

CHAPTER.....

AN ACT relating to property; authorizing tenants subject to certain actions for summary eviction to request that the court stay the action until a decision concerning an application for rental assistance is made and establishing procedures relating thereto; requiring a landlord to accept payment of rent from a tenant and rental assistance on behalf of a tenant under certain circumstances; authorizing a justice court to establish a diversion program for certain tenants subject to an action for summary eviction; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

In general, existing law provides for a summary eviction procedure when a tenant defaults in the payment of rent. (NRS 40.253) **Section 9** of this bill authorizes a tenant who has been served with a notice to pay rent or surrender the premises to request that the court stay an action for summary eviction based on a default in the payment of rent until a decision concerning an application for rental assistance is made. **Section 9** establishes the procedure for a tenant to request such a stay and criteria for the issuance of a stay. If the court issues such a stay, **section 9**: (1) authorizes a landlord to file a motion to lift the stay under certain circumstances; and (2) requires that the stay expire not later than 60 days after it is issued. If an application for rental assistance is granted in an amount that will allow the tenant in an action that has been stayed to cure the default, **section 9** requires the landlord to accept payment of rent from the tenant and rental assistance on behalf of the tenant. If the application for rental assistance is denied or granted in an amount that will not allow the tenant in an action that has been stayed to cure the default, **section 9** requires the court to proceed with the action for summary eviction in accordance with the requirements prescribed by existing law. **Section 21.2** of this bill makes a conforming change relating to the submission of an affidavit pursuant to **section 9**. **Section 9.1** of this bill creates a similar process that becomes effective if and only if Assembly Bill No. 340 of this session is enacted by the Legislature and approved by the Governor.

In general, existing law provides for a summary eviction procedure when a tenant neglects or fails to perform a condition or covenant of a lease or agreement. (NRS 40.254) **Section 9.7** of this bill requires a court to dismiss an action for summary eviction based on neglect or failure to perform a condition or covenant of a lease or agreement if the court finds that the affidavit of complaint for summary eviction was filed by the landlord in bad faith or as a pretext for evicting a tenant who is in default in the payment of rent. **Section 21.4** of this bill creates a similar requirement that becomes effective if and only if Assembly Bill No. 340 of this session is not enacted by the Legislature and approved by the Governor.

Section 9.5 of this bill authorizes a justice court to establish a diversion program to which it may assign an eligible tenant subject to an action for summary eviction. **Section 9.5** sets forth factors the court may consider in determining whether a tenant is eligible for assignment to such a diversion program. If the court assigns a tenant to such a diversion program, **section 9.5** requires the court to: (1) stay the pending action for summary eviction for not more than 60 days; and (2) if



the tenant pays the landlord the rent that is in default or surrenders the premises before the expiration of the stay, dismiss the action.

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

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 9.7, inclusive, of this act.

Secs. 2-8. (Deleted by amendment.)

Sec. 9. 1. *A tenant who has been served with a notice pursuant to subsection 1 of NRS 40.253 may request that the court stay any action for summary eviction initiated by the landlord against the tenant pursuant to subsection 5 of NRS 40.253 until a decision concerning an application for rental assistance is made.*

2. To request a stay pursuant to subsection 1, a tenant must:

(a) File, within the time specified in subsection 1 of NRS 40.253 for the payment of rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has a pending application for rental assistance; and

(b) Provide proof to the court of the date on which the application for rental assistance was submitted.

3. If the court determines that an affidavit filed pursuant to subsection 2 is accompanied by sufficient proof, the court shall stay any action for summary eviction initiated by the landlord against the tenant pursuant to subsection 5 of NRS 40.253 until the applicable time described in subsection 4.

4. If the court grants a stay pursuant to subsection 3, the stay must be maintained by the court until not later than the earliest of:

(a) The date on which the application for rental assistance is no longer pending or a determination is made on the pending application for rental assistance;

(b) The date on which the court grants a motion filed pursuant to subsection 5; or

(c) Sixty days after the date on which the stay is granted.

