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FIRST REPRINT

S.B. 426

SENATE BILL NO. 426—SENATORS SPEARMAN; AND DONATE

MARCH 27, 2023

JOINT SPONSORS: ASSEMBLYMEN PETERS; ANDERSON, BROWN-
MAY, D’SILVA, DURAN, GORELOW, LA RUE HATCH AND
SUMMERS-ARMSTRONG

REFERRED TO COMMITTEE ON COMMERCE AND LABOR

SUMMARY—Revises provisions governing rent increases.
(BDR 10-15)

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; requiring the Housing Division of the Department of Business and Industry to annually calculate and publish a cost-of-living increase; establishing certain requirements relating to increases in rent; authorizing a landlord to apply for an exemption to certain requirements relating to increases in rent; providing certain remedies for a violation of certain requirements relating to increases in rent; prohibiting a landlord from taking certain retaliatory actions against a tenant; revising provisions relating to notices of increases in rent; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law establishes the Residential Landlord and Tenant Act, which
- 2 governs rental agreements for dwelling units. The Act establishes certain
- 3 obligations for landlords and tenants and provides certain remedies for landlords
- 4 and tenants for violations of such obligations. (Chapter 118A of NRS) **Section 4** of
- 5 this bill prohibits, with certain exceptions, a landlord from increasing the rent
- 6 payable by an existing tenant during: (1) the first year of a tenancy; and (2) any 12-
- 7 month period by an amount that exceeds the cost-of-living increase published by
- 8 the Housing Division of the Department of Business and Industry pursuant to
- 9 **section 3** of this bill. **Section 4** also prohibits, with certain exceptions, a landlord



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from charging a prospective tenant: (1) if there was an existing tenant in the dwelling unit, a rent that exceeds the maximum amount the landlord was authorized to charge the existing tenant; and (2) if there was not an existing tenant, a rent that exceeds the amount for which the dwelling unit was advertised. **Section 4** exempts certain dwelling units from these requirements.

Section 5 of this bill authorizes a landlord to apply to the Housing Division for an exemption from the cost-of-living increase in order for the landlord to obtain a fair and reasonable rate of return on his or her property if: (1) an additional occupant is residing in the dwelling unit; (2) the landlord makes capital improvements to a dwelling unit that primarily benefit the tenant; (3) the landlord changes the amount and quality of housing services attributable to the dwelling unit and included in the rental agreement; (4) the amount of property taxes owed by the landlord decreases or increases; (5) a landlord or tenant makes uninsured repairs; or (6) any other increase necessary to provide the landlord with a just and reasonable return pursuant to the United States Constitution. **Section 5** further: (1) requires the landlord to provide the tenant with a written notice if the landlord applies to the Division for an exemption from the cost-of-living increase; (2) authorizes the tenant to present evidence to support or oppose the application of the landlord; and (3) requires the Division to adopt regulations to carry out the provisions of **section 5**.

Section 6 of this bill provides that if a landlord violates the requirements of **section 4**, the tenant may: (1) apply to the court for relief; (2) withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or authorized fee; and (3) recover actual damages and receive an amount equal to 3 months' rent in addition to such actual damages. Under existing law, the tenant is also entitled to certain other remedies if the landlord engages in retaliatory conduct against the tenant for a good faith complaint regarding a violation of **section 4**. (NRS 118A.510)

Existing law prohibits a landlord from taking certain retaliatory actions against a tenant. (NRS 118A.510) **Section 6.5** of this bill prohibits a landlord from retaliating against a tenant by: (1) threatening to bring or bringing an action to recover possession of the dwelling unit; (2) causing the tenant to quit the dwelling unit involuntarily; (3) serving the tenant with notice to quit the dwelling unit; (4) serving the tenant with notice of a termination of the tenancy; (5) decreasing any housing services; or (6) increasing rent. **Section 6.5** further: (1) provides a rebuttable presumption that a landlord acted in retaliation under certain circumstances; (2) authorizes a tenant to use evidence that a landlord acted in retaliation as a defense; and (3) authorizes a tenant to bring a claim against a landlord for retaliation.

