

ASSEMBLY BILL NO. 486—COMMITTEE ON WAYS AND MEANS

MAY 20, 2021

Referred to Committee on Ways and Means

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

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to property; defining certain terms; temporarily authorizing tenants subject to designated eviction proceedings to assert certain affirmative defenses relating to rental assistance and establishing procedures relating thereto; temporarily establishing procedures relating to claims for wrongful eviction; temporarily requiring a court to stay designated eviction proceedings in order to facilitate alternative dispute resolution; temporarily requiring notices for designated eviction proceedings to contain certain information; establishing temporary procedures relating to the provision of rental assistance to certain landlords of single family residences with at least one tenant who has defaulted in the payment of rent; requiring the disbursement of certain federal money in certain circumstances relating to rental assistance; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law establishes provisions which govern landlords and tenants of
- 2 dwelling units and manufactured homes. (Chapters 118A and 118B of NRS)
- 3 Existing law establishes provisions relating to summary proceedings for the
- 4 eviction of such tenants. (NRS 40.215-40.425) **Section 1.5** of this bill defines
- 5 certain terms for purposes of this bill, including the term “designated eviction
- 6 proceeding,” which refers to certain proceedings relating to the eviction of tenants
- 7 who have defaulted in the payment of rent. **Section 1** of this bill provides that the
- 8 provisions of this bill do not apply to proceedings for evictions relating to: (1)
- 9 commercial provisions of this premises; or (2) the sale of a premises or a nuisance.



10 **Section 2** of this bill authorizes a tenant to claim as an affirmative defense to a
11 designated eviction proceeding that: (1) the tenant has a pending application for
12 rental assistance; or (2) the landlord of the tenant refused to participate in the
13 application for rental assistance or accept rental assistance provided on behalf of
14 the tenant.

15 **Section 2** requires the court to stay the proceedings upon the assertion of such
16 an affirmative defense unless the landlord receives an exemption. **Section 2** also
17 authorizes the landlord to file a motion to rebut the affirmative defense. If such a
18 motion is filed by a landlord, **section 2** authorizes the court to: (1) refer the
19 designated eviction proceedings to mediation; (2) hold a hearing; or (3) maintain
20 the stay of the proceedings.

21 If the claim relates to a pending application for rental assistance, **section 2**
22 requires the court to stay the proceedings until such time as a determination is made
23 on the application for rental assistance. Moreover, if the court stays such
24 proceedings, **section 2** requires the court to dismiss the proceedings for eviction
25 upon the granting of the application for rental assistance and receipt of the rental
26 assistance by the landlord.

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

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

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

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

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

62 **Section 6** of this bill requires: (1) Home Means Nevada, Inc., or its successor
63 organization, to create an electronic form which may be completed by a landlord
64 who wishes to obtain rental assistance on behalf of a tenant who has defaulted in



65 the payment of rent; and (2) the form to collect certain information relating to such
66 landlords and tenants. Upon submission of the form by the landlord, **section 6**
67 requires Home Means Nevada, Inc., or its successor organization, to determine
68 whether the landlord is an eligible landlord, meaning that the landlord: (1) owns a
69 single family residence; (2) is seeking rental assistance for least one dwelling unit
70 in the single family residence; (3) is domiciled in this State or employs a property
71 manager in this State; and (4) has an annual gross revenue from the rental of all
72 premises in this State of less than \$4,000,000. If Home Means Nevada, Inc., or its
73 successor organization, determines that the landlord is an eligible landlord, **section**
74 **6** requires Home Means Nevada, Inc., or its successor organization, to forward
75 relevant information relating to the landlord and tenant to an appropriate housing or
76 social service agency. **Section 6** then requires the housing or social service agency
77 to attempt to contact the tenant to provide information relating to a program for
78 rental assistance. If the tenant is unresponsive or fails to apply to the program for
79 rental assistance, **section 6** requires the housing or social service agency to inform
80 the eligible landlord of that fact and authorizes the eligible landlord to receive
81 rental assistance, without the application of the tenant, if the eligible landlord
82 agrees to certain conditions.

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

86 **Section 9** of this bill expires the provisions of **sections 1-3.5, 5 and 6** on
87 June 5, 2023. **Section 9** expires the provisions of **section 4** on the earlier of: (1) the
88 date that the Nevada Supreme Court determines that there are insufficient funds for
89 the programs of alternative dispute resolution; or (2) June 5, 2023.

