30 days after the tenant filed the affidavit.]~~



3. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to 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;~~ *section 2, 7 or 8 of this act:*

(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. 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.

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.

6. As used in this section:

(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 [May 20, 2022].

(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. 13. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as otherwise provided in subsections 2, 4 and 9, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to surrender has been served upon the person may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against the person, or against another person under whom the person claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by the person, or by another person under whom the person claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by the person, or by another person under whom the person claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by the person, or by another person under whom the person claims, and the title under the sale has been perfected.

2. Except as otherwise provided in subsection 4, if the property has been transferred or sold as a residential sale, absent an agreement between the new owner and the tenant to modify or terminate an existing lease:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property;

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property; and

(c) Upon termination of the previous owner's interest in the property by residential transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights,



obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.

3. The new owner pursuant to subsection 2 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the period of the lease term and states the amount held by the new owner for the security deposit; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to ~~NRS 40.253 and 40.254~~ *sections 2 and 7 of this act*.

4. If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

5. During the notice period described in subsection 4:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.



6. The notice described in subsection 4 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 4; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to ~~NRS 40.253 and 40.254~~ *sections 2 and 7 of this act*.

7. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 4.

8. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 4 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 4.

9. This section does not apply to the tenant of a mobile home lot in a mobile home park.

10. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 14. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in ~~NRS 40.253 and 40.254~~ *sections 2 and 8 of this act*, the notices required by NRS 40.251 to 40.260, inclusive, *and sections 2 to 9, inclusive, of this act* must be served by the sheriff, a constable, a person who is



1 licensed as a process server pursuant to chapter 648 of NRS or the
2 agent of an attorney licensed to practice in this State:

3 (a) By delivering a copy to the tenant personally.

4 (b) If the tenant is absent from the tenant's place of residence or
5 from the tenant's usual place of business, by leaving a copy with a
6 person of suitable age and discretion at either place and mailing a
7 copy to the tenant at the tenant's place of residence or place of
8 business.

9 (c) If the place of residence or business cannot be ascertained, or
10 a person of suitable age or discretion cannot be found there, by
11 posting a copy in a conspicuous place on the leased property,
12 delivering a copy to a person there residing, if the person can be
13 found, and mailing a copy to the tenant at the place where the leased
14 property is situated.

15 2. The notices required by NRS 40.230, 40.240 and 40.414
16 must be served upon an unlawful or unauthorized occupant:

17 (a) Except as otherwise provided in this paragraph and
18 paragraph (b), by delivering a copy to the unlawful or unauthorized
19 occupant personally, in the presence of a witness. If service is
20 accomplished by the sheriff, constable or a person who is licensed
21 as a process server pursuant to chapter 648 of NRS, the presence of
22 a witness is not required.

23 (b) If the unlawful or unauthorized occupant is absent from the
24 real property, by leaving a copy with a person of suitable age and
25 discretion at the property and mailing a copy to the unlawful or
26 unauthorized occupant at the place where the property is situated. If
27 the occupant is unknown, the notice must be addressed to "Current
28 Occupant."

29 (c) If a person of suitable age or discretion cannot be found at
30 the real property, by posting a copy in a conspicuous place on the
31 property and mailing a copy to the unlawful or unauthorized
32 occupant at the place where the property is situated. If the occupant
33 is unknown, the notice must be addressed to "Current Occupant."

34 3. Service upon a subtenant may be made in the same manner
35 as provided in subsection 1.