Section 3 requires the Housing Division to annually determine and publish on the Internet website of the Division the maximum cost-of-living increase for that calendar year, which must be equal to the increase in the Consumer Price Index for the region where the dwelling unit is located and which must not exceed 5 percent. **Section 3** also requires the Division to: (1) issue a press release containing the maximum cost-of-living increase for that calendar year; and (2) maintain on its Internet website information relating to each such cost-of-living increase for at least 2 years.

Sections 2 to 2.9 of this bill define terms related to increases in rent.

Existing law prohibits a landlord from increasing the rent payable by a tenant unless the landlord serves the tenant with written notice of the increase: (1) for a periodic tenancy of 1 month or more, 60 days in advance of the first rental payment to be increased; or (2) for a periodic tenancy of less than 1 month, 30 days in advance of the first rental payment to be increased. (NRS 118A.300) **Section 8** of this bill instead requires such notice for a periodic tenancy of 1 month or more to be served 90 days in advance of the first rental payment to be increased. **Section 8** further requires that such notice include: (1) the amount of the increase; (2) the total



amount of the new rent; (3) if the increase exceeds the cost-of-living increase, the reason the landlord is exempt from the requirements of **section 4**; and (4) the date on which the increase becomes effective.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 6.5, inclusive, of this act.

Sec. 1.5. *As used in sections 1.5 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 2.9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2. *“Cost-of-living increase” means the cost-of-living increase published by the Housing Division of the Department of Business and Industry pursuant to section 3 of this act.*

Sec. 2.1. *“Dwelling unit” means any unit of real property, including the land appurtenant to such a unit that is rented or made available to rent for residential use or occupancy, including, without limitation, any housing services, common areas and recreational facilities held out by the landlord for use by the tenant.*

Sec. 2.3. *“Housing services” means services connected with the use or occupancy of a dwelling unit, including, without limitation:*

- 1. Utilities, such as light, heat, water and telephone services;*
- 2. Ordinary repairs, replacements and maintenance, including, without limitation, painting;*
- 3. Elevator services;*
- 4. Laundry facilities and privileges;*
- 5. Recreational facilities;*
- 6. Janitorial services;*
- 7. The provision of a resident manager;*
- 8. Refuse removal;*
- 9. Furnishings;*
- 10. Food services;*
- 11. Parking; and*
- 12. Any other benefits, privileges or facilities.*

Sec. 2.4. *“Landlord” means a person who provides a dwelling unit for occupancy by another person pursuant to a rental agreement. The term includes, without limitation:*

- 1. An owner of record;*
- 2. A lessor;*
- 3. A sublessor;*



4. Any other person entitled to receive rent for the use or occupancy of any dwelling unit;

5. An agent of the landlord;

6. A representative of the landlord; or

7. Any successor of the foregoing.

Sec. 2.6. “Rent” means the consideration demanded or received for or in connection with the use or occupancy of a dwelling unit and housing services, including, without limitation, any fee, deposit, bonus, benefit, gratuity, money or the fair market value of goods and services provided to the landlord under the rental agreement.

Sec. 2.8. “Rental agreement” means a lease or contract, oral, written or implied, between the landlord and a tenant for the use and occupancy of a dwelling unit.

Sec. 2.9. “Tenant” means a person entitled under a rental agreement to occupy a dwelling unit including, without limitation:

1. A renter;

2. A tenant;

3. A subtenant;

4. A lessee or sublessees;

5. A successor to the interest of a tenant;

6. A group of tenants, subtenants, lessees, or sublessees of a dwelling unit; or

7. Any other person entitled to the use or occupancy of a dwelling unit.

Sec. 3. 1. The Housing Division of the Department of Business and Industry shall determine a maximum cost-of-living increase for each calendar year which must, except as otherwise provided in this subsection, be equal to the percentage increase from September 30 of the immediately preceding year to September 30 of the current year using the Consumer Price Index for All Urban Consumers, U.S. City Average (All Items) as published by the United States Department of Labor, for the region where the dwelling unit is located. The cost-of-living increase must not exceed 5 percent.

2. On or before January 1 of each year, the Housing Division shall publish on the Internet website of the Housing Division the maximum cost-of-living increase for that calendar year and issue a press release containing the maximum cost-of-living increase for that calendar year.

3. The Housing Division shall maintain the information for each cost-of-living increase on the Internet website of the Housing Division for at least 2 years.