5. A landlord may file a motion to lift a stay issued pursuant to subsection 3.

6. The court may grant a motion filed pursuant to subsection 5 if, at a hearing conducted on the motion, the court finds that:



(a) Evidence exists that the landlord faces a realistic threat of the foreclosure of the premises if the landlord is not able to evict the tenant, including, without limitation, evidence that:

(1) The property is subject to a lien, including, without limitation, a tax lien or lien for charges relating to utilities; or

(2) The landlord has missed three or more consecutive mortgage payments;

(b) The application for rental assistance was submitted in bad faith; or

(c) It is unlikely that:

(1) The application for rental assistance will be granted; or

(2) The tenant will be able to cure the default in the payment of rent, regardless of whether the application for rental assistance is granted.

7. If a tenant in bad faith submits an application for rental assistance, the landlord may, in a separate cause of action, recover damages from the tenant.

8. If a landlord in bad faith files a motion pursuant to subsection 5, the tenant may, in a separate cause of action, recover from the landlord an amount equal to damages, 1 month's rent or \$1,000, whichever is greater, reasonable attorney's fees and costs of court.

9. If the application for rental assistance is:

(a) Granted in an amount that, together with any other available funds, will allow the tenant to cure the default in the payment of rent:

(1) The landlord must accept payment of rent from the tenant and rental assistance on behalf of the tenant; and

(2) The court must dismiss any action for summary eviction initiated by the landlord against the tenant pursuant to subsection 5 of NRS 40.253.

(b) Denied, or granted in amount that, together with any other available funds, will not allow the tenant to cure the default in the payment of rent, the court shall:

(1) Issue an order lifting the stay; and

(2) Hold a hearing in accordance with the requirements prescribed by subsection 6 of NRS 40.253.

10. For purposes of subsection 4, an application for rental assistance is no longer pending if the application is not actively being pursued by the tenant, including, without limitation, by providing in a timely manner any information or documentation requested by the person or entity to whom the application was submitted.



11. As used in this section:

(a) "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 that is outside of the control of the tenant. 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.

(b) "Rental assistance" includes, without limitation, federal, state or local funds provided by a governmental entity and administered for the purpose of paying any amount of delinquent rent. The term does not include rental assistance provided pursuant to the provisions of 42 U.S.C. § 1437f.

Sec. 9.1. *I. A tenant against whom a landlord files an affidavit of complaint for summary eviction pursuant to subsection 3 of section 2 of Assembly Bill No. 340 of this session may request that the court stay the pending action for summary eviction until a decision concerning an application for rental assistance is made.*

2. To request a stay pursuant to subsection 1, a tenant must:

(a) File the written answer required by subsection 6 of section 2 of Assembly Bill No. 340 of this session with the court that has jurisdiction over the matter within the time specified by subsection 6 of section 2 of Assembly Bill No. 340 of this session and include in the answer:

(1) A statement that the tenant has a pending application for rental assistance; and

(2) A request that the court stay the pending action for summary eviction; and

(b) Provide proof to the court of the date on which the application for rental assistance was submitted.

3. If the court determines that a written answer filed pursuant to subsection 6 of section 2 of Assembly Bill No. 340 of this session is accompanied by sufficient proof, the court shall stay the pending action for summary eviction until the applicable time described in subsection 4.

4. If the court grants a stay pursuant to subsection 3, the stay must be maintained by the court until not later than the earliest of:

(a) The date on which the application for rental assistance is no longer pending or a determination is made on the pending application for rental assistance;

(b) The date on which the court grants a motion filed pursuant to subsection 5; or



(c) *Sixty days after the date on which the stay is granted.*

5. *A landlord may file a motion to lift a stay issued pursuant to subsection 3.*

6. *The court may grant a motion filed pursuant to subsection 5 if, at a hearing conducted on the motion, the court finds that:*

(a) *Evidence exists that the landlord faces a realistic threat of the foreclosure of the premises if the landlord is not able to evict the tenant, including, without limitation, evidence that:*

(1) *The property is subject to a lien, including, without limitation, a tax lien or lien for charges relating to utilities; or*

(2) *The landlord has missed three or more consecutive mortgage payments;*

(b) *The application for rental assistance was submitted in bad faith; or*

(c) *It is unlikely that:*

(1) *The application for rental assistance will be granted; or*

(2) *The tenant will be able to cure the default in the payment of rent, regardless of whether the application for rental assistance is granted.*