36 4. Proof of service of any notice required by NRS 40.230 to
37 40.260, inclusive, *and sections 2 to 9, inclusive, of this act* must be
38 filed with the court before:

39 (a) An order for removal of a tenant is issued pursuant to ~~NRS~~
40 ~~40.253 or 40.254;~~ *section 2 or 7 of this act;*

41 (b) An order for removal of an unlawful or unauthorized
42 occupant is issued pursuant to NRS 40.414;

43 (c) A writ of restitution is issued pursuant to NRS 40.290 to
44 40.420, inclusive; or



(d) An order for removal of a commercial tenant pursuant to ~~NRS 40.2542.~~ *section 8 of this act.*

5. Proof of service of notice pursuant to NRS 40.230 to 40.260, inclusive, *and sections 2 to 9, inclusive, of this act* that must be filed before the court may issue an order or writ filed pursuant to paragraph (a), (b) or (c) of subsection 4 must consist of:

(a) Except as otherwise provided in paragraph (b):

(1) If the notice was served pursuant to subsection 1, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice. If the notice was served by the agent of an attorney licensed in this State, the statement must be accompanied by a declaration, signed by the attorney and bearing the license number of the attorney, stating that the attorney:

(I) Was retained by the landlord in an action pursuant to NRS 40.230 to 40.420, inclusive ~~;~~, *and sections 2 to 9, inclusive, of this act;*

(II) Reviewed the date and manner of service by the agent; and

(III) Believes to the best of his or her knowledge that such service complies with the requirements of this section.

(2) If the notice was served pursuant to paragraph (a) of subsection 2, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, as applicable, and a witness, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

(3) If the notice was served pursuant to paragraph (b) or (c) of subsection 2, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

6. Proof of service of notice pursuant to NRS 40.230 to 40.260, inclusive, *and sections 2 to 9, inclusive, of this act* that must be



1 filed before the court may issue an order filed pursuant to paragraph
2 (d) of subsection 4 must consist of:

3 (a) Except as otherwise provided in paragraphs (b) and (c):

4 (1) If the notice was served pursuant to subsection ~~[2] 3~~ of
5 ~~[NRS 40.2542]~~ *section 8 of this act*, an affidavit or declaration
6 signed by the tenant or the unlawful or unauthorized occupant, and a
7 witness, as applicable, signed under penalty of perjury by the server,
8 acknowledging that the tenant or occupant received the notice on a
9 specified date.

10 (2) If the notice was served pursuant to paragraph (b) or (c)
11 of subsection 1, an affidavit or declaration signed under penalty of
12 perjury by the person who served the notice, stating the date and
13 manner of service and accompanied by a confirmation of delivery or
14 certificate of mailing issued by the United States Postal Service or
15 confirmation of actual delivery by a private postal service.

16 (b) If the notice was served by a sheriff, a constable or a person
17 who is licensed as a process server pursuant to chapter 648 of NRS,
18 a written statement, endorsed by the person who served the notice,
19 stating the date and manner of service. The statement must also
20 include the number of the badge or license of the person who served
21 the notice.

22 (c) For a short-term tenancy, if service of the notice was not
23 delivered in person:

24 (1) A certificate of mailing issued by the United States Postal
25 Service or by a private postal service to the landlord or the
26 landlord's agent; or

27 (2) The endorsement of a sheriff or constable stating the:

28 (I) Time and date the request for service was made by the
29 landlord or the landlord's agent;

30 (II) Time, date and manner of the service; and

31 (III) Fees paid for the service.

32 7. For the purpose of this section, an agent of an attorney
33 licensed in this State shall only serve notice pursuant to subsection 1
34 if:

35 (a) The landlord has retained the attorney in an action pursuant
36 to NRS 40.230 to 40.420, inclusive ~~[2]~~ , *and sections 2 to 9,*
37 *inclusive, of this act;* and

38 (b) The agent is acting at the direction and under the direct
39 supervision of the attorney.

40 **Sec. 15.** NRS 40.385 is hereby amended to read as follows:

41 40.385 1. Either party may appeal an order entered pursuant
42 to ~~[NRS 40.253, 40.254 or 40.2542]~~ *section 2, 7 or 8 of this act* by
43 filing a notice of appeal within 10 judicial days after the date of
44 entry of the order.



2. Except as otherwise provided in this section, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of any unpaid rent claim of the landlord.

3. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to ~~NRS 40.253, 40.254 or 40.2542.~~ *section 2, 7 or 8 of this act.*

Sec. 16. NRS 118.205 is hereby amended to read as follows:

118.205 A notice provided by a landlord to a tenant pursuant to NRS 118.195:

1. Must advise the tenant of the provisions of that section and specify:

- (a) The address or other location of the property;
- (b) The date upon which the property will be deemed abandoned and the rental agreement terminated; and
- (c) An address for payment of the rent due and delivery of notice to the landlord.

2. Must be served pursuant to subsection 1 of NRS 40.280.

3. May be included in the notice required by subsection ~~H~~ 2 of ~~NRS 40.253~~ *section 2 of this act* or subsection ~~H~~ 2 of ~~NRS 40.2542.~~ *section 8 of this act*, as applicable.

Sec. 17. NRS 118A.460 is hereby amended to read as follows:

118A.460 1. The landlord may dispose of personal property abandoned on the premises by a former tenant or left on the premises after eviction of the tenant without incurring civil or criminal liability in the following manner:

- (a) The landlord shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction or the end of the rental period and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the tenant or his or her authorized representative rightfully claiming the property within that period. The landlord is



1 liable to the tenant only for the landlord's negligent or wrongful acts
2 in storing the property.

3 (b) After the expiration of the 30-day period, the landlord may
4 dispose of the property and recover his or her reasonable costs out
5 of the property or the value thereof if the landlord has made
6 reasonable efforts to locate the tenant, has notified the tenant in
7 writing of his or her intention to dispose of the property and 14 days
8 have elapsed since the notice was given to the tenant. The notice
9 must be mailed to the tenant at the tenant's present address, and if
10 that address is unknown, then at the tenant's last known address.

11 (c) Vehicles must be disposed of in the manner provided in
12 chapter 487 of NRS for abandoned vehicles.

13 2. Any dispute relating to the amount of the costs claimed by
14 the landlord pursuant to paragraph (a) of subsection 1 may be
15 resolved using the procedure provided in ~~subsection 7 of NRS~~
16 ~~40.253.]~~ *section 5 of this act.*

17 3. During the 5-day period following the eviction or lockout of
18 a tenant, the landlord shall provide the former tenant a reasonable
19 opportunity to retrieve essential personal effects, including, without
20 limitation, medication, baby formula, basic clothing and personal
21 care items. Any dispute relating to the reasonableness of the
22 landlord's actions pursuant to this section may be resolved using the
23 procedure provided in ~~subsection 9 of NRS 40.253.]~~ *section 6 of*
24 *this act.*

25 **Sec. 18.** NRS 118C.230 is hereby amended to read as follows:

26 118C.230 1. Except as otherwise provided in subsection 3, a
27 landlord who leases or subleases any commercial premises under a
28 rental agreement that has been terminated for any reason may, in
29 accordance with the following provisions, dispose of any abandoned
30 personal property, regardless of its character, left on the commercial
31 premises without incurring any civil or criminal liability:

32 (a) The landlord may dispose of the abandoned personal
33 property and recover his or her reasonable costs out of the
34 abandoned personal property or the value thereof if the landlord has
35 notified the tenant in writing of the landlord's intention to dispose of
36 the abandoned personal property and 14 days have elapsed since the
37 notice was mailed to the tenant. The notice must be mailed, by
38 certified mail, return receipt requested, to the tenant at the tenant's
39 present address, and if that address is unknown, then at the tenant's
40 last known address.

41 (b) The landlord may charge and collect the reasonable and
42 actual costs of inventory, moving and safe storage, if necessary,
43 before releasing the abandoned personal property to the tenant or his
44 or her authorized representative rightfully claiming the abandoned



1 personal property within the appropriate period set forth in
2 paragraph (a).

3 (c) Vehicles must be disposed of in the manner provided in
4 chapter 487 of NRS for abandoned vehicles.

5 2. A tenant of commercial premises is presumed to have
6 abandoned the premises if:

7 (a) Goods, equipment or other property, in an amount
8 substantial enough to indicate a probable intent to abandon the
9 commercial premises, is being or has been removed from the
10 commercial premises; and

11 (b) The removal is not within the normal course of business of
12 the tenant.