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

1 **Section 1.** Sections 1.5 to 6, inclusive, of this act do not apply
2 to any proceeding for eviction relating to:

- 3 1. A commercial premises; or
4 2. An unlawful detainer pursuant to subsection 4 of NRS
5 40.2514 or NRS 40.255.

6 **Sec. 1.5.** As used in sections 1.5 to 6, inclusive, of this act,
7 unless the context otherwise requires:

- 8 1. "Designated eviction proceeding" means:
9 (a) A proceeding for summary eviction pursuant to NRS 40.253;
10 (b) A proceeding for summary eviction pursuant to NRS 40.254
11 where the tenant has defaulted in the payment of rent;
12 (c) A proceeding for eviction for an unlawful detainer pursuant
13 to NRS 40.2512; or
14 (d) A proceeding for eviction relating to paragraph (a) of
15 subsection 1 of NRS 118B.200.

16 2. "Landlord" means a landlord governed by chapter 118A or
17 118B of NRS.

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



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

3 (a) Provided by a governmental entity; and

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

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

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

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

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

12 (b) The landlord has refused to:

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

14 or

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

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

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

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

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

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

26 (b) Schedule a hearing on the motion; or

27 (c) Maintain the stay until the applicable time described in
28 subsection 4.

29 4. The stay of the designated eviction proceeding must be
30 maintained by the court:

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

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

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

42 (1) Must deny the eviction; and

43 (2) May award damages to the tenant.



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

- 4 (a) Participate in the application process for rental assistance; or
- 5 (b) Accept rental assistance on behalf of the tenant.

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

9 (a) The landlord:

10 (1) Provides written notice to the tenant of the exemption
11 sought at the same time that notice relating to the designated
12 eviction proceeding is served upon the tenant pursuant to NRS
13 40.280; and

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

16 (b) The court finds:

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

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

22 7. As used in this section, "pending application for rental
23 assistance" means an application for rental assistance submitted in
24 good faith by a tenant. The term includes, without limitation, an
25 application which is inactive due to any technical difficulty on the
26 part of the tenant in the filing of the application for rental assistance.
27 The term does not include an application for rental assistance that
28 was started by the tenant but is not being actively pursued by the
29 tenant.

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

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

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

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



1 (a) The court may:

2 (1) Impose a civil penalty:

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

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

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

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

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

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

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

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

30 **Sec. 5.** In addition to any requirement for a notice of any
31 designated eviction proceeding, each notice must contain
32 information relating to:

33 1. The availability of rental assistance; and

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

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

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

41 (a) Verification that the tenant:

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

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



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

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

5 (1) The domicile of the landlord;

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

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

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

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

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

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

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

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

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

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



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

6 9. As used in this section:

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

9 (b) "Eligible landlord" means a landlord who:

10 (1) Owns a single family residence;

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

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

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

17 (c) "Single family residence" means a structure that comprises
18 not more than four dwelling units.

19 **Sec. 7.** If the State of Nevada receives money from the Federal
20 Government on or after the effective date of this act that the State of
21 Nevada is authorized to use for the direct payment of rental
22 assistance to landlords on behalf of tenants who have defaulted in
23 the payment of rent in this State, the Chief of the Budget Division of
24 the Office of Finance in the Office of the Governor created by NRS
25 223.400 shall disburse \$5,000,000 of that money for the direct
26 payment of rental assistance to landlords.

27 **Sec. 8.** Notwithstanding the provisions of NRS 218D.430 and
28 218D.435, a committee may vote on this act before the expiration of
29 the period prescribed for the return of a fiscal note in NRS
30 218D.475. This section applies retroactively from and after
31 March 22, 2021.

32 **Sec. 8.5.** NRS 40.2544 is hereby repealed.

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

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

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

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

42 (b) June 5, 2023.



TEXT OF REPEALED SECTION

40.2544 Unlawful detainer: Stay of eviction proceeding to facilitate program of alternative dispute resolution. If the Supreme Court or a district court or justice court establishes by rule an expedited program of alternative dispute resolution concerning the eviction of a tenant of any dwelling unit, apartment, mobile home, recreational vehicle or part of a low-rent housing program operated by a public housing authority, any such eviction proceedings pursuant to this chapter may be stayed for not more than 30 days to facilitate the program of alternative dispute resolution.

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