7. *If a tenant in bad faith submits an application for rental assistance, the landlord may, in a separate cause of action, recover damages from the tenant.*

8. *If a landlord in bad faith files a motion pursuant to subsection 5, the tenant may, in a separate cause of action, recover from the landlord an amount equal to damages, 1 month's rent or \$1,000, whichever is greater, reasonable attorney's fees and costs of court.*

9. *If the application for rental assistance is:*

(a) *Granted in an amount that, together with any other available funds, will allow the tenant to cure the default in the payment of rent:*

(1) *The landlord must accept payment of rent from the tenant and rental assistance on behalf of the tenant; and*

(2) *The court must dismiss the pending action for summary eviction.*

(b) *Denied, or granted in amount that, together with any other available funds, will not allow the tenant to cure the default in the payment of rent, the court shall:*

(1) *Issue an order lifting the stay; and*

(2) *Hold a hearing in accordance with the requirements prescribed by subsection 7 of Assembly Bill No. 340 of this session.*



10. For the purposes of subsection 4, an application for rental assistance is no longer pending if the application is not actively being pursued by the tenant, including, without limitation, by providing in a timely manner any information or documentation requested by the person or entity to whom the application was submitted.

11. As used in this section:

(a) "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 that is outside of the control of the tenant. 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.

(b) "Rental assistance" includes, without limitation, federal, state or local funds provided by a governmental entity and administered for the purpose of paying any amount of delinquent rent. The term does not include rental assistance provided pursuant to the provisions of 42 U.S.C. § 1437f.

Secs. 9.2 and 9.3. (Deleted by amendment.)

Sec. 9.5. 1. A justice court may establish a diversion program to which it may assign an eligible tenant whose landlord applies by affidavit of complaint for eviction of the tenant pursuant to NRS 40.253.

2. To determine whether a tenant is eligible for a diversion program established pursuant to subsection 1, the court may consider, without limitation, whether the tenant is eligible for any programs that are designed to provide:

(a) Social services which assist tenants in paying delinquent rent; and

(b) Wrap-around services.

3. If the court assigns a tenant to a diversion program established pursuant to subsection 1, the court shall:

(a) Stay the pending action for summary eviction for not more than 60 days after the date on which the tenant files an affidavit permitted in subsection 3 of NRS 40.253; and

(b) If the tenant pays to the landlord the amount of rent that is in default or surrenders the premises before the expiration of the stay, dismiss the pending action for summary eviction.

4. As used in this section, "wrap-around services" means services provided to a tenant that assist the tenant in avoiding future summary eviction actions.



Sec. 9.7. *If the court finds that an affidavit of complaint for summary eviction filed pursuant to subsection 3 of section 6.5 of Assembly Bill No. 340 of this session was filed in bad faith or as a pretext for evicting a tenant who is in default in the payment of rent, the court must dismiss the proceeding.*

Secs. 10-21. (Deleted by amendment.)

Sec. 21.2. NRS 40.253 is hereby amended to read as follows:

40.253 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~~ :

- (I) *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; *or*

- (II) *Request that the court stay any action for summary eviction initiated by the landlord against the tenant using the procedure prescribed by section 9 of this act;*

- (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.

Sec. 21.4. NRS 40.254 is hereby amended to read as follows:

40.254 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 court finds that the affidavit of the landlord or the landlord's agent was submitted in bad faith or as a pretext for evicting a tenant who is in default in the payment of rent, the court must dismiss the proceeding.*

4. 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.

Sec. 22. The amendatory provisions of this act apply to an action for summary eviction which accrues on or after the effective date of this act.

Sec. 23. (Deleted by amendment.)



Sec. 24. 1. This section and sections 1 to 8, inclusive, 9.2, 9.3, 9.5, 10 to 21, inclusive, 22 and 23 of this act become effective upon passage and approval.

2. Sections 9, 21.2 and 21.4 of this act become effective upon passage and approval if, and only if, Assembly Bill No. 340 of this session is not enacted by the Legislature and approved by the Governor.

3. Sections 9.1 and 9.7 of this act become effective upon passage and approval if, and only if, Assembly Bill No. 340 of this session is enacted by the Legislature and approved by the Governor.

4. Sections 9, 9.1, 9.7, 21.2 and 21.4 expire by limitation on June 30, 2025.