Sec. 4. 1. The Legislature hereby finds and declares that the State of Nevada is experiencing a housing crisis because of the



1 *lack of affordable housing and excessive increases in the rent*
2 *charged for rental housing in this State.*

3 2. *Except as otherwise provided in subsection 3 and section 5*
4 *of this act, and in addition to the requirements of NRS 118A.300,*
5 *a landlord shall not:*

6 (a) *Increase the rent payable by an existing tenant:*

7 (1) *During the first year of tenancy; and*

8 (2) *During any 12-month period by an amount that exceeds*
9 *the cost-of-living increase for the region where the dwelling unit is*
10 *located, as published by the Housing Division of the Department*
11 *of Business and Industry pursuant to section 3 of this act, that is*
12 *in effect at the time the landlord provides written notice of the*
13 *increase in rent pursuant to NRS 118A.300; and*

14 (b) *For a prospective tenant:*

15 (1) *If there was an existing tenant in the dwelling unit,*
16 *charge a rent that exceeds the maximum amount the landlord was*
17 *authorized to charge to an existing tenant in accordance with*
18 *paragraph (a); and*

19 (2) *If there was not an existing tenant in the dwelling unit,*
20 *charge a rent that exceeds the amount for which the dwelling unit*
21 *was advertised.*

22 3. *The provisions of this section do not apply to a dwelling*
23 *unit:*

24 (a) *Owned by a governmental agency;*

25 (b) *In a structure that contains living quarters occupied or*
26 *intended to be occupied by not more than four families living*
27 *independently of each other if the owner actually maintains and*
28 *occupies one of the living quarters as his or her primary*
29 *residence;*

30 (c) *Issued a certificate of occupancy on or after January 1,*
31 *2024, if less than 15 years have passed since the date the*
32 *certificate was issued;*

33 (d) *Where the landlord is providing reduced rent to the tenant*
34 *through a federal, state or local program; or*

35 (e) *That is the only dwelling unit owned by the landlord in this*
36 *State.*

37 4. *Nothing in this section shall be construed as creating a*
38 *right to increase rent.*

39 **Sec. 5. 1.** *A landlord may apply to the Housing Division of*
40 *the Department of Business and Industry for an exemption from*
41 *the requirements of subsection 2 of section 4 of this act if an*
42 *exemption is necessary for the landlord to obtain a fair and*
43 *reasonable rate of return on his or her property. A landlord may*
44 *not increase rent above the cost-of-living increase without*
45 *obtaining an exemption from Housing Division to increase rent. A*



landlord may apply for exemption pursuant to this subsection under one or more of the following circumstances:

(a) An additional occupant is residing in the dwelling unit;

(b) The landlord makes capital improvements to a dwelling unit that primarily benefit the tenant;

(c) The landlord changes the amount and quality of housing services attributable to the dwelling unit and included in the rental agreement;

(d) The amount of property taxes owed by the landlord decreases or increases;

(e) The landlord or tenant makes uninsured repairs; or

(f) Any other increase necessary to provide the landlord with a just and reasonable return pursuant to the United States Constitution.

2. An increase in rent granted pursuant to paragraph (a) of subsection 1 must not exceed 5 percent for each additional occupant. An increase in rent for an additional occupant is applicable only for the period of time the additional occupant resides in the dwelling unit.

3. An increase in rent granted pursuant to paragraph (b) of subsection 1 must not exceed 70 percent of the actual costs of the capital improvements attributable to the dwelling unit, plus imputed financing. The cost of a capital improvement must be amortized over the useful life of the capital improvement as set forth by the Housing Division on an amortization schedule.

4. The landlord shall serve the tenant with a written notice if the landlord applies to the Housing Division for an exemption pursuant to subsection 1. The tenant may present evidence in support of or in opposition to the application of the landlord.

5. The Housing Division shall adopt regulations to carry out the provisions of this section. The regulations must include an amortization schedule for capital improvements pursuant to subsection 3.

6. As used in this section:

(a) “Additional occupant” means an occupant of a dwelling unit whose occupancy of the dwelling unit increases the total number of occupants above the number of occupants of which the landlord has knowledge. The term does not include a spouse, registered domestic partner, parent, grandparent, child, adopted child, foster child, grandchild, caretaker or attendant that is required for a reasonable accommodation for an occupant with a disability.