13 3. If a written agreement between a landlord and a person who
14 has an ownership interest in any abandoned personal property of the
15 tenant contains provisions which relate to the removal and disposal
16 of abandoned personal property, the provisions of the agreement
17 determine the rights and obligations of the landlord and the person
18 with respect to the removal and disposal of the abandoned personal
19 property.

20 4. Any dispute relating to the amount of the costs claimed by
21 the landlord pursuant to paragraph (b) of subsection 1 may be
22 resolved using the procedure provided in ~~subsection 7 of NRS~~
23 ~~40.2542.]~~ *section 5 of this act.*

24 **Sec. 19.** NRS 179.1164 is hereby amended to read as follows:

25 179.1164 1. Except as otherwise provided in subsection 2,
26 the following property is subject to seizure and forfeiture in a
27 proceeding for forfeiture:

28 (a) Any proceeds attributable to the commission or attempted
29 commission of any felony.

30 (b) Any property or proceeds otherwise subject to forfeiture
31 pursuant to NRS 179.121, 200.760, 202.257, 370.419, 453.301 or
32 501.3857.

33 2. Property may not, to the extent of the interest of any
34 claimant, be declared forfeited by reason of an act or omission
35 shown to have been committed or omitted without the knowledge,
36 consent or willful blindness of the claimant.

37 3. Unless the owner of real property or a mobile home:

38 (a) Has given the tenant notice to surrender the premises
39 pursuant to ~~NRS 40.254]~~ *section 7 of this act* within 90 days after
40 the owner receives notice of a conviction pursuant to subsection 2 of
41 NRS 453.305; or

42 (b) Shows the court that the owner had good cause not to evict
43 the tenant summarily pursuant to ~~NRS 40.254.]~~ *section 7 of this*
44 *act,*



1 ➡ the owner of real property or a mobile home used or intended for
2 use by a tenant to facilitate any violation of the provisions of NRS
3 453.011 to 453.552, inclusive, except NRS 453.336, is disputably
4 presumed to have known of and consented to that use if the notices
5 required by NRS 453.305 have been given in connection with
6 another such violation relating to the property or mobile home. The
7 holder of a lien or encumbrance on the property or mobile home is
8 disputably presumed to have acquired an interest in the property for
9 fair value and without knowledge or consent to such use, regardless
10 of when the act giving rise to the forfeiture occurred.

11 **Sec. 20.** NRS 453.305 is hereby amended to read as follows:

12 453.305 1. Whenever a person is arrested for violating any of
13 the provisions of NRS 453.011 to 453.552, inclusive, except NRS
14 453.336, and real property or a mobile home occupied by the person
15 as a tenant has been used to facilitate the violation, the prosecuting
16 attorney responsible for the case shall cause to be delivered to the
17 owner of the property or mobile home a written notice of the arrest.

18 2. Whenever a person is convicted of violating any of the
19 provisions of NRS 453.011 to 453.552, inclusive, except NRS
20 453.336, and real property or a mobile home occupied by the person
21 as a tenant has been used to facilitate the violation, the prosecuting
22 attorney responsible for the case shall cause to be delivered to the
23 owner of the property or mobile home a written notice of the
24 conviction.

25 3. The notices required by this section must:

- 26 (a) Be written in language which is easily understood;
27 (b) Be sent by certified or registered mail, return receipt
28 requested, to the owner at the owner's last known address;
29 (c) Be sent within 15 days after the arrest occurs or judgment of
30 conviction is entered against the tenant, as the case may be;
31 (d) Identify the tenant involved and the offense for which the
32 tenant has been arrested or convicted; and

33 (e) Advise the owner that:

34 (1) The property or mobile home is subject to forfeiture
35 pursuant to NRS 179.1156 to 179.1205, inclusive, and 453.301
36 unless the tenant, if convicted, is evicted;

37 (2) Any similar violation by the same tenant in the future
38 may also result in the forfeiture of the property unless the tenant has
39 been evicted;

40 (3) In any proceeding for forfeiture based upon such a
41 violation the owner will, by reason of the notice, be deemed to have
42 known of and consented to the unlawful use of the property or
43 mobile home; and

44 (4) The provisions of NRS 40.2514 and ~~40.254~~ **section 7 of**
45 **this act** authorize the supplemental remedy of summary eviction to



1 facilitate the owner's recovery of the property or mobile home upon
2 such a violation and provide for the recovery of any reasonable
3 attorney's fees the owner incurs in doing so.

