

SENATE BILL NO. 74—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing eviction actions.
(BDR 3-492)

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 unlawful detainer; revising provisions governing eviction actions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes an appeal of an order entered by a court in an action for
2 summary eviction of a tenant for default in payment of rent. (NRS 40.385) **Section**
3 **1** of this bill: (1) clarifies that either party may appeal an order entered by the court
4 in such an action for summary eviction; (2) provides that such an appeal is made by
5 filing a notice of appeal within 10 judicial days after the date of the entry of the
6 order; and (3) makes such an appeal available in actions involving mobile home
7 parks.

8 Existing law provides that if a landlord unlawfully removes a tenant from the
9 premises or excludes the tenant by blocking or attempting to block the tenant’s
10 entry upon the premises, willfully interrupts any essential item or service or
11 otherwise unlawfully recovers possession of the dwelling unit, the tenant may
12 recover immediate possession of the premises from the landlord by filing a verified
13 complaint for expedited relief. Existing law also provides that a verified complaint
14 for expedited relief may not be filed with the court if an action for summary
15 eviction or unlawful detainer is already pending between the landlord and tenant,
16 although the tenant may seek similar relief before the judge presiding over the
17 pending action. (NRS 118A.390) **Section 2** of this bill provides that a verified
18 complaint for expedited relief may be consolidated with an action for summary
19 eviction or unlawful detainer that is already pending between the landlord and
20 tenant.



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

1 **Section 1.** NRS 40.385 is hereby amended to read as follows:

2 40.385 ~~Upon an~~

3 1. *Either party may* appeal ~~from~~ an order entered pursuant to
4 NRS 40.253 ~~;~~
5 *—1.1 or 40.254 by filing a notice of appeal within 10 judicial days*
6 *after the date of entry of the order.*

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

20 ~~2.~~ 3. A tenant who retains possession of the premises that are
21 the subject of the appeal during the pendency of the appeal shall pay
22 to the landlord rent in the amount provided in the underlying
23 contract between the tenant and the landlord as it becomes due. If
24 the tenant fails to pay such rent, the landlord may initiate new
25 proceedings for a summary eviction by serving the tenant with a
26 new notice pursuant to NRS 40.253 ~~;~~ *or 40.254.*

27 **Sec. 2.** NRS 118A.390 is hereby amended to read as follows:

28 118A.390 1. If the landlord unlawfully removes the tenant
29 from the premises or excludes the tenant by blocking or attempting
30 to block the tenant's entry upon the premises, willfully interrupts or
31 causes or permits the interruption of any essential item or service
32 required by the rental agreement or this chapter or otherwise
33 recovers possession of the dwelling unit in violation of NRS
34 118A.480, the tenant may recover immediate possession pursuant to
35 subsection 4, proceed under NRS 118A.380 or terminate the rental
36 agreement and, in addition to any other remedy, recover the tenant's
37 actual damages, receive an amount not greater than \$2,500 to be
38 fixed by the court, or both.

39 2. In determining the amount, if any, to be awarded under
40 subsection 1, the court shall consider:

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



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

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

5 3. If the rental agreement is terminated pursuant to subsection
6 1, the landlord shall return all prepaid rent and security recoverable
7 under this chapter.

8 4. Except as otherwise provided in subsection 5, the tenant may
9 recover immediate possession of the premises from the landlord by
10 filing a verified complaint for expedited relief for the unlawful
11 removal or exclusion of the tenant from the premises, the willful
12 interruption of any essential item or service or the recovery of
13 possession of the dwelling unit in violation of NRS 118A.480.

14 5. A verified complaint for expedited relief:

15 (a) Must be filed with the court within 5 judicial days after the
16 date of the unlawful act by the landlord, and the verified complaint
17 must be dismissed if it is not timely filed. If the verified complaint
18 for expedited relief is dismissed pursuant to this paragraph, the
19 tenant retains the right to pursue all other available remedies against
20 the landlord.

21 (b) May ~~[not]~~ be ~~[filed]~~ *consolidated* with ~~[the court if an]~~ *any*
22 action for summary eviction or unlawful detainer *that* is already
23 pending between the landlord and tenant . ~~[, but the tenant may seek~~
24 ~~similar relief before the judge presiding over the pending action.]~~

25 6. The court shall conduct a hearing on the verified complaint
26 for expedited relief not later than 3 judicial days after the filing of
27 the verified complaint for expedited relief. Before or at the
28 scheduled hearing, the tenant must provide proof that the landlord
29 has been properly served with a copy of the verified complaint for
30 expedited relief. Upon the hearing, if it is determined that the
31 landlord has violated any of the provisions of subsection 1, the court
32 may:

33 (a) Order the landlord to restore to the tenant the premises or
34 essential items or services, or both;

35 (b) Award damages pursuant to subsection 1; and

36 (c) Enjoin the landlord from violating the provisions of
37 subsection 1 and, if the circumstances so warrant, hold the landlord
38 in contempt of court.

39 7. The payment of all costs and official fees must be deferred
40 for any tenant who files a verified complaint for expedited relief.
41 After any hearing and not later than final disposition of the filing or
42 order, the court shall assess the costs and fees against the party that
43 does not prevail, except that the court may reduce them or waive
44 them, as justice may require.



1 **Sec. 3.** The amendatory provisions of this act apply to all
2 actions pending or filed on or after October 1, 2019.

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