(b) “Capital improvement” means an improvement to a dwelling unit or a common area accessible to a tenant that materially adds to the value of the property and appreciably



1 *prolongs the useful life of the dwelling unit. The term does not*
2 *include:*

3 *(1) The correction of serious code violations that were not*
4 *created by the tenant;*

5 *(2) Improvements that bring the dwelling unit up to current*
6 *building or housing codes;*

7 *(3) Improvements or repairs required because of deferred*
8 *maintenance;*

9 *(4) Improvements that are substantially greater in*
10 *character or quality than existing improvements, unless approved*
11 *in writing by the tenant after disclosure of any related increase in*
12 *rent; and*

13 *(5) Costs for which a landlord is reimbursed by a third*
14 *party that is not the tenant, including, without limitation,*
15 *insurance, court awarded damages, subsidies, tax credits and*
16 *grants.*

17 *(c) "Uninsured repair" means a repair performed by a*
18 *landlord or tenant to a dwelling unit or to the common area of the*
19 *property or structure containing a dwelling unit:*

20 *(1) Which is performed for compliance with any federal,*
21 *state or local law;*

22 *(2) To repair damage that is not the result of normal wear*
23 *and tear; or*

24 *(3) To repair damage resulting from a fire, earthquake or*
25 *other casualty or natural disaster, to the extent such repair is not*
26 *reimbursed by insurance proceeds or other third-party*
27 *reimbursement, including, without limitation, court awarded*
28 *damages, subsidies, tax credits and grants.*

29 **Sec. 6.** *If the landlord increases or charges rent to a tenant*
30 *in violation of the provisions of section 4 of this act, the tenant*
31 *may, in addition to any other remedy:*

32 *1. Apply to the court for such relief as the court deems proper*
33 *under the circumstances;*

34 *2. Withhold any rent that becomes due without incurring late*
35 *fees, charges for notice or any other charge or fee authorized by*
36 *this chapter or the rental agreement until the landlord has*
37 *remedied, or has attempted in good faith to remedy, the failure;*
38 *and*

39 *3. Recover actual damages and receive an amount equal to 3*
40 *months' rent in addition to actual damages.*

41 **Sec. 6.5.** *1. If a tenant exerts any right under section 4, 5 or*
42 *6 of this act, the landlord may not, in retaliation:*

43 *(a) Threaten to bring or bring an action to recover possession*
44 *of the dwelling unit;*

45 *(b) Cause the tenant to quit the dwelling unit involuntarily;*



(c) *Serve the tenant with notice to quit the dwelling unit;*
(d) *Serve the tenant with notice of a termination of the tenancy;*

(e) *Decrease any housing services; or*

(f) *Increase rent.*

2. *A showing by the tenant that the tenant complained in good faith to the landlord or a law enforcement agency of a violation of this section in the 6 months immediately preceding the alleged retaliatory act creates a rebuttable presumption that the action was retaliatory.*

3. *Regardless of the applicability of the presumption created in subsection 2, evidence that the landlord acted in retaliation:*

(a) *Is a defense in any retaliatory action by a landlord for possession; or*

(b) *Is a basis for an action by the tenant to recover actual damages, any punitive damages that the facts may warrant or obtain injunctive relief.*

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 118A.300 is hereby amended to read as follows:

118A.300 The landlord may not increase the rent payable by a tenant unless the landlord serves the tenant with a written notice, ~~60~~ 90 days or, in the case of any periodic tenancy of less than 1 month, 30 days in advance of the first rental payment to be increased, advising the tenant of :

1. *The amount of the increase* ~~H~~ ;

2. *The total amount of the new rent;*

3. *If the increase exceeds the cost-of-living increase, the reason the landlord is exempt from the provisions of section 4 of this act; and*

4. *The date on which the increase becomes effective.*

Sec. 9. On or before January 1, 2024, the Housing Division of the Department of Business and Industry shall, in accordance with section 3 of this act:

1. Determine the maximum cost-of-living increase for calendar year 2024;

2. Publish on the Internet website of the Housing Division the maximum cost-of-living increase for calendar year 2024; and

3. Issue a press release containing the maximum cost-of-living increase for calendar year 2024.

Sec. 10. 1. This section and section 9 of this act become effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and



1 (b) On July 1, 2024, for all other purposes.

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