4 4. Nothing in this section shall be deemed to preclude the
5 commencement of a proceeding for forfeiture or the forfeiture of the
6 property or mobile home, whether or not the notices required by this
7 section are given as required, if the proceeding and forfeiture are
8 otherwise authorized pursuant to NRS 179.1156 to 179.1205,
9 inclusive, and 453.301.

10 5. As used in this section, "tenant" means any person entitled
11 under a written or oral rental agreement to occupy real property or a
12 mobile home to the exclusion of others.

13 **Sec. 21.** NRS 645H.520 is hereby amended to read as follows:

14 645H.520 1. Subject to the provisions of NRS 645H.770, the
15 services an asset management company may provide include,
16 without limitation:

17 (a) Securing real property in foreclosure once it has been
18 determined to be abandoned and all notice provisions required by
19 law have been complied with;

20 (b) Providing maintenance for real property in foreclosure,
21 including landscape and pool maintenance;

22 (c) Cleaning the interior or exterior of real property in
23 foreclosure;

24 (d) Providing repair or improvements for real property in
25 foreclosure; and

26 (e) Removing trash and debris from real property in foreclosure
27 and the surrounding property.

28 2. An asset management company may dispose of personal
29 property abandoned on the premises of a residence in foreclosure or
30 left on the premises after the eviction of a homeowner or a tenant of
31 a homeowner without incurring civil or criminal liability in the
32 following manner:

33 (a) The asset management company shall reasonably provide for
34 the safe storage of the property for 30 days after the abandonment or
35 eviction and may charge and collect the reasonable and actual costs
36 of inventory, moving and storage before releasing the property to
37 the homeowner or the tenant of the homeowner or his or her
38 authorized representative rightfully claiming the property within that
39 period. The asset management company is liable to the homeowner
40 or the tenant of the homeowner only for the asset management
41 company's negligent or wrongful acts in storing the property.

42 (b) After the expiration of the 30-day period, the asset
43 management company may dispose of the property and recover his
44 or her reasonable costs from the property or the value thereof if the
45 asset management company has made reasonable efforts to locate



1 the homeowner or the tenant of the homeowner, has notified the
2 homeowner or the tenant of the homeowner in writing of his or her
3 intention to dispose of the property and 14 days have elapsed since
4 the notice was given to the homeowner or the tenant of the
5 homeowner. The notice must be mailed to the homeowner or the
6 tenant of the homeowner at the present address of the homeowner or
7 the tenant of the homeowner and, if that address is unknown, then at
8 the last known address of the homeowner or the tenant of the
9 homeowner.

10 (c) Vehicles must be disposed of in the manner provided in
11 chapter 487 of NRS for abandoned vehicles.

12 3. Any dispute relating to the amount of the costs claimed by
13 the asset management company pursuant to paragraph (a) of
14 subsection 2 may be resolved using the procedure provided in
15 ~~subsection 7 of NRS 40.253.~~ *section 5 of this act.*

16 **Sec. 22.** The amendatory provisions of sections 2 to 21,
17 inclusive, of this act apply to an action for summary eviction which
18 accrues on or after October 1, 2023.

19 **Sec. 23.** NRS 40.253, 40.254 and 40.2542 are hereby repealed.

TEXT OF REPEALED SECTIONS

40.253 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant for default in payment of rent.

1. Except as otherwise provided in subsection 12, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home or recreational vehicle with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent may cause to be served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) Before the close of business on the seventh judicial day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➤ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service"



means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in subsection 2 of NRS 40.2542. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall remove the tenant not earlier than 24 hours but not later than 36 hours after the posting of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits



the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or recreational vehicle are located or to the district court of the county in which the dwelling, apartment, mobile home or recreational vehicle are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall remove the tenant not earlier than 24 hours but not later than 36 hours after the posting of the order. The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.
- (6) The amount of rent claimed due and delinquent.
- (7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.
- (8) A copy of the written notice served on the tenant.
- (9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no



legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court on a form provided by the clerk of court to dispute the reasonableness of the actions of a landlord pursuant to subsection 3 of NRS 118A.460. The motion must be filed within 5 days after the tenant has vacated or been removed from the premises. Upon the



filing of a motion pursuant to this subsection, the court shall schedule a hearing on the motion. The hearing must be held within 5 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Order the landlord to allow the retrieval of the tenant's essential personal effects at the date and time and for a period necessary for the retrieval, as determined by the court; and

(b) Award damages in an amount not greater than \$2,500.

10. In determining the amount of damages, if any, to be awarded under paragraph (b) of subsection 9, the court shall consider:

(a) Whether the landlord acted in good faith;

(b) The course of conduct between the landlord and the tenant; and

(c) The degree of harm to the tenant caused by the landlord's conduct.

11. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security deposit. As used in this subsection, "security deposit" has the meaning ascribed to it in NRS 118A.240.

12. Except as otherwise provided in NRS 118A.315, this section does not apply to:

(a) The tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215.

(b) A tenant who provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

13. As used in this section, "close of business" means the close of business of the court that has jurisdiction over the matter.

40.254 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant from certain types of property.

1. Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a



recreational vehicle is guilty of an unlawful detainer pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the landlord's agent may utilize the summary procedures for eviction as provided in NRS 40.253 except that written notice to surrender the premises must:

(a) Be given to the tenant in accordance with the provisions of NRS 40.280;

(b) Advise the tenant of the court that has jurisdiction over the matter; and

(c) Advise the tenant of the tenant's right to:

(1) Contest the notice by filing before the court's close of business on the fifth judicial day after the day of service of the notice an affidavit with the court that has jurisdiction over the matter stating the reasons why the tenant is not guilty of an unlawful detainer; or

(2) Request that the court stay the execution of the order for removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted.

2. The affidavit of the landlord or the landlord's agent submitted to the justice court or the district court must state or contain:

(a) The date when the tenancy commenced, the term of the tenancy and, if any, a copy of the rental agreement. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.

(b) The date when the tenancy or rental agreement allegedly terminated.

(c) The date when written notice to surrender was given to the tenant pursuant to the provisions of NRS 40.251, 40.2514 or 40.2516, together with any facts supporting the notice.

(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.

(e) A statement that the claim for relief was authorized by law.

3. If the tenant is found guilty of unlawful detainer as a result of the tenant's violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.



40.2542 Unlawful detainer: Supplemental remedy of summary eviction and exclusion of tenant of commercial premises.

1. In addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➤ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver a copy of the notice to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.



3. A notice served pursuant to subsection 1 or 2 must:

- (a) Identify the court that has jurisdiction over the matter; and
- (b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent; and

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order.

4. If the tenant files an affidavit pursuant to paragraph (b) of subsection 3 at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance of the tenant with a notice served pursuant to subsection 1 or 2:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the commercial premises is located or to the district court of the county in which the commercial premises is located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant pursuant to subsection 1 or 2 or in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed an affidavit described in paragraph (b) of subsection 3 and a file-stamped copy of the affidavit has been received by the landlord or the landlord's agent, the landlord or the landlord's agent may, in a peaceable



manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of an affidavit pursuant to paragraph (b) of subsection 3, regardless of the information contained in the affidavit and the filing by the landlord of an affidavit pursuant to paragraph (a) of subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. A tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs due, if any, claimed by the landlord pursuant to 118C.230 and any accumulating daily costs; and



(b) Order the release of the tenant's property upon the payment of the costs determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks.

